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**Proposed Convention concerning Vocational Guidance and Vocational Training
in the Development of Human Resources**

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Sixtieth Session on 4 June 1975, and
Having decided upon the adoption of certain proposals with regard to human
resources development: vocational guidance and vocational training, which is
the sixth item on the agenda of the session, and
Having determined that these proposals shall take the form of an international
Convention,

adopts this day of June of the year one thousand nine hundred
and seventy-five the following Convention, which may be cited as the Human
Resources Development Convention, 1975:

Article 1

1. Each Member shall adopt and develop comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.
2. These policies and programmes shall take due account of—
 - (a) employment needs, opportunities and problems, both regional and national;
 - (b) the stage and level of economic, social and cultural development; and
 - (c) the mutual relationships between human resources development and other economic, social and cultural objectives.
3. The policies and programmes shall be pursued by methods that are appropriate to national conditions.
4. The policies and programmes shall be designed to improve the ability of the individual to understand and, individually or collectively, to influence the working and social environment.
5. The policies and programmes shall encourage and enable all persons, and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society.

Article 2

With the above ends in view, each Member shall establish and develop open, flexible and complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, regardless of whether these activities take place within the system of formal education or outside it.

Article 3

1. Each Member shall gradually extend its systems of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance are available to all children, young persons and adults, including appropriate programmes for all handicapped persons.
2. Such information and guidance shall cover the choice of an occupation, vocational training and related educational opportunities, the employment situation and prospects, promotion prospects, conditions of work, safety and hygiene at work, and other aspects of working life in the various sectors of economic, social and cultural activity and at all levels of responsibility.
3. This information and guidance shall be supplemented by information on general aspects of collective agreements and of the rights and obligations of all concerned according to labour law; this information shall be provided in accordance with national law and practice, taking into account the respective functions and tasks of the workers' and employers' organisations concerned.

Article 4

Each Member shall gradually extend, adapt and harmonise its vocational training systems to meet the needs for vocational training throughout life of both young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skill and responsibility.

Article 5

Policies and programmes of vocational guidance and vocational training shall be prepared and implemented in co-operation with employers' and workers' organisations and, as appropriate and in accordance with national law and practice, with other interested bodies.

Proposed Recommendation concerning Vocational Guidance and Vocational Training in the Development of Human Resources

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its Sixtieth Session on 4 June 1975, and
Considering the importance of vocational guidance and vocational training in the
implementation of employment policies and programmes, and

Noting the terms of existing international labour Conventions and Recommendations of direct relevance to employment policy and, in particular, of the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and of the Employment Policy Convention and Recommendation, 1964, and

Noting that the General Conference of the United Nations Educational, Scientific and Cultural Organisation at its Eighteenth Session in 1974 adopted a Recommendation on technical and vocational education, and

Noting that the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organisation have collaborated closely with a view to ensuring that the instruments of the two Organisations pursue harmonised objectives and avoid duplication and conflict, and that they will continue to collaborate closely with a view to the effective implementation of these instruments, and

Having decided upon the adoption of certain proposals with regard to human resources development: vocational guidance and vocational training, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this _____ day of June of the year one thousand nine hundred and seventy-five the following Recommendation, which may be cited as the Human Resources Development Recommendation, 1975:

I. GENERAL PROVISIONS

1. This Recommendation applies to the vocational guidance and vocational training of young persons and adults for all areas of economic, social and cultural life and at all levels of occupational skill and responsibility.

2. (1) For the purpose of this Recommendation, the qualification of the terms "guidance" and "training" by the term "vocational" means that guidance and training are directed to identifying and developing human capabilities for a productive and satisfying working life and, in conjunction with the different forms of education, to improve the ability of the individual to understand and, individually or collectively, to influence working conditions and social environment.

(2) The definition contained in sub-paragraph (1) of this Paragraph applies to guidance, to initial and further training, and to retraining, whatever the way in which they are provided and whatever the level of skill and responsibility.

3. In giving effect to this Recommendation, member States should take account of guidelines supplementing its provisions which may be formulated by regional conferences, Industrial Committees and meetings of experts or consultants convened by the International Labour Organisation and other competent bodies.

II. POLICIES AND PROGRAMMES

4. (1) Members should adopt and develop comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.

(2) These policies and programmes should take due account of—

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6. Employment needs, opportunities and problems, both regional and national;

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(b) the stage and level of economic, social and cultural development; and
(c) the mutual relationships between human resources development and other economic, social and cultural objectives.

(3) The policies and programmes should be pursued by methods that are appropriate to national conditions.

(4) The policies and programmes should encourage and enable all persons, and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society.

(5) Such policies and programmes should also encourage undertakings to accept responsibility for training workers in their employment. Undertakings should co-operate with the representatives of their workers when planning their training programmes and should ensure, as far as possible, that these programmes are in line with those of the public training system.

(6) Such policies and programmes should have as objectives—

- (a) to ensure entry into productive employment, including self-employment, which corresponds to personal aptitudes and aspirations; and to facilitate occupational mobility;
- (b) to promote and develop creativity, dynamism and initiative with a view to maintaining or increasing work effectiveness;
- (c) to protect persons against unemployment or other loss of income or earning capacity deriving from lack of demand for their skills as well as against under-employment;
- (d) to protect persons against excessive physical or mental strain in employment;
- (e) to protect persons against occupational hazards by making high standards of teaching occupational safety and health an integral part of training for each trade or occupation;
- (f) to assist persons in their quest for satisfaction at work, for individual achievement and self-expression, and for the betterment of their lot in life through their own efforts to improve the quality or modify the nature of their contribution to the economy;
- (g) to achieve social, cultural and economic advancement and continuing adjustment to change, with the participation of all concerned in reshaping the work requirements;
- (h) to achieve the full participation of all groups in society in the process of development and in sharing the benefits deriving from it.

5. (1) With the above ends in view, Members should establish and develop open, flexible and complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, regardless of whether these activities take place within the system of formal education or outside it.

(2) Members should aim in particular at—

- (a) ensuring that all have equal access to vocational guidance and vocational training;
- (b) providing, on a continuing basis, broadly conceived and realistic vocational guidance for the various groups of the population in all branches of economic activity;
- (c) developing comprehensive systems of vocational training all aspects of productive work in all branches of economic activity;
- (d) facilitating mobility between different lines of training, within and between the various occupations and sectors of economic activity and between different levels of responsibility;
- (e) co-ordinating vocational training for one sector of the economy or branch of economic activity with vocational training for other sectors or branches;
- (f) establishing patterns of systematic vocational training in all branches of economic activity and for all types of work and levels of skill and responsibility;
- (g) providing all workers with real possibilities for re-entering the educational system, at a level which takes account of their work experience;
- (h) establishing close co-operation and co-ordination between vocational guidance and vocational training provided outside the school system and educational guidance and the school system;
- (i) establishing conditions permitting workers to supplement their vocational training by trade union education given by their representative organisations;
- (j) undertaking research and adapting administrative arrangements and methods as required for implementing the programmes of vocational guidance and vocational training.

6. The policies and programmes of vocational guidance and vocational training should—

- (a) be co-ordinated with policies and major programmes of social and economic development such as employment promotion, social integration, rural develop-

- ment, development of crafts and industry, adaptation of methods and organisation of work to human requirements and improvement of working conditions;
- (b) take account of international economic and technological interaction and co-operation;
 - (c) be reviewed periodically in relation to current and planned social and economic development;
 - (d) promote activities which will stimulate workers to contribute to improved international relations;
 - (e) contribute to fuller understanding of technical, scientific, economic, social and cultural matters;
 - (f) create and develop an appropriate infrastructure for providing adequate training respecting the essential standards of industrial hygiene and safety.

III. VOCATIONAL GUIDANCE

7. (1) Members should gradually extend their systems of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance, including appropriate programmes for handicapped persons, are available to all children, young persons and adults.

(2) Such information and guidance should cover the choice of an occupation, vocational training and related educational opportunities, the employment situation and prospects, promotion prospects, conditions of work, safety and hygiene at work, and other aspects of working life in the various sectors of economic, social and cultural activity and at all levels of responsibility.

(3) This information and guidance should be supplemented by information on general aspects of collective agreements and of the rights and obligations of all concerned according to labour law; this information should be provided in accordance with national law and practice, taking into account the respective functions and tasks of the workers' and employers' organisations concerned.

8. (1) The main objectives of vocational guidance programmes should be to—

- (a) provide children and young persons not yet in the labour force with the basis for choosing a line of education or vocational training in the light of their aptitudes, abilities and interests and employment opportunities;
- (b) assist persons in programmes of education and vocational training to derive the maximum benefit from them and to prepare themselves either for supplementary education or vocational training or for entry into an occupation and for continuing education and training as and when required during their working lives;
- (c) assist persons who are entering the labour force, who seek to change their work activities, or who are unemployed, to choose an occupation and to plan related education and vocational training;
- (d) inform employed persons of opportunities for improving their occupational development potential, their level of performance, their earnings and their position, of the educational and vocational training requirements and of the facilities available for this purpose;
- (e) promote general awareness of the contributions which are and can be made by the various sectors of the economy and branches of economic activity, including those which have traditionally enjoyed little prestige, to general development and to expanding employment;
- (f) assist co-operating institutions to provide information and feedback on the effectiveness of particular training programmes as an integral part of vocational guidance.

(2) Members should ensure that such programmes are compatible with the right to freedom of choice in selecting an occupation and to fair promotion opportunities as well as the right to education.

9. In extending the scope of their systems of vocational guidance, Members should pay special attention to—

- (a) helping children and young persons at school to gain an appreciation of the value and importance of work and an understanding of the world of work and to familiarise themselves with the conditions of work in as broad a range of occupations as possible—taking account of the employment and career opportunities that may be open to them—as well as with requirements for taking advantage of these opportunities;
- (b) giving children and young persons who have never been to school or who left school early information on as broad a range of occupations as possible and on employment opportunities in these occupations, as well as guidance on how they may gain access to them;

(3) The policies and programmes should be pursued by methods that are appropriate to national conditions.

(4) The policies and programmes should encourage and enable all persons, and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society.

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- (f) to assist persons in their quest for satisfaction at work, for individual achievement and self-expression, and for the betterment of their lot in life through their own efforts to improve the quality or modify the nature of their contribution to the economy;
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- (c) assist persons who are entering the labour force, who seek to change their work activities, or who are unemployed, to choose an occupation and to plan related education and vocational training;

- (d) inform employed persons of opportunities for improving their occupational development potential, their level of performance, their earnings and their position, of the educational and vocational training requirements and of the facilities available for this purpose;
- (e) promote general awareness of the contributions which are and can be made by the various sectors of the economy and branches of economic activity, including those which have traditionally enjoyed little prestige, to general development and to expanding employment;
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- (b) giving children and young persons who have never been to school or who left school early information on as broad a range of occupations as possible and on employment opportunities in these occupations, as well as guidance on how they may gain access to them;

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- (c) giving adults in employment, including self-employment, information on trends and objectives in development which concern them and in particular on the implications of social, technical and economic change for their field of work;
- (d) giving unemployed and under-employed persons all the necessary information and guidance on possibilities of finding employment or improving their employment situation and on means available for achieving this purpose;
- (e) giving persons who meet special problems in relation to education, vocational training or employment assistance in overcoming them within over-all measures aiming at social progress.

10. (1) Both group vocational guidance programmes—namely the dissemination of factual material and counselling for groups of persons who have similar vocational needs—and individual counselling should be made available.

(2) Individual counselling should be available, in particular, to young persons and adults requiring specialised assistance in identifying their occupational aptitudes, abilities and interests, in assessing the educational, vocational training and employment opportunities which are likely to be available to them, and in choosing a line of education, vocational training or employment.

(3) Individual counselling—and, as appropriate, group vocational guidance activities—should take into account the individual's specific need of information and support, with particular attention to the physically and mentally handicapped as well as to socially and educationally disadvantaged persons. They may include exercises in seeking and evaluating information and in decision making, as well as exposure to expanded career choices and goals, in order to develop the capacity to make an informed choice. They should always take into account the individual's right to make his own choice on the basis of comprehensive relevant information.

(4) Individual counselling should, whenever required, be supplemented by advice for remedial action and such other help as may be useful for the purposes of vocational adjustment.

11. Members whose vocational guidance programmes are in the early stages of development should, in the first instance, aim at—

- (a) drawing the attention of young persons to the importance of choosing general and vocational education taking full account of existing employment prospects and of trends in economic and social development, as well as of their personal aptitudes and interests;
- (b) assisting those groups of the population which require help in overcoming traditional restrictions on their free choice of education, vocational training or occupation;
- (c) meeting the needs of those with special potential in fields of work which are of major importance.

12. Members should make full use, in their vocational guidance programmes, of all available facilities and media through which the various groups of the population concerned can be reached most effectively.

13. (1) Wherever practicable, appropriate tests of capacity and aptitude—including both physiological and psychological characteristics—and other methods of psychological examination should be made available for use in vocational guidance as appropriate to the needs of individual cases.

(2) Such tests and other methods of examination should be used only in agreement with the person seeking guidance and in conjunction with other methods of exploring personal characteristics; they should be carried out only by specialists.

(3) The results obtained in the application of such tests and other methods of examination should not be communicated to a third person without the express agreement of the person examined.

14. (1) Where tests and other methods of examination are employed in vocational guidance, they should be standardised for the age groups, populations and cultures concerned and should be validated for the particular purposes for which they are intended.

(2) There should be a continuing programme for the development and restandardisation, at regular intervals, of such tests and other methods in order to take account of changing conditions and life styles.

IV. VOCATIONAL TRAINING

A. General Provisions

15. (1) Members should gradually extend, adapt and harmonise the vocational training systems of their respective countries to meet the needs for vocational training

throughout life of both young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skill and responsibility.

(2) In doing so they should pay special attention to—

- (a) providing opportunities for promotion which should be open, wherever possible, to persons with the desire and ability to reach higher levels of skill and responsibility;
- (b) improving vocational training in sectors of the economy and branches of economic activity in which vocational training is largely unsystematic and in which obsolescent technologies and methods of work prevail;
- (c) providing vocational training for members of the population which had not received adequate attention in the past, in particular for groups which are economically or socially disadvantaged;
- (d) effectively co-ordinating general education and vocational training, theoretical and practical instruction and initial and further training.

16. Vocational training programmes for individual occupations and branches of economic activity should, as appropriate, be arranged in progressive stages which together provide adequate opportunities for—

- (a) initial training for young persons and adults with little or no previous work experience;
- (b) further training which should enable persons engaged in an occupation
 - (i) to improve their performance or broaden the range of activities which they can undertake, to proceed to higher-level work or to gain promotion;
 - (ii) to update their knowledge and skills in the light of developments in the occupation concerned;
- (c) retraining to enable adults to acquire new qualifications for a different occupational field;
- (d) such further education as is necessary to complement the training;
- (e) training in safety and health at the place of work, especially for young persons and adults with little previous work experience;
- (f) acquiring information on rights and obligations in employment, including social security schemes.

17. (1) Every effort should be made to develop and utilise to the full, if necessary with public financing, existing and potential vocational training capacity, including the resources available in undertakings, in order to provide programmes of continuous vocational training.

(2) In the provision of training, advantage should be taken, as appropriate, of mass media, mobile units, correspondence courses and other self-instruction programmes.

18. Programmes of initial training for young persons with little or no work experience should include in particular—

- (a) general education which is co-ordinated with practical training and related theoretical instruction;
- (b) basic training in knowledge and skills common to several related occupations which could be given by an educational or vocational training institution or in an undertaking either on or off the job;
- (c) specialisation in directly usable knowledge and skills for employment opportunities which already exist or are to be created;
- (d) supervised initiation into a real work situation.

19. (1) Full-time courses of initial training should, wherever possible, provide for adequate synchronisation between theoretical tuition in training institutions and training given on the job in undertakings in order to ensure that the former is related to the real work situation; similarly, practical training off the job should, as far as possible, be related to real work situations.

(2) Training on the job arranged as an integral part of courses given by training institutions should be planned jointly by the undertakings, institutions and workers' representatives concerned with a view to—

- (a) enabling the trainees to apply in actual working conditions what they have learned off the job;
- (b) providing training in aspects of the occupation which cannot be covered outside undertakings;
- (c) familiarising young persons with little or no work experience with the requirements and conditions they are likely to encounter at work and with their responsibilities within a working group.

20. Persons entering employment after completing the full-time courses mentioned in Paragraph 19 above should receive—

- (a) induction to familiarise them with the nature and objectives of the undertaking and the conditions in which work is performed there;
- (b) systematic complementary training on the job, together with the necessary theoretical courses;
- (c) as far as possible, planned experience in a series of activities and functions of training value, including adjustment to the workplace.

21. The competent authorities should, in line with national planning and national laws and regulations as well as in consultation with workers' and employers' organisations, establish national or regional further training plans related to employment.

22. (1) Undertakings should, in consultation with workers' representatives, with the persons concerned and with those in charge of their work, establish and review at regular intervals further training plans for persons in their employment at all levels of skill and responsibility; a joint committee may be established for the purpose.

(2) These plans should—

- (a) provide opportunities to qualify for advancement to higher levels of skill and responsibility;
- (b) cover technical and other training and work experience for the persons concerned;
- (c) take account of the abilities and interests of the persons concerned as well as of work requirements.

(3) Persons in charge of the work of others should have an obligation to make an effective contribution to the success of further training plans.

(4) Organisational responsibility for the establishment, implementation and review of further training plans should be clearly defined and should be assigned, as far as possible, to a special unit or to one or more persons operating at a level commensurate with such responsibility.

23. (1) Workers being trained within an undertaking should—

- (a) receive adequate allowances or remuneration;
- (b) be covered by the social security measures applicable to the regular workforce of the undertaking concerned.

(2) Workers receiving training off the job should be granted educational leave in accordance with the terms of the Paid Education Leave Convention and Recommendation, 1974.

B. Vocational Training Standards and Guidelines

24. (1) Initial and further training leading to recognised occupational qualifications should be covered as far as possible by general standards set or approved by the competent body, after consultation with the employers' and workers' organisations concerned.

(2) These standards should indicate—

- (a) the level of skills and knowledge required of candidates for the various vocational training courses;
- (b) the level of performance to be attained in each major activity or function of the occupation concerned during each phase of training and, as far as possible, the content and duration of training and the facilities and equipment needed to ensure that the level of performance indicated may be attained;
- (c) the part of the vocational training to be provided by the system of formal education, by vocational training institutions, by undertakings through training on the job, or by other means;
- (d) the character and duration of any work experience that may be required in vocational training programmes;
- (e) the training content, on the basis of the principles of multi-purpose training and occupational mobility;
- (f) the methodology to be applied, taking into account the objectives of the training and the characteristics of the trainees;
- (g) any examinations to be taken or other means of assessing achievement;
- (h) the certificates to be issued on successful completion of vocational training.

25. (1) The same occupation may be covered by more than one vocational training standard when, and for as long as, the conditions in which the work is carried out and the activities it involves vary widely between different sectors of the economy, branches of economic activity or undertakings of different sizes.

(2) Standards covering the same occupations should be co-ordinated in order to facilitate job mobility, with full recognition of the qualifications already held and of work experience in the occupation.

26. (1) Guidelines indicating the desirable organisation and content of vocational training should be established for occupations, levels of skill and knowledge and levels of responsibility for which the standards provided for in Paragraph 24 of this Recommendation are shown not to be appropriate.

(2) Such guidelines may be necessary in particular to cover—

- (a) training for future supervisors, specialists and managers and for persons already employed in these capacities;
 - (b) training for training officers and for managers, supervisors and instructors of vocational training;
 - (c) vocational training for branches of economic activity in which there are large numbers of self-employed persons or of small undertakings;
 - (d) the improvement of vocational training for branches of economic activity in which there has been little or no provision for the necessary systematic vocational training, and for undertakings using obsolescent technologies and methods of work.
- (3) Such guidelines may also be appropriate for the first training in employment of persons who have just completed full-time courses of initial training in educational and vocational training institutions.

27. Vocational training standards and guidelines should be evaluated and reviewed periodically, with the participation of employers' and workers' organisations, and adjusted to changing requirements, the periodicity of review being determined by the rate of change in the occupation concerned.

28. (1) Members should gradually establish standards and guidelines or, as the case may be, extend their applicability until all major occupations and all levels of skill and responsibility are covered.

(2) Priority should be given to vocational training for occupations and levels of skill and responsibility of key importance for social and economic advancement.

V. TRAINING FOR MANAGERS AND SELF-EMPLOYED PERSONS

29. (1) Training for management and supervisory functions should be provided for persons in charge of the work of others, for professional and specialist personnel participating in management and for persons being prepared to assume management and supervisory functions.

(2) The competent authorities should, in line with national planning and national laws and regulations and after consulting with representatives of employers and workers, establish plans for training for management and supervisory functions and for self-employed persons.

30. (1) The content of programmes of training for management and supervisory functions should take account of the level of the current and prospective responsibilities of the trainees.

(2) The programmes should be designed in particular to—

- (a) develop an adequate knowledge and understanding of the economic and social aspects of decision making;
- (b) foster attitudes and abilities for leading and motivating other persons, while respecting human dignity, and for developing sound industrial relations;
- (c) develop initiative and a positive attitude towards change and a capacity to appreciate the effect of change on other people;
- (d) develop the capacity for assuming new responsibilities on the job;
- (e) develop awareness of the importance of education, vocational guidance and vocational training for the personnel of the undertaking;
- (f) develop awareness of the conditions of workers in their occupational life, concern for their welfare and knowledge of labour law and of social security schemes;
- (g) develop understanding of the value of efforts towards self-improvement;
- (h) provide the basis for further training in accordance with changing requirements.

31. (1) Vocational training programmes for self-employment should take account of the social situation of the worker and—

(a) include, in addition to training specific to the technical field concerned, training in the basic principles and practices of business management and of training other persons;

(b) develop awareness of the need to take initiatives and assess and accept risks.

(2) Such programmes should provide regular opportunities for updating training and be reinforced by a continuing flow of information on new developments in the

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will enjoy equality of opportunity in employment and improved integration into society and the economy.

(2) Particular attention should be paid to such groups as—

- (a) persons who have never been to school or who left school early;
- (b) older workers;
- (c) members of linguistic and other minority groups;
- (d) disabled persons.

A. Persons Who Have Never Been to School or Who Left School Early

46. Measures should be taken to provide all persons who have never been to school or who left school before acquiring a general education adequate for integration into a modernising society and economy with vocational guidance, general education and training in basic skills, due account being taken of opportunities on the employment market.

47. Vocational guidance for persons who have never been to school or who left school before acquiring adequate literacy and numeracy should be as broadly conceived as possible, while taking account of special educational and vocational training facilities, and other opportunities for education, training and employment that may be expected to be available to them.

48. (1) Arrangements for providing such persons with basic skills and general education might include—

- (a) part-time instruction in knowledge and skills relevant to their work, and general education linked with that instruction, for children employed in the family farm or business or in other areas of the economy;
- (b) courses in relevant basic skills and related general education for young persons and, if appropriate, adults, to facilitate their entry into systematic vocational training or to broaden their opportunities for employment and promotion;
- (c) arrangements for special vocational training combined with productive work for young unemployed persons, supplemented as necessary by courses of general education, with a view to giving them such education, skills and work habits as are necessary for useful and remunerative economic activity;
- (d) instruction in literacy and numeracy, particularly for adults, which is linked with vocational training in the knowledge and skills required in a particular occupation or type of work and for active participation in development action; such instruction should be co-ordinated with general measures for the eradication of illiteracy;
- (e) special educational and technical upgrading courses for young persons and adults in employment to raise the level of their performance or improve their opportunities for advancement;
- (f) special courses in skills urgently required in employment for persons with little or no formal education.

(2) Special vocational training methodologies should be developed and applied for the arrangements provided for in this Paragraph.

49. The certificates obtainable through such arrangements should be co-ordinated with those obtainable in the system of formal education and by persons trained by other means.

B. Older Workers

50. (1) Measures to meet difficulties faced by older workers in employment might include as appropriate:

- (a) identifying and changing as far as possible working conditions which are likely to accelerate the physical and mental processes of ageing;
- (b) older workers with the vocational guidance and vocational training which they require, with special reference to any need for—
 - (i) updating their knowledge and skills by providing them with relevant information at the appropriate time;
 - (ii) upgrading the level of their general education and occupational qualifications by the use of specialists in adult vocational training, so that it may match that of better educated and trained young persons entering or already in the same occupation;
 - (iii) informing them at the appropriate time about facilities available for further training and carrying out such training at the appropriate moment, namely before the introduction of new working techniques and working methods;

- (iv) making available to them, as appropriate, other positions in their own or in another occupation in which they can make use of their talents and experience, as far as possible without loss of earnings;
 - (v) ensuring that they are not debarred from vocational training by unrealistic age limits for admission;
 - (vi) developing a vocational training methodology adapted to the needs of older workers;
 - (vii) taking all necessary measures for the provision of technically and pedagogically competent instructors, well prepared to carry out further training adapted to the special requirements of older workers.
- (c) encouraging older workers to take advantage of the vocational guidance and vocational training facilities or opportunities for transfer which will help them to overcome their problems;
- (d) educating the general public, and particularly vocational guidance and vocational training staff, the staff of employment and other relevant social services, employers and workers, on the adjustments in employment which older workers may need to make and on the desirability of supporting them in such adjustments.
- (2) Measures should also as far as possible be taken to develop work methods, tools and equipment adapted to the special requirements of older workers and to provide training in their use.

C. *Linguistic and Other Minority Groups*

51. Members of linguistic and other minority groups should be provided with vocational guidance which would inform them in their own language or in a language with which they are familiar, or if necessary through interpreters, of prevailing conditions and requirements in employment, of the rights and obligations of all concerned and of assistance available for solving their particular problems.

52. Special vocational training programmes should be provided as necessary for linguistic and other minorities. In the case of linguistic minorities such training should, if possible, be given in the vernacular and should, as appropriate, include language training.

D. *Handicapped and Disabled Persons*

53. (1) Whenever they can benefit by it, disabled persons should have access to vocational guidance and vocational training programmes provided for the general population.

(2) Where this is not desirable owing to the severity or the nature of the disablement or the needs of specific groups of disabled persons, specially adjusted programmes should be provided.

(3) Every effort should be made to educate the general public, employers and workers, as well as medical and paramedical personnel and social workers, on the need for giving disabled persons vocational guidance and vocational training which would enable them to find employment suitable to their needs, on the adjustments in employment which some of them may require and on the desirability of special support for them in their employment.

(4) Measures should be taken to ensure, as far as possible, the integration or reintegration of the disabled into productive life in a normal working environment.

(5) Account should be taken of the Vocational Rehabilitation (Disabled) Recommendation, 1955.

VIII. PROMOTION OF EQUALITY OF OPPORTUNITY OF WOMEN AND MEN IN TRAINING AND EMPLOYMENT

54. (1) Measures should be taken to promote equality of opportunity of women and men in employment and in society as a whole.

(2) These measures should form an integral part of all economic, social and cultural measures taken by governments for improving the employment situation of women and should include, as far as possible—

- (a) educating the general public and in particular parents, teachers, vocational guidance and vocational training staff, the staff of employment and other social services, employers and workers, on the need for encouraging women and men to play an equal part in society and in the economy and for changing traditional attitudes regarding the work in the home and in working life;
- (b) providing girls and women with vocational guidance on the same broad range of educational, vocational training and employment opportunities as boys and men, encouraging them to take full advantage of such opportunities and creating the conditions required for them to do so;

- (c) promoting equality of access for girls and women to all streams of education to vocational training for all types of occupation, including those which have been traditionally accessible only to boys and men, subject to the provisions of international labour Conventions and Recommendations;
- (d) promoting further training for girls and women to ensure their personal development and advancement to skilled employment and posts of responsibility, and urging employers to provide them with the same opportunities of extending their work experience as offered to male workers with the same education and qualifications;
- (e) providing day-care facilities and other services for children of different ages, in so far as possible, so that workers with family responsibilities have access to normal vocational training, and making special arrangements, for instance in the form of part-time or correspondence courses, vocational training programmes following a recurrent pattern or programmes using mass media;
- (f) providing vocational training programmes for women above the normal age of entry into employment who wish to take up work for the first time or re-enter it after a period of absence.

55. Special vocational training arrangements and programmes, similar to those envisaged in clauses (e) and (f) of subparagraph (2) of Paragraph 54 of this Recommendation, should be available to men having analogous problems.

56. Account should be taken of the Employment Policy Convention and Recommendation, 1964, in the implementation of measures for the promotion of equality of opportunity of women and men in training and employment.

IX. MIGRANT WORKERS

57. Effective vocational guidance and vocational training should be provided for migrant workers, so that they will enjoy equality of opportunity in employment.

58. Vocational guidance and vocational training for migrant workers should take into account that they may have a limited knowledge of the language of the country of employment. Paragraphs 51 and 52 of this Recommendation should be applied to them.

59. Vocational guidance and vocational training of migrant workers should take account of—

- (a) the needs of the country of employment;
- (b) the possible reintegration of migrant workers into the economy of their country of origin.

60. Account should be taken, as regards vocational guidance and vocational training for migrant workers, of the relevant provisions of international labour Conventions and Recommendations concerned with such workers. These questions should also be the subject of agreements between countries of origin and countries of employment.

X. TRAINING OF STAFF FOR VOCATIONAL GUIDANCE AND VOCATIONAL TRAINING ACTIVITIES

61. Provision for the training of staff should cover all persons responsible either full time or part time for planning, organising, administering, developing, supervising or giving vocational guidance or vocational training.

62. (1) In addition to receiving training in vocational guidance, including individual counselling, persons giving vocational guidance should be familiarised with the world of work generally and with the conditions of work and functions of persons engaged in a broad range of occupations at all levels of skill and responsibility as well as with the employment and career opportunities in these occupations and with the training courses and training facilities available for them; they should also be acquainted with general aspects of collective agreements and rights and obligations under labour law.

(2) The training of persons giving vocational guidance should as appropriate include study of the physiological, psychological and sociological characteristics of different groups and of specialised guidance methods.

63. (1) Persons engaged in giving vocational training should have comprehensive theoretical and practical knowledge as well as substantial work experience in the technical field or functions concerned, together with technical and pedagogical training acquired in educational and training institutions.

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(2) The training of such persons should, as appropriate, include study of the various characteristics and attitudes of different groups of trainees and of specialised training methods.

64. (1) Persons engaged in vocational training for particular branches of economic activity should be familiarised with the social, economic and technical aspects and conditions of the particular branch of economic activity concerned.

(2) For instance, in addition to technical and vocational education and vocational training in their speciality, persons engaged in rural development activities should receive training in such fields as—

- (a) the economics of agriculture, forestry and other rural activities;
- (b) methods and techniques of farm and forest management;
- (c) rural sociology and institutions;
- (d) mass communication and extension training techniques;
- (e) the activities of co-operatives where such exist.

65. Persons engaged in vocational guidance and vocational training activities for particular groups of the population should be familiarised with the special social and economic problems of these groups.

66. (1) Persons responsible for planning, organising, administering or supervising vocational guidance or vocational training programmes, including directors and managers of vocational guidance or vocational training institutions or services, training directors and officers of undertakings, and vocational guidance and vocational training consultants, should have had experience of giving vocational guidance or vocational training respectively.

(2) Wherever possible, persons with such responsibilities in regard to vocational training programmes should have had experience of work in undertakings on other than vocational training duties.

67. All persons engaged in vocational guidance and vocational training activities should be given frequent opportunities of refreshing and updating their knowledge of social, economic, technical and psychological elements relevant to their line of work and of learning about new methods and techniques applicable to their work.

XI. RESEARCH

68. Members should make provision for research and experimental programmes designed with a view to—

- (a) determining criteria for setting priorities and establishing strategies for the development of vocational guidance and vocational training for particular branches of economic activity and groups of the population;
- (b) determining and forecasting employment opportunities in the various branches of economic activity and occupations;
- (c) increasing knowledge of the psychological, sociological and pedagogical aspects of vocational guidance and vocational training;
- (d) evaluating the internal efficiency and external effectiveness of individual components of the systems of vocational guidance and vocational training;
- (e) determining the direct and indirect costs and benefits of alternative patterns and methods of providing vocational guidance and vocational training;
- (f) improving, for the population concerned, the psychological tests and other methods used for the identification of talent, the appraisal of aptitudes and interests, and the assessment of levels of knowledge and skill attained through vocational training.
- (g) increasing available information on occupations and their requirements.

XII. ADMINISTRATIVE ASPECTS AND REPRESENTATIVE BODIES

69. (1) Public authorities and bodies concerned with general education and with vocational guidance, technical and vocational education, vocational training, training of staff for human resources development and management training, public authorities and bodies concerned with planning and implementation of employment and other social and economic development policies, and bodies representative of the various branches of economic activity and occupations, and of the various groups of the population concerned, should collaborate in establishing policies, and in planning and implementing programmes for vocational guidance and vocational training.

(2) Representatives of employers' and workers' organisations should be included in the bodies responsible for governing publicly operated training institutions and for

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trade union for simple recognition. Rather than call a sympathy strike, which could have caused the law prohibiting such strikes to be invoked, it was considered a reasonable alternative to boycott the firm directly involved. Even more disappointing was the fact that these trade union members were taken to court under a separate piece of legislation from Fiji's existing industrial or trade union laws. An appeal to a higher court has also failed. It seems a paradox that these convictions should stand against the names of individuals, while at the same time the Government is in the process of making concessions to the trade union movement on the very same issue that led to the convictions; that is, the fight for trade union recognition. I am merely mentioning this for the record, as it casts a shadow over all the other achievements for which I have already given the Government due credit and has dealt a serious blow to trade union solidarity.

I sincerely believe that, in becoming a Member of the ILO and in making the concessions it has already made, the Fiji Government has every intention of formulating a cohesive industrial relations policy and appropriate legislation in conformity with the relevant Conventions and resolutions. In the freedom that I enjoy as a subject of a truly democratic Government, I can stand here and express freely my own views and those of my organisation, whether or not they are those of the Government. I hope that the blot on the character of these six convicted individuals will be removed and that any law that penalises individuals for taking part in industrial action will be abolished.

It seems imperative that I should make some reference to women, since this year has been declared International Women's Year, and I do so with great pleasure. The fact that we have two main races of different ethnic origins and with widely differing social customs and traditions, has a major influence on the approach to paid employment of women in my country. In spite of this, women are entering areas of activity usually regarded as exclusively, or more suitable, for men. For example, we have women presidents, general secretaries and general treasurers of trade unions with a predominantly male membership, women agriculturists and farmers and even women welders in the light manufacturing industries. Fortunately, education and an extraordinary awareness of our own problems has led to the general abandoning of some of the traditions and age-old beliefs and customs which today hamper development in some of the biggest developing countries. A clear example of this is that women of all races in Fiji have voluntarily co-operated to make our family planning programme remarkably effective. We can safely describe it, and it has been described by others, as the most successful in the southern hemisphere and one of the most effective in the world. The trade union movement has every sympathy with the struggles of Fijian women who are engaged in nursing, domestic duties, small catering services and the many other similar occupations in their efforts to raise their status in the community as well as to achieve better wages and other conditions of work. My organisation will do all in its power to assist them. Many of our own affiliated unions have made special efforts this year to achieve equal pay and opportunity for women employees.

I feel I should make one very important point that tends to be forgotten when considering the lot of women in employment. Statistics suggest that many of the women currently in employment or seeking work are not necessarily the second or supplementary breadwinner of a family. All too often they are the only breadwinners, supporting a family or relatives for

whom many developing countries have little or no social security benefits. To discriminate against women in these circumstances would be the lowest form of human exploitation possible.

While on the subject of women, I must point out that it was a women's organisation—the Young Women's Christian Association of Fiji, which is prominent among other voluntary organisations—which, in a concerted effort and at great expense, sponsored the Conference for a Nuclear-Free Pacific which was held in our capital city of Suva in the first few days of April this year. The study of the workplace and the protection of the environment, in our case, must go beyond the factory walls. This is not the first time that people of our own area have organised peaceful demonstrations against atmospheric or other nuclear testing and it will certainly not be the last. So far this has fallen on deaf ears, as the French authorities continue their tests on Mururoa atoll, off Tahiti. Much emphasis has been placed on making work safer and yet, in this case, more than a million islanders in thousands of islands scattered across huge regions of the Pacific have their very environment and their main source of food supplies, both on land and in the sea, threatened by radiation, through the persistent testing of nuclear weapons by France. Our island people have not known war or even the remote threat of confrontation since the beginning of this century and it is difficult to remain a silent witness to the persistent efforts of a developed nation to ensure that its armoury is full of weapons to combat or deter an unknown enemy, at the expense of the destruction and pollution of our environment.

I must conclude with a brief but frank reference to a subject which so far has either been forgotten or deliberately avoided in this forum.

As in the case of the nuclear tests, we are the innocent victims of the action and whims of others. Any hopes that we had for rapid development through increased industrialisation have been rudely dashed and severely restricted as a result of the recent oil crisis and the accompanying price rises. I mention this simply to point out that, whilst some of us are loudly and clearly struggling for political freedom and social justice, we, the people of the island nations, living far from the sources of energy and supply, are struggling for economic survival, let alone development.

The recent crisis dashed most of our hopes and aspirations of progressing from the developing to the developed stage. In short, we seem doomed to fall back on simple subsistence living or take our chances in this competitive world and accept the crumbs that fall from the tables of others.

Interpretation from Arabic : Mr. AYISH (Workers' delegate, Iraq)—Mr. President, distinguished delegates, it is my great pleasure at the outset of my speech to thank the Director-General for the importance he has attached to the working environment in his annual Report and for the good intentions that emerge from it.

We particularly appreciate the substance and scope of the Report aiming at making work more human and we share the Director-General's opinion when he says that the success or failure of modern societies will depend on how they solve this key problem of the inter-relationship between employment, remuneration, health and leisure.

We hope that the States attending this Conference will share this view and will follow the principles laid out in the Report pending adoption of final

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resolutions in this field. However, when the Report speaks about the discontent of the workers, it does not seem to us that all the aspects of this discontent have been analysed. I would quote first of all colonialism which is still carrying out aggression and fomenting intrigues against the people and stultifying the fruits of production, as was recently the case in Indochina. I am convinced that the workers, wherever they may be, in the East or in the West, cannot feel peaceful or satisfied so long as their brother workers elsewhere are undergoing inhuman suffering, because the evolution of the working classes and the rise of their living standards consolidate their faith in the union of their class throughout the world.

Another cause for this discontent is exploitation, because everybody is aware of the nefarious character of what has been done by the monopolistic, inhuman companies.

The approach adopted in the Report seems to be the best approach because it calls for the mobilisation of the ILO's resources to encourage member States to bring about certain basic objectives such as a substantial reduction in certain particularly serious occupational accidents or diseases. In this connection I would stress the development of the chemical industries in my country and also oil extraction with the ensuing transport and processing, and the manufacture of fertilizers. We hope soon to have advanced petro-chemical industries and all these industries imply serious dangers. The working environment in my country is characterised by certain aspects which people from other countries may not know about. We therefore think that this question of employment injuries is one of the most important activities of the ILO and the Organisation should continue it in the future.

I would like to take this opportunity of saying that the workers in my country have great esteem for the ILO and for the discussions that take place at the Annual Conference, the Regional Conferences, etc. We see a beacon lighting the way for all who are interested in employment and in the condition of workers, whether they be employers, government officials or workers. The ILO is a light of hope for millions of workers throughout the world and we hope that the work will become even more fruitful and effective in conformity with the basic principles of the Declaration of Philadelphia which, inter alia, affirms that the war against want requires to be carried on with unrelenting vigour.

The ILO should openly declare its support of the right of peoples to possess their own natural resources, whether they be oil resources or other raw materials. The ILO must also condemn any policy of confrontation on the part of the imperialist countries. Flagrant threats are being launched by the leaders of such States, some of which enjoy certain privileges within the ILO according to its present Constitution because of their advanced industrial development. These threats show that such States do not hesitate to make the ILO serve their political ends and to violate the rights of small countries. It is for this reason that the States of the Third World will no longer tolerate dilatoriness in the reform of our Organisation, and we insist on the urgency of the matter. It is a question that brooks no further delay.

In addition, the action undertaken by the ILO via the Fact-Finding and Conciliation Commission on Freedom of Association in Chile was a source of great satisfaction to us, but there remain other countries in the world where trade unions and their right to collective bargaining are threatened. Such fact-finding

commissions cannot be considered an interference in domestic affairs because these questions are provided for in international labour Conventions.

Before broaching other matters, I would like to pay tribute to the role played by the Arab Labour Organisation (ALO) with a view to bringing about a better life in the Arab world. I would also stress the efforts made by the International Confederation of Arab Trade Unions to promote trade union activities in general.

In Iraq, having suffered for a long time from the acts of the monopolies and oil companies, we now understand how these companies were acting to keep our country in a state of underdevelopment and at their mercy. Thus we see the main reason for the backwardness of the developing countries in the foreign companies and, behind them, in the world monopolies. If we are determined to combat poverty we must begin by doing away with these monopolistic companies in order to save the wealth of the peoples from any form of plundering or exploitation.

Today, three years after our victory in the fight to nationalise foreign oil companies, thanks to the vigilant policy of our Government under our leader Ahmad Hassan el Bakr, our country has embarked on a new and decisive stage of its development, and is bringing about thorough-going changes in our infrastructure. We are distributing the national income equitably thanks to the social and economic development programmes drawn up by the Government. The necessary credits have been earmarked and the wealth has come from the oil revenues, which are now at the service of the people. Hitherto, this money went to foreign shareholders comfortably installed in New York, the Hague or London and, worse still, was used to finance plots against our country.

Only peoples who have thrown off the yoke of imperialism and freed their own wealth can build societies where social justice reigns, because in this way the income can be used for purposes of development without any economic or financial hegemony.

I would like to express our indebtedness to the Workers' and other delegates who voted for the admission of the PLO on 12 June. This overwhelming majority undid the Zionist and imperialist plots to twist and disfigure the cause of the Palestinian people, which is based on justice and right. There is now a healthy understanding of the illegal nature of the foreign Zionist movement created by colonialism and imperialism in this region as a bridgehead to the petroleum in the Arab countries. These same forces have also set up racist régimes in Africa with an illusory ideology, tempting the White colonists with visions of wealth and control over the resources of the African peoples.

Thus it was only natural to see this intruding entity resorting to violence of the most barbarous kind, supported by the imperialist countries who supplied the means of destruction.

The air bridge created by the United States during the October 1973 war against the will of the peace-loving countries of Europe proves clearly that the imperialist countries are accomplices in the crimes perpetrated against the Arab nation. Yet, not content with this complicity, they now insist on defending the crimes daily committed by Zionism. The records of the Security Council provide the best evidence of this.

At this very place, in the ILO, I do not think you have forgotten the United States representative's desperate defence from which comes the smell of grudge against the Arab peoples, as though he and his Government had not drawn the necessary conclusions.

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In conclusion, mankind today is faced with many complicated problems. The most serious ones are of our own creation. Imperialism, colonialism, apartheid and racial discrimination, and poor working conditions and some environmental problems—all these are among the man-made problems. But this also means that the solutions to these problems depend on mankind. There is a need, therefore, for self re-examination and self-criticism and for renewed determination and political and humanitarian will on the part of us all, together with international solidarity, in order to tackle these problems quickly and effectively.

Interpretation from Farsi: Mrs. AZARBAKSH (*Workers' delegate, Iran*)—I am pleased to congratulate Mr. Ople on his election to the presidency of this august assembly and I should like to wish him all success in performing this important task.

The Report of the Director-General *Making work more human* in which he discusses working conditions, is of great importance in my opinion. One of the characteristics of the 60th Session of the International Labour Conference is the fact that it coincides with International Women's Year and, as an Iranian woman worker, I hope that the exchange of views at this Conference and the prolonged discussions taking place in one of the technical committees concerning equality of opportunity and treatment for women workers will effectively help to improve the welfare and conditions of workers in general, including women workers.

The Director-General, in his Report, has studied important problems such as the safety and healthiness of the working environment, worktime, organisation and content of work and different aspects of these subjects and has put several questions to the Conference. Now, in my capacity as representative of the Iranian Workers' Organisation, I should like to make some comments regarding the above-mentioned subjects.

With regard to the safety and healthiness of the working environment, as is mentioned on page 20 of the section of the Director-General's Report dealing with the participation of employers and workers in the promotion of safety in the working environment, co-operation between the management and workers in these matters is of great importance. Naturally, works safety and health committees, such as operate in my country, are the proper instruments to this end. But the workers' organisations should give the necessary instructions and training to workers and to foremen, in particular, so that they can participate effectively in the implementation of safety and health programmes in the workshop.

In my opinion, training at different levels, whether social education or technical and vocational training together with vocational guidance, is the essential basis for the welfare of the workers. Fortunately, our Government gives due and adequate attention to this basic problem. On the instructions of the beloved leader of the Iranian nation, His Imperial Majesty the Shahanshah Aryamehr, a programme of free education for all the people of Iran, including the workers, is being carried out and, for talented children of workers, there are possibilities for taking advantage of educational fellowships outside the country. To supplement this important education programme and, in order to protect their health, children are given one free meal per day at school. As regards the workers' literacy programme, which is oriented towards functional literacy, there are measures designed to provide incentives; for example, workers who complete the

prescribed period of two six-months' courses and successfully pass an examination will be entitled to a wage increase.

As stated in the Report of the Director-General, making workers interested in work and in the working environment with a view to making work more human is a matter of vital importance. In this respect, parallel to the enforcement of programmes related to education, vocational training and vocational guidance which are discussed in the fourth part of the Director-General's Report, other measures and action have to be taken. The implementation of the principle and legislation respecting profit-sharing by the workers in industrial undertakings, which is achieved through collective agreements concluded between workers' and employers' organisations, is in line with this point. In addition to increasing the workers' income, it has been most effective in enhancing the status of the worker and his interest in his work.

I have great pleasure in announcing that the profit-sharing law is now supplemented by a recent Order of the Shahanshah Aryamehr. This Order, which is of very great social and economic significance, will be implemented in two stages: during the first stage workers and employees in factories and, during the second stage, all the people, will be able to acquire up to 49 per cent of the shares of private institutions and 99 per cent of the shares of public factories.

To facilitate the holding of these shares by the workers, the Government will make the necessary arrangements to help them financially. In this way a strong, social and economic basis for the workers to possess shares in industrial units and undertakings and therefore take an increasing interest in these establishments is laid down.

I should now like to say a few words about women workers. I am pleased to say that in my country full attention is paid to ensuring equal treatment for women workers and promoting their participation in the social and economic activities of the country as well as to raising their level of employment in view of the country's huge development and growth programmes and projects and the need for human resources at different levels of skill.

In the current year—International Women's Year—a great many assemblies have been held in Iran, one of them being the Seventh National Labour Conference held in May this year in which representatives of the Government, together with those of workers' and employers' organisations took part. The subject of economic and social problems concerning the promotion of women's employment was put forward and a wide and prolonged exchange of views took place. According to the resolution adopted by that Conference the implementation of a series of measures for increasing the level of protection and the necessary legal provisions, with a view to dealing with different aspects of the problem was recommended to the Government and the employers' and workers' organisations. I hope sincerely that the deliberations of the present Conference will meet with full success and that this will contribute effectively to increasing the welfare and prosperity of the workers.

Interpretation from Russian: The PRESIDENT (Mr. EVGUENIEV)—I now give the floor to Mr. Araya, Government delegate, Ethiopia, in order to exercise his right of reply.

Mr. ARAYA (*Government delegate, Ethiopia*)—For the third time this week the Iraq delegation has made unwarranted references to one of the administra-

tive units of my country. This is being done in spite of the President's plea to all the delegates to confine themselves to the subject-matter at hand. I am surprised that Iraq, a country which has been waging an atrocious war against the Kurds for a number of years, has suddenly taken it upon itself to act as the watchdog of international morality and freedom. Perhaps they have found their voice only this week. Nevertheless, realising that this is neither the place nor the time to consider the political declarations that are being showered upon us by Iraq, I would merely like to point out at this juncture that such actions of political conspiracy are in flagrant violation of the United Nations Charter and constitute an unwarranted intervention in the domestic affairs of a sovereign State.

Mr. BEKTI (*Employers' adviser, Indonesia*)—First of all I should like to inform you that the Chairman of the Indonesian Employers' Association (PUSPI) is very sorry that he has not been able to present this paper himself and has asked me to deliver it in his place.

At the outset I should like on behalf of the PUSPI to congratulate Mr. Ople on his election.

Incidentally the Chairmen of both the Employers' and the Workers' Associations from Indonesia were asked by the employers and workers in Asia to second Mr. Ople's election to this high office and made their respective supporting speeches.

Our congratulations also to the Director-General for his excellent Report entitled *Making work more human*.

We are happy that the Governing Body of the ILO and the International Labour Conference in its 1974 Session have placed on this year's agenda for the Conference such technical topics, which at the present time are of great importance for the development of Indonesia, as organisations of rural workers and their role in economic and social development; human resources development; vocational guidance and vocational training; and establishment of national tripartite machinery to improve the implementation of ILO standards.

Our Minister of Manpower, Transmigration and Co-operatives addressed the Conference on Monday, 9 June 1975 from this rostrum and gave his views on the Director-General's Report as well as reporting on the social and economic situation in Indonesia today. I fully agree with him that for a developing country like ours the most important issue which we have to cope with to-day is creating more employment. As he said: "For, while industrialised countries are currently confronted with the problem of offsetting the adverse effects of technological development on human labour, the problem in developing countries is more to create productive jobs for the army of unemployed and under-employed workers, and on how to make the benefits of technological progress accessible to the worker to minimise his burden and increase his production. Better working conditions will invariably increase productivity and higher productivity will contribute to the well-being of the workers, a condition which enhances human dignity among the workers."

The Director-General himself admitted at the beginning of the Introduction to his Report, that perhaps it will be thought that in the present state of the world economy, increasingly threatened by unemployment and inflation, he should have drawn the attention of the International Labour Conference to the promotion and safeguarding of employment or to the protection and distribution of income rather

than to the apparently traditional theme of working conditions and environment.

When the creation of more employment is first envisaged, consideration should also be given to the creation of an adequate safety and health infrastructure. But efforts in the safety and health field should not hamper the creation of more employment.

We in the developing countries have in this matter a choice between more jobs—although with minimum safety and health conditions—or fewer jobs with better conditions of safety and health. The reason is that better safety and health conditions tend to cost more money, which will influence not only investment but also the cost of production and so increase the selling prices of products. This will have adverse effects on the people's purchasing power which is still low in our country.

After having studied the Report, it appears to me that the Director-General, in choosing the theme of working conditions and environment, has not lost sight of the problems of employment and income.

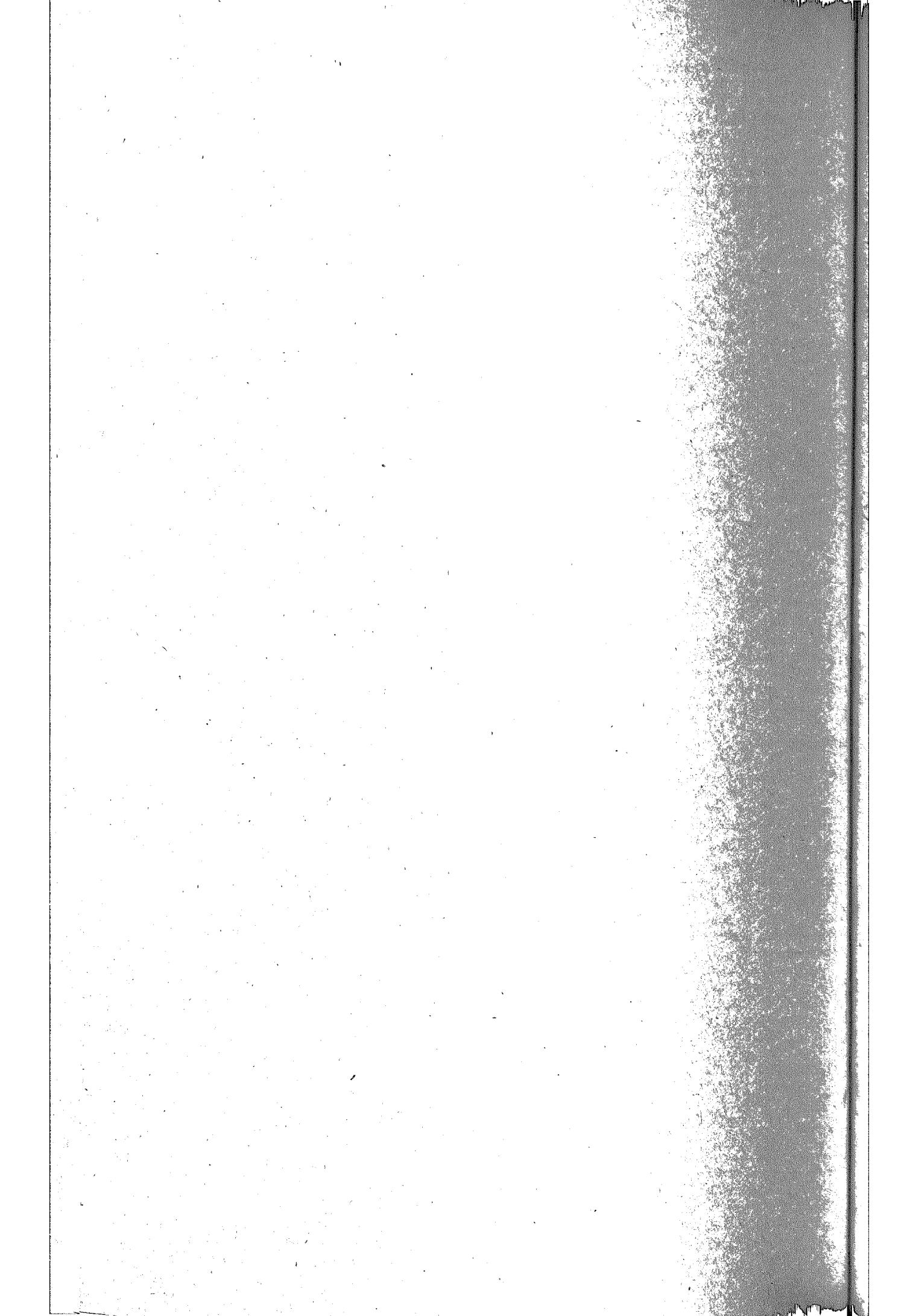
Therefore, I welcome his comprehensive Report which invites further thoughts on the process of industrialisation and national development in my country. I am particularly happy that the Governing Body has now decided that the Tripartite World Conference on Employment, Income Distribution, Social Progress and the International Division of Labour will be held next year at the same time as the annual Conference of the ILO.

As regards the work of the ILO as a whole, I always feel sorry that too much time has been consumed on political matters.

I hope that the discussion on structure, both in the Committee and in the Working Party, which has to do the follow-up work after this Conference, can be carried out in an atmosphere of understanding among the different groups so that, by next year, we can arrive at certain conclusions or compromises which can be put into effect immediately and which will guarantee the smooth operation of the Organisation. This in turn will make it easier for the Office to devote the entire time available to technical matters.

As a matter of fact, what is most important for the developing countries and for the three groups within these countries—the government, the employers and the workers—is the technical advice, guidance and assistance provided in the field of labour, in particular, and in the social and economic field, as a whole.

Coming myself from a developing country with a vast area and a big population, I should like to stress again the importance of the discussions now going on in the technical committees I mentioned earlier relating to the rural sector, vocational guidance and training and the establishment of national tripartite machinery, not to improve the implementation of ILO standards but also to cover wider social and economic fields as far as Indonesia is concerned. We have found that the tripartite constitution of bodies is of extreme importance and therefore we are happy that as an initial step we in Indonesia have been able to set up guidelines for industrial relations based on Panchasila—the five pillars of our state philosophy. We have achieved this through a national seminar, which was inaugurated by the President of the Republic and I quote here some of the conclusions: "The Government shall assume the role of guide and mentor, protector and conciliator for society in general and the parties concerned in the production process in particular. The Labour Union is not only spokesman of the aspirations of the workers with



APPENDICES

Fifth Item on the Agenda: Migrant Workers

First Report of the Committee on Migrant Workers.

1. The Committee on Migrant Workers was set up by the Conference at its third sitting on 5 June 1975. It was originally composed of 132 members (56 Government members, 32 Employers' members and 44 Workers' members). In order to ensure equality of voting strength, 44 votes were allotted to each Government member, 77 votes to each Employers' member and 56 votes to each Workers' member. The composition of the Committee was subsequently modified six times, and the coefficients were modified as a result.¹

2. The Committee elected the following Officers:

Chairman : Mr. Zlitni (Government member, Libyan Arab Republic).

Vice-Chairman : Mr. Yllanes Ramos (Employers' member, Mexico); Mr. Cavazzuti (Workers' member, Italy);

Reporter : Mr. Duquette (Government member, Canada).

3. The Committee appointed a Drafting Committee composed of Mr. Duquette (Reporter), Mr. Gauthier (Government member, France), Mr. Kapartis (designated by the Employers' members), and Mr. Cerfeda (Workers' member, Italy).

4. The Committee had before it Reports V (1) and V (2) prepared by the International Labour Office on the fifth item on the agenda concerning migrant workers for a second discussion by the Conference. The proposed Convention and proposed Recommendation prepared by the Office were contained in Report V (2). The Committee also had at its disposal the text of the resolution on migrant workers adopted by the Tenth Conference of American States Members of the ILO (Mexico, November-December 1974).

5. The Committee held 16 sittings.

Introduction

6. In a preliminary introduction, the representative of the Secretary-General indicated that the work of the

Committee should be regarded in the context of the activities carried out by the ILO and other international organisations in favour of migrant workers. He emphasised that this theme constituted one of the areas of emphasis of the ILO programme and recalled the various meetings organised by the ILO since the last session of the Conference, in particular the symposia on the educational needs of migrant workers, the symposium on equality of opportunity and treatment in employment in the European region and the regional seminars in Latin America and West Africa. He mentioned the decisions taken by the ILO Governing Body at its last session (May 1975) concerning the agenda of the next meeting of experts on migrant workers (October 1975), and of the Tripartite World Conference on Employment, Income Distribution and Social Progress and the International Division of Labour (June 1976). He also drew attention to the resolution concerning migrant workers adopted by the Tenth Conference of American States Members of the ILO, a paragraph of which made a specific request that the problems arising out of the legalisation of the position of migrant workers without official papers and the labour guarantees to which they were entitled should be referred to the International Labour Conference for discussion at its present session. In presenting the two Reports V (1) and V (2) and the new draft instruments, he stated that 52 out of the 78 governments which had submitted comments had considered the proposed text as a satisfactory basis for discussion.

General Discussion

7. A number of Government members and the Workers' members of the Committee, whilst considering that the proposed texts in Report V (2) constituted a satisfactory basis for discussion and whilst noting with satisfaction the activities undertaken by the ILO for migrant workers, pointed out that the evolution of the economic and social situation since the 59th Session of the Conference had been particularly unfavourable to migrant workers whose situation had become more precarious in a number of countries of employment. Furthermore, this evolution had often, and sometimes from one day to the next, led to profound changes in policy in these countries and had caused serious difficulties for certain countries of origin by placing in jeopardy their employment policy and seriously disturbing their development efforts. Under these circumstances, they considered that the Committee and the Conference bore even greater responsibilities, which should induce them to propose instruments to member States that would ensure adequate protection to migrant workers, particularly as to equality of opportunity and treatment,

¹ The modifications were as follows:

7 June: 134 members (58 Government members with 176 votes each, 32 Employers' members with 319 votes each, 44 Workers' members with 232 votes each);
 10 June: 134 members (59 Government members with 1,376 votes each, 32 Employers' members with 2,537 votes each, 43 Workers' members with 1,888 votes each);
 13 June: 124 members (59 Government members with 1,036 votes each, 28 Employers' members with 2,183 votes each, 37 Workers' members with 1,652 votes each);
 14 June: 123 members (59 Government members with 252 votes each, 28 Employers' members with 531 votes each, 36 Workers' members with 413 votes each);
 17 June: 124 members (59 Government members with 1,044 votes each, 29 Employers' members with 2,124 votes each, 36 Workers' members with 1,711 votes each);
 18 June: 120 members (60 Government members with 56 votes each, 28 Employers' members with 120 votes each, 32 Workers' members with 105 votes each).

— 650 —

and to prevent the introduction of unjust emergency measures as certain States might be tempted to take in view of the present economic situation.

8. Some Government members had insisted that the ILO programmes and the instruments being drawn up should take account of questions such as particular regional factors, the phenomenon of permanent migrations, the problems relating to migrant workers without necessary papers, the problems related to the preservation of the cultural identity of migrant workers and their families, and to the maintenance of their cultural links with their countries of origin and the granting of social security benefits. They pointed out that the proposed texts did not contain adequate provisions in this respect and announced their intention of submitting amendments to repair these omissions. Other Government members considered that there was a grave omission in the proposed Convention, in that no measures were provided for the protection of the social rights of migrant workers. They suggested completing the proposed Convention by a new Part III, which would relate to the equality of opportunity in social policy, by taking certain basic proposals contained in Part II of the proposed Recommendation, entitled "Social Policy". The observer of the International Council of Social Democratic Women said that she was not convinced that the proposed texts, in particular the proposed Recommendation, had taken sufficient account of the specific problems of the woman migrant worker, either as a woman worker or as a member of a family. She referred to various comments and suggestions made by the non-governmental organisations having consultative status with the Economic and Social Council in the Sub-Committee on the Status of Women of the Special Committee of International NGOs on Human Rights (Geneva), the text of which was placed at the disposal of the Committee. She expressed the hope that the Committee would take these into consideration.

9. The members of the Committee unanimously recognised the need for the control and organisation of the flow of migrant workers, this being as much in the interest of both the countries of origin and the countries of employment as in the interests of the migrant workers themselves. They emphasised that the main responsibility lay with governments, whose co-operation should be strengthened. They considered that special priority should be given to the suppression of movements of migrant workers carried out under abusive conditions and to the activities of the organisers of clandestine migration and their accomplices. In this context, the adoption of a Convention on abusive migration should be regarded as constituting a positive step forward and as a valuable contribution to a solution to the problem.

10. The Employers' members expressed serious reservations concerning Article 5 of the proposed Convention, considering that penal or other sanctions should not be applied to employers, except when they knowingly employed persons subject to clearly defined abuses. The Employers' members emphasised, moreover, that it was the responsibility of the State to ensure that those living within its national boundaries and seeking employment should respect the laws and regulations concerned and that national workers and migrant workers should conform to that law. The employer could not and should not be obliged, before employing workers, to carry out an inquiry as to their private lives and background. Some Government members also considered that an employer acting in good faith should not be prosecuted and penalised.

11. The Workers' members and some Government members, whilst recognising that there was no question of taking sanctions against the innocent, expressed surprise that an employer could be unaware of such an important aspect of labour legislation. They argued that among the reasons explaining the persistence of illicit migration, in addition to the unequal international division of labour and the unjust income distribution still encouraged and maintained by certain countries, there was the attitude of some employers, who preferred to avail themselves of the services of manpower traffickers or to act outside official channels, in order to avoid their obligations. Severe penal sanctions should be applied against such employers not only because they contravened the laws and regulations relating to employment, but also because they were the accomplices and the origin of a pernicious traffic.

12. A number of Government members and certain Workers' members regretted that Part I of the proposed Convention in its present form made mention only of migrations in which migrant workers were subjected to "abusive conditions" during their journey and their arrival. They emphasised that, in many countries, travelling conditions and conditions on entry were not necessarily uncomfortable nor abusive, although these migrations were still illicit and prejudicial. They hoped, therefore, that the proposed Convention would be amended in order to take into account illicit migrations as well as the illicit employment of migrant workers. Further, several Government members, supported by the Employers' members, had contested the suitability of the expression "migrations in abusive conditions".

13. The Employers' members and some Government members, while supporting with some reservations Part I, relating to "migrations in abusive conditions", were opposed to Part II which should in their opinion be excluded from the proposed Convention and inserted in the proposed Recommendation. In fact they considered, on the one hand, that the two Parts dealt with entirely different subjects and that by combining them the chances of ratification of the Convention (assuming that it were adopted by the Conference), and thereby of an effective and organised campaign against abusive migrations, would be weakened. On the other hand, they considered that Part II went much further than the Migration for Employment Convention (Revised), 1949, which had had a limited success. They added that a new Convention drawn up on this basis risked the fate of the Migration for Employment Convention, 1939, which never came into force for lack of ratification.

14. Certain Government members considered that it might be possible to introduce a provision into the proposed Convention allowing for separate ratifications of one or other of the two Parts.

15. The Workers' members and several Government members were opposed to the elimination of Part II of the proposed Convention and to any formula of ratification Part by Part, because Parts I and II of the proposed Convention constituted a whole whose two elements were interdependent and complementary. Some considered, moreover, that the distinction between legal and illicit migrations was often artificial and liable to change. For that reason, they considered that the principle of equality of opportunity and treatment with nationals should be applicable to all migrant workers, whether they had entered legally or not, once they were employed.

Examination of the Proposed Convention in Report V (2)

FORM OF THE INSTRUMENT

16. On the basis of the Workers' members' proposal, the Committee decided not to discuss this question until after the discussion and adoption of the provisions proposed in Report V (2) to be inserted in a Convention.

17. The Employers' members submitted an amendment regarding the form of the instrument in which they suggested: (a) a Convention comprising Part I of the proposed text (Articles 1 to 6), the title of which should be revised in consequence; and (b) a Recommendation amalgamating Part II of the proposed Convention (Articles 7 to 10) with the proposed Recommendation. Their proposal was based on the fact that the proposed Convention dealt with two different concepts. The first, i.e. "migrations in abusive conditions", posed an urgent and concrete problem concerning which there was a very large measure of agreement, both in the United Nations and in the Committee. It could therefore be hoped that this first Part could be the subject of a Convention which would be widely ratified and which might prove to be a focal point for a worldwide struggle against illicit migration, manpower traffickers and their accomplices. The second aspect of the proposed Convention, on the contrary, dealt with a question that was not only quite different but was also very controversial, a question that, under present circumstances, had little chance of being taken into consideration. The combination, in a single Convention, of these two problems would therefore be to the detriment of the first Part, without providing any great degree of support for the second Part. The Workers' members, without wishing to repeat the arguments that they had already raised against this proposal and which the Committee and the Conference had very clearly rejected in June 1974, pointed out that the two concepts were entirely complementary. Moreover, in their opinion it was the problem of the equality of opportunity and treatment that was the most urgent and the most important, in view of the meagre progress that had been made in this regard and of the large numbers of workers concerned. The amendment was rejected by 3,792 votes to 4,958, with 437 abstentions.

RATIFICATION PROCEDURE

18. An amendment submitted by the Government members of Denmark, Norway and Sweden concerning the ratification procedure, read as follows:

A new Article should be added to the proposed text:

1. Any Member of the International Labour Organisation which ratifies this Convention may, by a declaration appended to its ratification, exclude either Part I or Part II from its acceptance of the Convention.

2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.

3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate in its reports on the application of this Convention the position of its law and practice in regard to the provisions of the Part excluded from its acceptance and the extent to which effect has been given, or is proposed to be given, to the said provisions.

The amendment was submitted by its authors as a compromise solution modelled on Article 25 of the Labour Inspection Convention, 1947. It had been put forward as a compromise between the two positions which had arisen in the Committee and deeply divided it. They drew attention to paragraph 3 of their proposal, which pointed out the obligation of every Mem-

ber which ratified the Convention to "indicate in its reports on the application of this Convention the position of its law and practice in regard to the provisions of the Part excluded from its acceptance and the extent to which effect has been given, or is proposed to be given, to the said provisions". Several Government members of the European Economic Community and the Government members of Australia and Canada supported this amendment, considering that it constituted an excellent compromise. The Government members of Algeria, Cuba, Italy and the USSR and the Workers' members of Algeria and France opposed the amendment which, in their opinion, clearly signified that Part II relating to equality of opportunity and treatment, which they regarded as the essence of the instrument, would be set aside. They considered that the amendment would have the same effect as that of the Employers' amendment which had been rejected, to the extent that Part II of the proposed Convention would have little chance of being ratified and would have, in consequence, no greater value than that of a Recommendation. They emphasised that the two Parts of the instrument were two indivisible elements of a general strategy designed to improve the conditions of migrant workers. That strategy would lose all credibility and all effectiveness if it were not founded on more than one or other of the two Parts. The Workers' member of Sweden, speaking in the name of some Workers' members, supported the amendment and submitted a sub-amendment which proposed the addition at the end of paragraph 3 of the words "and the reasons for which it has not yet included them in its acceptance of the Convention". This sub-amendment was accepted by the authors of the amendment. The Employers' members submitted a sub-amendment to delete from paragraph 1, after the word "exclude", the words "either Part I or". The authors of the amendment stated that members should have the possibility, if they so wished, and even if they were few in number, of ratifying Part II. They therefore opposed the sub-amendment proposed by the Employers' members which was then withdrawn. The amendment, as sub-amended by the Workers' member of Sweden, was adopted by 4,634 votes to 3,558, with 56 abstentions.

TITLE OF THE PROPOSED CONVENTION

19. Three amendments were introduced for the alteration of the title of the proposed Convention. The first, submitted by the Government member of the United States, proposed replacing the words "migrations in abusive conditions" by "illicit and clandestine migrations". The author of the amendment explained that her objective was to widen the scope of the instrument to cover not only migrations carried out in abusive conditions, but also actual illicit migrations and the employment of migrant workers entering under illicit conditions. A further amendment, submitted by the Government member of Canada and having the same objective, was withdrawn by its author in favour of the amendment of the Government member of the United States. A third amendment, proposed by the Workers' member of Venezuela and supported by the Workers' members, proposed the introduction after the word "migrations" of the words "and employment".

20. The amendment of the Government member of the United States, which its author regarded as the logical sequence to the various changes that had been made in the proposed Convention, was rejected by 2,152 votes to 3,529, with 896 abstentions.

21. The amendment of the Workers' member of Venezuela obtained 4,019 votes to 0, with 2,760 abstentions; the quorum not having been met, it was not adopted.

22. The title of the proposed Convention was adopted without change.

PREAMBLE

23. Five amendments were tabled on the Preamble. The first, submitted by the Government member of Italy, proposed adding, after the fourth paragraph of the Preamble, a new paragraph reading: "Considering that the ILO World Employment Programme and the Employment Policy Convention and Recommendation, 1964, emphasise the need to avoid the excessive and uncontrolled or unassisted increase of transfers of migrant workers, because of their negative social and human consequences, and considering, moreover, that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and investment rather than the transfer of workers, and". The Government member of Portugal, supported by the Government member of Algeria, proposed two sub-amendments; the first was to insert, after the word "encouraging", the phrase "in the framework of national development programmes", and the second was to replace the word "investment" by the word "technologies". The Workers' members proposed a sub-amendment, to add to the end of the amendment the words "in accordance with the needs and requirements of these countries and in the interests of the two parties". The Government members of Portugal and Algeria preferred the formula suggested by the Workers' members and therefore withdrew their first sub-amendment. The Government members of Colombia and Mexico and the Employers' members submitted a sub-amendment for the deletion of the phrase "because of their negative social and human consequences", as they considered that migration also had positive social and human effects, to which the amendment proposed by the Government member of Italy did not do justice and carried an inexact reference to the World Employment Programme, and that the proposed Convention, referring to international efforts concerning productive employment, should acknowledge the positive aspects included in this programme and not a negative and doubtful interpretation of it. The Workers' members and several Government members opposed this sub-amendment which, put to the vote, was rejected by 55,389 votes to 75,656, with 15,762 abstentions. The representative of the Secretary-General pointed out that the first part of the amendment presented problems, in that it attributed to the Employment Policy Convention and Recommendation, 1964, a content which, to his knowledge, they did not possess. The Employers' members shared this viewpoint. In order to resolve the problem, the Workers' member of France proposed to replace, in the second line, the word "emphasise" by the words "and emphasising". This proposal was accepted. The amendment, as sub-amended, was adopted by general agreement.

24. The Government member of the USSR submitted an amendment to replace the fifth paragraph by a new paragraph with the following text: "Considering also the relevant human rights proclaimed in the Universal Declaration of Human Rights and stipulated in the International Covenants on Human

Rights, and". The author explained that the text in Report V (2) had the grave defect of referring to only one article of the Universal Declaration of Human Rights and of making no reference either to other equally relevant articles in the same text or to major and more complete texts, such as the International Covenant on Civil and Political Rights adopted by the United Nations. The Employers' members and various Government members opposed this amendment. After a discussion in which the Government member of Algeria, the Workers' member of Czechoslovakia and the spokesmen of the Employers' and Workers' groups took part, the Government member of the USSR submitted a sub-amended version of his amendment, as follows: "Considering also the right of everyone to leave any country, including his own, and to enter his own country, as set forth in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, and". The amendment, as sub-amended, was adopted.

25. The Government member of France proposed an amendment in two parts. The first part consisted in replacing in the seventh paragraph the word "supervision" by the word "control", in order to accentuate the need for a policy to control migration. The second part of the amendment was to replace, at the end of the second line, the word "or" by the word "and". The object of this second part of the amendment was to emphasise the connection between national policies and practices and international agreements. The Employers' members were opposed to the use of the word "control" which, in their opinion, could give rise to abuses. They stated however that they were prepared, if absolutely necessary, to accept the word "responsibility". Some Government members expressed their reservations concerning this word. After a discussion in which several Government members and the representative of the Secretary-General took part concerning the respective meaning in the different languages of the words "supervision", "control" and "responsibility", the word "responsibility" was approved. It was agreed, however, that the word "responsibility" should be interpreted as signifying supervision or control, as the case might be, and that the responsibility thus entrusted to official employment agencies concerning movements of migrant workers was in no way exclusive since other responsibilities in this context could be given to other government agencies. It was decided to refer the second part of the amendment to the Drafting Committee.

26. The Government member of Austria introduced an amendment for the deletion, in the eleventh paragraph of the Preamble, of the words "covering also social security", since there were no provisions in the proposed Convention relating to social security and, furthermore, social security questions were dealt with in other instruments, in particular, as regards migrant workers, in the Equality of Treatment (Social Security) Convention, 1962. The amendment was supported by the Government member of the United Kingdom and the Employers' members. It was opposed by the Government members of Algeria and Spain, and by the Workers' members who considered that, in the Preamble of a Convention concerning equality of opportunity and treatment, such a reference was an indispensable minimum. In reply to a question by an Employers' member, the representative of the Secretary-General indicated that the reference in question, which was formulated in very broad terms, expressed a wish on the part of the Committee but in

no way implied the adoption, in the proposed instrument under discussion, of express provisions relating to social security; moreover it would not necessarily lead to the revision of existing instruments relating to this subject. The amendment was rejected by 62,419 votes to 63,448, with 1,036 abstentions.

27. An amendment submitted by the Government member of Mexico, for reference to be made to resolution No. 3224 adopted at the 29th Session of the General Assembly of the United Nations, was withdrawn by its author after the workers had indicated that they considered this amendment neither useful nor necessary and that it dealt with a question which should be raised in the context of a new Article 1 that he and the Government member of Algeria were to propose.

28. The Preamble, as amended, was adopted.

PART I. MIGRATIONS IN ABUSIVE CONDITIONS

New Article

29. The Committee had before it an amendment submitted by the Government members of Algeria and Mexico which read as follows: "Each Member for which this Convention is in force undertakes to respect the human rights and labour guarantees of migrant workers regardless of whether or not they have entered the country of employment lawfully." This amendment, without prejudice to the right of States to control migratory movements, supports the basic principle solemnly reaffirmed by the United Nations resolution already mentioned regarding the right of migrant workers, whether they have entered a country of employment regularly or not, with or without official papers, to be afforded protection. The Workers' members proposed a sub-amendment for the deletion of the words following "to respect" and their replacement by "the basic rights of all migrant workers" in order to emphasise what was essential and to cover all migrant workers since all should enjoy such rights. The amendment, as sub-amended, was adopted unanimously.

30. The new Article, as amended, was adopted.

Article 1¹

31. The Committee considered four amendments to Article 1 of the proposed text. The amendment submitted by the Workers' members was withdrawn in favour of the amendment submitted by the Workers' members of Finland and Sweden which, after having been reworded, read as follows: "Each Member for which this Convention is in force shall systematically seek to determine whether there are on its territory any illegally employed and whether there depart from, pass through or reside in its territory any movements of migrants for employment in which the migrants are subjected either during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international, multilateral or bilateral instruments or agreements." The Workers' members' amendment was concerned not only with abuses taking place during the journey or on arrival but equally with those which could occur during the residence or employment of the clandestine

migrant worker. The Government members of the member countries of the European Economic Community proposed the addition, after the words "or agreements" of the words "or national laws and practice". After the Employers' members had been assured that the amendment, as sub-amended by the Workers' members and the Government members of the EEC countries, would include the points contained in their amendment, and in particular that the words "conditions contravening relevant international instruments . . ." concerned the right to pass, enter, reside, settle down and take up employment, they gave their agreement to the sub-amended amendment. The amendments submitted by the Employers' members and by the Government members of the EEC countries having been withdrawn, the amendment, as sub-amended, was adopted unanimously.

32. Article 1, as amended, was adopted.

Article 2

33. Five amendments were submitted to the Committee concerning Article 2 of the proposed text. Three were withdrawn by their authors. The amendment submitted by the Workers' members of Finland and Sweden proposed the deletion of Article 2 and its replacement by the following text:

In order to prevent and eliminate the abuses referred to in Article 1 of this Convention, each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members, against the organisers of illicit and/or clandestine movements of migrants for employment departing from, passing through or arriving in its territory and against those who employ workers who have immigrated in such conditions.

In presenting this amendment in the name of the Workers' members, the Workers' member of Sweden explained that the object of this amendment was to complete Article 1 of the proposed text as reworded. He proposed to replace in the amendment the words "in such conditions" by the words "in illegal conditions". A second subamendment proposed by the Government member of the United States and by the Employers' members for the addition, before the words "who employ", of the word "knowingly", was rejected by 2,016 votes to 17,843, with 5,237 abstentions. The Employers' members proposed a third sub-amendment for the addition, after the words "with other Members, against" of the words "clandestine migration for employment". They considered in fact that it was necessary to combat not only the organisers of clandestine migrations but also the actual clandestine migration. The Workers' members stated they could not support such a modification which had the effect of penalising the migrant worker himself. The Employers' members agreed to replace their amendment by the phrase "to eliminate clandestine migration". The Workers' members accepted this suggestion and requested that there should be added after "clandestine migration" the words "and illegal employment". The amendment, as sub-amended, was adopted unanimously.

34. The Employers' members proposed an amendment for the addition to Article 2, as adopted, of a new paragraph as follows: "2. Measures taken by Members in accordance with this Convention must not encroach upon the right of the individual, as established in the United Nations Universal Declaration of Human Rights, to leave any country, including his own and to return to his own country", in order to introduce into an Article of the proposed Convention a basic principle which the Committee had already

¹ The numbering of the Articles reproduces that of the proposed Convention Report V (2). It does not necessarily correspond in every case to the numbering of the Articles in the proposed Convention reproduced at the end of the Committee's report, which are based on the Committee's decisions and, in some cases, on subsequent redrafting by the Drafting Committee.

accepted for the Preamble. After a discussion in which the Government members of Algeria, Colombia, France, Mexico, Spain and the USSR, the Employers' members of Mexico and Sweden, and the Workers' members of France, the Federal Republic of Germany, Mali and the USSR took part, and during which it was emphasised that the adoption of this amendment might be interpreted as encouraging a "brain drain", the Employers' members withdrew their amendment since it had been shown that the Committee was unanimous in supporting the principle contained in Article 13, paragraph 2, of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Civil and Political Rights.

35. Article 2, as amended, was adopted.

Article 3

36. The Committee had before it an amendment proposed by the Workers' members of Finland and Sweden for an additional Article to follow Article 3. In view of the content of Article 2 as amended, they withdrew their amendment.

37. Article 3 was adopted without change.

Article 4

38. An amendment submitted by the Government member and Employers' member of Spain and affecting the Spanish text only was referred to the Drafting Committee.

39. Article 4 was adopted without change.

Article 5

40. Six amendments concerning Article 5 of the proposed text were submitted to the Committee. One amendment was submitted by the Workers' members of Finland and Sweden for the deletion of this Article and its replacement by the following text:

Provision shall be made under national laws or regulations for the efficacious detection of the illegal employment of migrant workers and for the application of severe penal sanctions, which include imprisonment in their scope, in respect of the illegal employment of migrant workers, in respect of the organisation of movements of migrants for employment defined as involving the abuses referred to in Article 1 of this Convention, in respect of knowing assistance thereto, whether for profit or otherwise and in respect of the employment of workers who have immigrated in such conditions.

In submitting this amendment on behalf of the Workers' group, the Workers' member of Sweden explained that its aim was to introduce specific provisions for the detection of the illegal employment of migrant workers. The Government member of the United States and the Employers' Vice-Chairman proposed three sub-amendments. The first consisted of adding, after the words "for the application of", the words "administrative, civil or" and deleting, before the word "penal", the word "severe". The second proposed adding, after the words "in respect of the employment", the words "in full awareness of the facts". The third proposed replacing in the last line of the amendment, the words "in such conditions" by "in illegal conditions". The Workers' members said that they could not agree to the word "or" after "administrative", civil and suggested the word "and" in its place. Moreover, they could not accept the words "in full awareness of the facts". A new sub-amendment submitted by the Government member of France proposed replacing the word "application" by the word "definition", and deleting

the last phrase "and in respect of the employment of workers who have immigrated in such conditions". The replacement of the word "application" by "definition" was refused by the Workers' members, but they agreed to the deletion of the last phrase. In reply to a question by the representative of the Secretary-General, the Government member of France agreed to the wording "definition and application". The proposal of the representative of the Secretary-General to refer the question as to where the reference to Article 1 should be placed to the Drafting Committee was accepted by the Committee. Replying to a question of the representative of the Secretary-General, the Employers' Vice-Chairman said that he was prepared to withdraw the words "in full awareness of the facts", provided that a paragraph was added, to read as follows: "2. Where an employer is prosecuted by virtue of the above provision, he shall always have the right to furnish proof of his good faith". The other amendments were withdrawn by their authors and the amendment, as sub-amended, was adopted unanimously.

41. Article 5, as amended, was adopted.

Article 6

42. The Committee had before it an amendment presented by the Workers' member of Canada to Article 6 of the proposed text. This amendment proposed the deletion of the word "normally" which, in his opinion, would weaken the positive character of the provision. The amendment was adopted unanimously.

43. An amendment submitted by the Workers' member of Turkey was withdrawn in favour of an amendment submitted by the Workers' members, which dealt with the same problem in another Article.

44. The Article, as amended, was adopted.

New Article

45. The Committee had before it an amendment proposed by the Workers' members of Finland and Sweden, to which the members of the Committee had made various modifications. This amendment, as sub-amended, read as follows:

Subject to the condition that the migrant worker entered the country in conformity with the relevant laws and regulations and was legally employed, the loss by such a migrant of his employment or the insufficiency of his resources shall not in itself involve the withdrawal of his authorisation of residence and removal from the territory.

Subject to the condition that the migrant worker resides lawfully in the territory, this Article does not affect the right of migrant workers to enjoy equality of treatment with nationals, especially in respect of security of tenure of employment, the provision of alternative employment, relief work and retraining.

The authors emphasised that the principal object had been to protect the migrant worker, who had entered the country of employment legally, against measures, in particular emergency measures, which might cause him to become an illicit migrant from one day to the next. They considered that such a migrant worker should enjoy the same treatment as that accorded to nationals. The Government members of Algeria and Colombia supported the amendment, whilst the Government members of the Federal Republic of Germany, France and the United States opposed it. The Employers' members stated that they would abstain, since they considered that the problem was essentially one that concerned only governments. The Government

member of the Federal Republic of Germany proposed a sub-amendment which would replace, in the first sentence, the expression "shall not in itself involve" by "shall not automatically involve". The sub-amendment was rejected by 765 votes to 10,164, with 19,816 abstentions, the quorum not being met. The first paragraph of the amendment received 15,405 votes to 504, with 14,706 abstentions. The quorum not having been met, the first paragraph of the amendment was rejected.

46. The Committee then had before it a new draft of the second part of the amendment proposed by the Workers' members for the addition, after Article 6, of the proposed text of a new Article to read as follows: "In any case and on condition that the migrant worker has resided legally in the territory, he shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself involve the withdrawal of his authorisation of residence and work permit. He shall therefore enjoy equality of treatment with nationals, especially in respect of security of tenure of employment, the provision of alternative employment, relief work and retraining." In the course of a discussion in which the Government members of Algeria, Belgium, the Federal Republic of Germany and the Netherlands, the Employers' member of Mexico and the Workers' members of France, Italy and Sweden took part, various new points were raised concerning the expression "authorisation of residence, and work permit". The Workers' member of Italy suggested the expression "should be maintained or renewed", following a statement made by the Government member of the Netherlands, who stated that there was no procedure for the withdrawal of work permits in his country. A subamendment submitted by the Government member of Belgium suggested adding the words "for purposes of employment", after the words "legally in the territory", which was accepted. The Government member of the Netherlands expressed surprise at the use of the term "security of tenure of employment" in the context of the present amendment and, supported by the Government member of the Federal Republic of Germany, proposed adding after "authorisation of residence or work permit", a reference to national law or practice. The Workers' members were opposed to this proposal. The following text was then adopted unanimously:

In any case and on condition that the migrant worker has resided legally in the territory for purposes of employment, he shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself involve the withdrawal of his authorisation of residence or, as the case may be, work permit. He shall therefore enjoy equality of treatment with nationals, especially in respect of security of tenure of employment, the provision of alternative employment, relief work and retraining.

47. The new Article, as amended, was adopted.

New Article

48. The Committee had before it an amendment which was a combination of three separate amendments, proposed respectively by the Government member of the USSR, the Employers' members and the Workers' members. The amendments submitted had been consolidated into a single text drawn up by the Working Group, which was composed of the Government members of Italy and the USSR and the Employers' member and the Workers' member of Sweden. The text proposed by the Working Group read as follows:

(a) Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant

workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularised, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.

- (b) In case of disputes about the rights referred to in the previous paragraph, the worker shall be allowed to present his case to the competent institution, either himself or by any representatives.
- (c) In case of expulsion of the worker and his family, the cost shall not be borne by the persons concerned.
- (d) Nothing in this Convention shall prevent Members from giving persons who are illegally residing and working within the country the right to stay and to take up legal employment.

The Employers' and Workers' members agreed to the proposed text. The amendment was adopted by 8,008 votes to 0, with 1,120 abstentions. The Government member of the Federal Republic of Germany and other Government members of the EEC countries stated that they had abstained because they considered that the procedure for the adoption of this amendment had been over-hasty.

49. The new Article, as amended, was adopted.

New Article

50. The Committee had before it an amendment presented by the Employers' members reading as follows: "This Convention does not prevent Members from concluding multilateral or bilateral agreements with a view to resolving problems arising from its application." In presenting this amendment, the Employers' Vice-Chairman said that the Committee could at a later stage place this text in the appropriate place. It was then decided to place this Article in Part III, "Final Provisions", in such a way that it related to the other two Parts of the proposed Convention. The amendment was adopted unanimously.

51. The new Article, as amended, was adopted.

PART II. EQUALITY OF OPPORTUNITY AND TREATMENT

Article 7

52. The first amendment to be examined by the Committee concerning this provision was submitted by the Workers' members and sought to add "and to guarantee" after the words "to promote". The Workers' members felt that this addition would more clearly specify the obligation on Members to ensure the effective application of the national policy referred to in this provision. The amendment was supported by several Government members; two of these (the Government members of Algeria and Yugoslavia) had submitted amendments dealing with the same questions which they then withdrew because of this amendment. Certain Government members, on the other hand, were concerned lest the amendment involve more rigorous obligations than the original text in areas which are not entirely subject to control by public authorities such as the shaping of public opinion or the exercise of trade union rights. The Workers' members emphasised that it was nevertheless essential to specify that the State should use all means at its disposal to guarantee equality of opportunity and treatment in view of the disparity between theory and practice in many areas. The Employers' members considered that the amendment was essentially a Government concern. It was adopted by 17,044 votes to 2,268, with 16,047 abstentions.

53. The Committee next considered proposals made respectively by the Government member of Spain, the Government member of Italy and the Workers' members with a view to specifically mentioning social security after the words "in respect of employment and occupation". It was recalled that these words, as already used in the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, covered especially conditions of employment, including social security measures relating to employment, as demonstrated by the preparatory work undertaken in the case of these instruments and by the practice of the Committee of Experts on the Application of Conventions and Recommendations. The Workers' members and certain Government members emphasised that it was nevertheless appropriate to make specific mention of social security in the new instrument, given the particular importance of this problem for migrant workers. The Employers' members, on the other hand, felt that it would be preferable not to treat social security here owing to the special technical problems which arose in this field and which were treated in other Conventions, particularly the Equality of Treatment (Social Security) Convention, 1962, or else that perhaps the Members' obligation in this respect should be linked to those resulting from the ratification of such other Conventions in this regard. The Government member of Spain stressed that the inclusion of social security in the proposed instrument would result in the restatement of a fundamental, necessary principle, but would not contradict other Conventions concerning the regulation of technical questions arising in this area. The Committee then decided by 19,956 votes to 0, with 15,183 abstentions, to include a specific reference to social security after the words "in respect of employment and occupation".

54. An amendment proposed by the Government member of Austria, to which the Government member of the Federal Republic of Germany gave his support after having himself proposed a similar amendment, sought to insert after the words "in respect of employment and occupation" the words "with regard to the situation and development of the labour market". In support of the amendment it was explained that while equality of treatment as regards conditions of work and other related matters, as provided for by Article 6 of the Migration for Employment Convention (Revised), 1949, should be guaranteed, it should nevertheless be possible to regulate the conditions of migrant workers' access to the labour market and to subject it to certain restrictions in accordance with the situation of the labour market. These provisions would guarantee that priority be given to national workers and to those migrant workers who had resided for a long period in the country of employment. Failing this, it would be more difficult to ensure equality of opportunity in other matters. The Workers' members and various Government members strongly opposed the amendment in the belief that questions of equality of opportunity and treatment should be entirely distinct from questions concerning the admission of migrant workers and that, once admitted, the latter should benefit fully from this equality which should not be modified because of the economic situation. The Employers' members stated that they would abstain. The amendment was rejected by 1,008 votes to 17,108 with 15,693 abstentions.

55. On the basis of an amendment submitted by the Workers' members, the Committee decided, without opposition, to add after the words "trade union": "and cultural". At this point another amendment

proposed by the Government member of Spain, which dealt with equality of opportunity in respect of vocational training and general education, was withdrawn by its author.

56. An amendment was submitted by the Government member of the Federal Republic of Germany in order to show that individual and collective freedoms were to be exercised "within the framework of national laws". The majority of the Workers' members were opposed to the amendment and declared that its effect would be to leave to national law and practice the option of granting or limiting the freedoms in question. Certain Government members were of the opinion that it would be dangerous to provide for particular measures concerning migrant workers in this regard in national law and practice. The amendment was rejected by 14,154 votes to 16,443 with 3,491 abstentions.

57. An amendment presented by the Government member of France aimed at adding after the words "individual and collective freedoms", the words, "within the field of competence of the International Labour Organisation". In support of the amendment, he pointed out that the Conference could not express an opinion on matters other than those within the competence of the International Labour Organisation and that the amendment would only serve to state more precisely the explanations already given on this subject in Report V (2). The Employers' members supported the amendment. The Workers' members were opposed and cited the positions already taken with regard to this question during the first discussion in 1974, both during the Committee and during the plenary sitting of the Conference, and the restrictive implications which the amendment would have vis-à-vis the enjoyment of freedoms and civic rights for migrant workers, a matter on which public opinion was evolving rapidly in various countries. The amendment was rejected by 15,462 votes to 16,009, with 2,247 abstentions.

58. An amendment proposed by the Government member of the United States called for the insertion before "migrant workers," of the words "long-term". The Workers' members and certain Government members were of the opinion that this expression was too vague and might leave it to the discretion of governments to determine in which cases they would or would not grant equality of opportunity and treatment. It was felt that this question might rather be examined in connection with Article 8 defining the migrant workers to whom the instrument applies.

59. Another amendment, presented by the Government member of Australia, aimed at allowing national law or practice to determine to what degree the policy provided for by this Article would apply to workers in the public sector. In view of the principles already existing in other ILO instruments concerning non-discrimination and the provisions envisaged in Article 10 (1) (c) of the proposed Convention, the amendment was withdrawn by its author.

60. Other amendments to this draft Article were finally withdrawn. Some of these sought to suppress the word "lawfully" in the last part of the sentence (proposed by the Workers' members and the Government member of Mexico). Others aimed at adding to the draft Article an enumeration similar to that proposed in Paragraph 2 of the proposed Recommendation (proposed by the Workers' members and the Government member of Italy). Such amendments were linked to the discussion which took place concerning

the proposal of new Articles to be added to Part I of the original proposed Convention with regard to the rights of migrant workers in illegal or irregular situations. In view of the decisions already taken in this respect, these amendments were withdrawn.

61. Article 7, as amended, was adopted.

Article 8.

Paragraph 1.

62. An amendment introduced by the Government member of Japan proposed replacing the words "migrant worker" by "migrant for employment". The author of the amendment was of the opinion that it was advisable to use the expression contained in the English text of Article 11 of the Migration for Employment Convention (Revised), 1949, and to bring this terminology in line with that used in the original first Part of the proposed Convention. The Workers' members and the Government member of Colombia expressed their preference for the expression "migrant worker" in this Part of the proposed text, given that reference to the purpose of migration could create uncertainty. The attention of the Committee was drawn to the fact that the English text of Article 11 of the Migration for Employment Convention (Revised), 1949, has used the expression "migrant for employment" as an equivalent to *travailleur migrant* in the French text and that it might be desirable to avoid this apparent divergence. It was decided to leave this question to the Drafting Committee.

63. Another amendment, which was introduced by the Employers' members and sub-amended by the Workers' members with the agreement of the former group, proposed replacing the words "who migrates" with the expression "who migrates or has migrated". The amendment was adopted. The Government member of France expressed concern that this would create doubts as to the need for a worker to be regularly admitted, and he suggested that the entire paragraph be drafted so as to avoid this uncertainty, especially in avoiding the use of the word "includes" in the latter part of the sentence. The attention of the Committee was drawn to the fact that Article 7, which had already been adopted, referred only to persons who "are lawfully" within the territory of a Member. It was agreed that the Drafting Committee would submit a text which took these points into consideration. The Employers' members, supported by some Government members, also proposed an amendment, to add the word "lawfully" before the word "employed", considering that this would be in line with the decisions already taken with regard to Article 7. The Workers' members were concerned that this addition would introduce an element of subjective appraisal of the worker's intentions. Other members considered the amendment to be superfluous, in the light of other provisions in the proposed Convention. The amendment was rejected by 3,912 votes to 4,543, with 673 abstentions.

Paragraph 2.

64. The deletion of subparagraph (a) concerning the exclusion of frontier workers was proposed by a number of Workers' members and by the Government members of Italy and Yugoslavia. It was opposed by some Government members and the Employers' members on the grounds that many of the provisions of the proposed instrument could not be applied to frontier workers because of their special situation. The

amendment was rejected by 1,960 votes to 4,883, with 1,674 abstentions. The Workers' members recalled that it was understood, however, that the question of frontier workers would be further studied with a view to possible future action by the ILO in this area.

65. The Government member of Italy then withdrew an amendment for the deletion of subparagraph (c) concerning the exclusion of seamen, indicating that that question should also be studied with a view to future action by the ILO.

66. On the proposal of the Government member of Australia, the drafting of subparagraph (e) as contained in the Proposed Conclusions of the Committee on Migrant Workers set up at the 59th Session of the Conference was re-established, by 7,904 votes to 0, with 336 abstentions, in place of the text in Report V (2). The Government member of Australia had expressed the opinion that the new text that was proposed in Report V (2) as the result of observations made by some governments did not have sufficient justification and that the decisions taken by a large majority in 1974 should have been maintained. During the discussion, the Workers' members suggested that it should be pointed out, in conformity with the intentions expressed at the first discussion, that this provision applied to persons possessing special qualifications who were sent from one country to another to carry out a particular technical task for a very limited period. The Government members of the Nordic countries suggested establishing that this period should not exceed three months. Eventually, however, it was considered difficult to enter into more detail or to fix a precise maximum period. Other Government members considered that this exception should not deprive workers of equality of treatment in such matters as conditions of work and remuneration, and they drew attention to the danger that such an exception would be irrelevant to the operations of temporary employment agencies. During the discussion that followed, the Government member of Australia expressed his conviction that, even if the text of this subparagraph was not entirely satisfactory, it should be applied by governments in good faith. The Workers' members then emphasised that the spirit of the text had been clearly established and that it should be understood in the light of the above-mentioned objectives and with due regard to the other provisions of the proposed Convention.

67. An amendment submitted by the Government members of Denmark, Finland, Norway and Sweden, to ensure that subparagraph (e) applied to duties or assignments exercised during a period not exceeding three months, was then put to the vote and was rejected by 392 votes to 6,629, with 987 abstentions.

68. The addition of a new subparagraph was proposed by the Government member of the United States with a view to excluding further all types of short-term workers admitted for the performance of specific duties or assignments for a limited and fixed period of time and who must leave the country when this employment had been completed. The Government member of Canada supported this proposal and withdrew in its favour an amendment he had presented along the same lines. The Workers' members were firmly opposed to the amendment, arguing that workers who were (often wrongly) regarded as seasonal should not be excluded from the protection provided for in the proposed Convention. They felt that a proposal by the Employers' members to grant such protection under bilateral agreements was not suf-

ficient. The amendment was rejected by 3,426 votes to 4,622, with 504 abstentions. Another amendment, tabled by the Government members of Denmark, Finland, Norway and Sweden, to exclude persons entering a country for a period not in excess of three months, was rejected by 854 votes to 4,216, with 3,346 abstentions.

69. An amendment presented by the Employers' members to add a new paragraph 3 to this Article, in order to allow a Member to apply this Part of the proposed Convention only to persons who fulfilled certain legal conditions and satisfied certain criteria regarding length of residence and employment, was withdrawn but taken up again by the Workers' members in a subamended form. This aimed essentially at specifying that no provision of the proposed Convention authorised the exclusion of seasonal workers or other comparable categories of temporary workers. They considered that this would be useful in order to underline the significance of subparagraph (e) of paragraph 2. The Employers' members and certain Government members were opposed to this proposal. The Workers' members then proposed that the position taken by the Committee on Migrant Workers on this point during the first discussion in 1974 be reaffirmed in the present report. This proposal, put to the vote, was adopted by 7,430 votes to 56, with 1,298 abstentions. The Committee then recalled that the position on this point had been precisely stated in paragraph 65 of the report of the Committee on Migrant Workers at the 59th Session, which indicated that another subamendment, submitted by the Government member of Italy, "intended to specify that the instrument would apply—except for the clauses which expressly excluded them—to seasonal workers (defined as workers who move to undertake work specifically linked to the requirements of a season, which should not in principle exceed five months) was withdrawn, it being understood that in the present state of the text the definition accepted made no distinction between seasonal workers and other categories of migrant workers (although the former could not always benefit in fact from all the provisions under consideration). The Government member of Switzerland expressed his disagreement with the idea that the seasonal worker would be covered by the proposed provision."

70. Article 8, as amended, was adopted.

Article 9

71. A new subparagraph was added to this Article on the basis of a subamendment presented by a number of Workers' members, subamended by the Employers' members and the Government member of Algeria. The Workers' members explained that the reference to "special needs" and to the "adaptation" of migrants concerned essentially questions of information and language. The amendment as subamended was adopted by 7,642 votes to 0, with 1,142 abstentions.

72. On the basis of amendments submitted respectively by the Workers' members and the Government members of Algeria, Greece and Yugoslavia, a new subparagraph was added to this Article concerning the preservation of the cultural rights of migrants. This new subparagraph was unanimously adopted by the Committee.

73. An amendment which aimed at suppressing subparagraph (d), introduced by the Government member of the United States on the grounds that this paragraph would not be applicable to seasonal

workers and other categories of short-term workers, was withdrawn for lack of support.

74. On the basis of an amendment submitted by the Government member of Italy and subamended by its author and the Employers' members, the Committee decided, without opposition, to add a new subparagraph concerning equality of treatment with regard to conditions of work for all migrant workers defined in Article 8 (1). The author of the amendment as subamended and the Workers' members emphasised that the objective of the amendment was to avoid discrimination between migrant workers according to their nationality and their particular form of employment.

75. Another amendment submitted by the Government member of Mexico, to add a subparagraph concerning the regularisation of Workers who lack the necessary papers, was considered as being unnecessary by the Workers' and Employers' members in view of the new Articles added to Part I of the proposed Convention. Put to the vote, the amendment was rejected by 392 votes to 1,428, with 6,361 abstentions, the quorum not having been met.

76. Article 9, as amended, was adopted.

Article 10

Paragraph 1.

77. The new wording of sub-paragraph (a) was the outcome of an amendment of the Government members of Finland, Norway and Sweden, subamended by the Government member of Belgium and the Employers' members, and taking account of another amendment submitted by the Workers' members of Finland and Sweden, to refer to a maximum period of two years instead of one; the Government members of France and Italy accordingly withdrew their amendments concerning the same point. The amendment, as subamended, was adopted by 5,062 votes to 336, with 842 abstentions.

78. An amendment submitted by the Government member of the Federal Republic of Germany, to add to subparagraph (a) a reference to the situation of the labour market, was rejected by 1,059 votes to 3,637, with 2,627 abstentions. The Employers' members stated that they had abstained because of the decision already taken by the Committee on the same point. Other related amendments presented by the same member and by the Government member of Austria were consequently withdrawn.

79. An amendment submitted by the Government member of the United States and supported by the Government member of Australia sought to provide in subparagraph (b) for a close examination of the conditions governing the recognition of qualifications acquired abroad and to indicate that migrants might require further training. The author of the amendment pointed out that he was thinking, for example, of the medical profession. Put to the vote, the amendment was rejected by 449 votes to 3,416, with 3,067 abstentions, the quorum not having been reached.

80. With regard to subparagraph (c), the Employers' member of Sweden submitted an amendment to insert, after the word "functions", "or—for State security reasons—regions". He explained that foreigners could be forbidden access to certain regions of a country for reasons of national defence and that, if this precision was not added, ratification of the proposed Convention could be rendered more difficult. The amendment was not supported. The general

feeling of the Committee was that the present text referring to the interests of the State was sufficient to cover the concerns of the author of the proposed amendment. Another amendment of the Government member of Yugoslavia sought to add after the word "interests" the words "and security". The Workers' members felt that the original text of the draft was adequate. This amendment was not supported.

81. The Workers' members and the Government member of Italy submitted a new subparagraph to refer to the measures to be taken to facilitate the uniting of families of all migrant workers legally residing in the territory of a Member. It was stated that, taking into account the remarks of certain Government members, this provision provided for the spouse, children and mother and father (and not the "ascendants" without distinction) dependent on the migrant. Some Workers' members considered that that part of Article 15 concerning only the father and mother of the migrant worker himself, to the exclusion of those of his spouse, was restrictive and contrary to the spirit of the amendments adopted by the Committee. They recalled, in this respect, the Office report which extended the concept of the migrant worker's family to "his spouse, his children and other members of his family dependent on him". The Government member of Algeria indicated that the transfer of technology, to the country of origin would also help the reunification of families. The Workers' members also stated that this provision was designed to encourage the countries to undertake a policy in this regard, but was not presented in the form of a strict obligation, in view of the first portion of the sentence of Article 10. The amendment, as sub-amended, was adopted by 4,116 votes to 0, with 2,640 abstentions.

Paragraph 2.

82. An amendment submitted by the Workers' members for the deletion of paragraph 2 of the proposed text, bearing in mind the decisions already taken concerning other provisions of the proposed Convention, was adopted by 4,620 votes to 1,560, with 230 abstentions. Various amendments concerning the drafting of this paragraph were consequently withdrawn.

83. Other amendments for the addition of an additional Article to this part of the text, specifically concerning the protection of migrants in an illegal situation, were withdrawn for the same reasons.

84. Article 10, as amended, was adopted.

EXAMINATION OF AMENDMENTS WITH THE INTENTION OF INSERTING A NEW PART

85. The Workers' member of Egypt submitted amendments Nos. 167, 168, 169, 170 and 171 to insert a new Part in the proposed Convention, to be placed between Part I and Part II, with the title: "Measures Designed to Discourage Migratory Movements when Considered Undesirable in the Interests of the Migrant Workers and of the Communities of Countries of Their Origin or the Countries of Destination." According to these amendments, the new Part should read as follows:

1. The general policy should be to discourage migration of workers when considered undesirable in the interests of the migrant workers and of the communities and countries of their origin by measures designed to improve conditions of life and to raise standards of living in the areas from which the migrations normally start, as well as not to cause any harm to the peoples of the countries of destination.

2. The measures to be taken to ensure the application of the policy described in the preceding Article should include—

- (a) in emigration areas, the adoption of economic development and vocational training programmes to enable fuller use to be made of available manpower and natural resources and, in particular, the adoption of all measures likely to create new jobs and new sources of income for workers who would normally be disposed to emigrate;
- (b) in immigration areas, the more rational use of manpower and the increase of productivity through better organisation of work, better training and the development of mechanisation or other measures as local circumstances may require;
- (c) the limitation of recruitment in regions where the withdrawal of labour might have negative effects on the social and economic organisation, and the health, welfare and development of the population concerned.

3. The governments of the countries and territories of origin and destination of migrant workers should endeavour to bring about a progressive reduction of migratory movements which have not been subject or appeared open to regulation when such movements are considered undesirable in the interests of the migrant workers and of the communities and countries of their origin or the countries of destination. So long as the economic or political causes of these unregulated migrations persist, the governments concerned should endeavour to exercise appropriate control, to the extent that such action appears practicable and desirable, over voluntary migration as well as organised recruitment.

4. Effective measures shall be taken to prohibit undesirable migratory movements mainly from political motivations such as—

- (a) deportation of certain sectors of the population in order to make room for others, or in order to decrease their numerical strength for reasons which are not related to manpower organisation;
- (b) mass migratory movements planned to outnumber and dominate the natives or owners of a country or to establish a groundless artificial State by force and violence;
- (c) compulsory repatriation of certain categories of the population such as the indigenous or tribal groups, with a view to preventing them from settling in urban and industrial areas, and to deprive them of the possibility of being assimilated in modern and more advanced patterns of human society.

86. In introducing his amendments, the Workers' member of Egypt noted that the existing international Conventions and Recommendations, such as the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, (No. 100), which had inspired his amendments, do not deal sufficiently with the negative aspects of certain politically-motivated migratory movements. He felt that a new Convention ought to include a precise definition of those undesirable migratory movements, specifically those aimed at turning a minority of foreign immigrants into a ruling majority.

87. The Employers' Vice-Chairman raised a point of order concerning the legality of turning the text of a Recommendation into that of a Convention. He felt that the content of the proposed amendment was outside the scope of the Committee's agenda and therefore should not be dealt with by it, more especially as the matters which it treated had not been brought up during the consultation stage with governments and had not been debated during the first discussion. He requested that the Legal Adviser be asked to give a legal opinion on this point.

88. The Government member of Algeria supported the amendment, and its references to Recommendation No. 100. He stated that it was important to refer to the brain-drain of workers from developing to industrialised countries. The Government member of Egypt recalled that when Recommendation No. 100 had been adopted, the Conference adopted a resolution specifying that Parts of it should at a later date be incorporated into a Convention. He felt that measures to discourage migratory movements fell within the sphere of basic human rights covered by Recom-

mendation No. 100. He noted further that the Fourth African Regional Conference did not oppose the introduction of this question in its conclusions under discussion were not of a political but rather of a humanitarian and economic character. The Government member of the United States questioned the possibility of including references of a political nature contained in the last two paragraphs of the proposal of the Workers' member of Egypt in a Convention which deals with migrations for employment and insisted that it was irrelevant. The Government member of Egypt felt that these paragraphs were in accordance with recent decisions taken by the General Assembly of the United Nations.

89. The Legal Adviser expressed the following opinion:

The question that has been raised is to know whether a series of amendments with the object of including a new Part in the proposed Convention—which would constitute Part II of the instrument—could be taken into consideration by your Committee at this stage of the proceedings. The question placed on the agenda certainly appears to be a wide one, since it is defined simply by the words "migrant workers". Consequently, it does not seem to me, a priori, to go beyond the competence of the Committee or of the actual Conference itself, to discuss any question relating to migrant workers. But would the Committee and the Conference therefore be justified in including any question relating to migrant workers in the text of the instruments which they are now discussing for the second time? Article 14, paragraph 2, of the Constitution lays down that the Governing Body shall make rules to ensure thorough technical preparation and adequate consultation of the Members primarily concerned, prior to the adoption of a Convention or Recommendation by the Conference. The relevant rules are laid down in article 39 of the Standing Orders of the Conference. This article stipulates not only a double discussion by the Conference, but a double consultation by governments before each discussion; these consultations have been widened so as to include consultation with employers' and workers' organisations.

As regards the question of migrant workers at the first stage of the above procedure—that is to say, at the first consultation of governments and hence through them, of employers and workers through the questionnaire addressed to them—the Office has raised two questions:

(1) In the first place, "Do you consider that the International Labour Conference should adopt additional international instruments on migrant workers?"

The word "additional" is worth underlining, since it was actually additional provisions to already existing texts that were envisaged.

(2) In the second place, if the answer is in the affirmative, and due to the diversity of questions that could be dealt with under the title "migrant workers", it was suggested that discussion be centred on certain matters that were not dealt with or were dealt with inadequately in the existing texts, that is: migrations in abusive conditions (in the form of a Convention); equality of opportunity and treatment (partly in the form of a Convention and partly as a Recommendation); social policy and employment and residence in the host country (in the form of a Recommendation).

Preparatory work which has followed this first stage and which has led to the formulation of the proposed instruments now before you has been concentrated on this basis. It should be added that the aim of the double-discussion procedure is not only to establish viable instruments, but also, as a result of the dialogue that has taken place over two years between the Office, the governments and employers' and workers' organisations, to produce draft texts on which there has been a wide consensus.

It should also be recalled that in parliamentary law it is generally recognised that, in the latter stages of procedure, an amendment cannot give rise to a new question that has been ignored until now by the parliamentarians and which could be accepted by them all the more easily since they would no longer have the possibility of judging all its consequences. In the present case, the introduction of a text at this stage of the second discussion—not relating to a limited item within the framework of the questions with which governments, employers' and workers' organisations are fully familiar, but which bears on an aspect of the problem of migrant workers which has not been thoroughly examined by them so far—would not be in conformity with the objectives of the constitutional provisions and Standing Orders to which reference has been made.

90. After discussion in which the Government members of Colombia, Egypt and the USSR—as well

as the Government member of Algeria who wished to know on exactly which amendment the Legal Adviser based his judgement that it concerned a new problem—and the Employers' and Workers' Vice-Chairmen took part, the Legal Adviser provided the Committee with additional information concerning the objectives which the Governing Body had in mind when it decided to place the question of migrant workers on the agenda of the 59th Session of the Conference. The Workers' member of Egypt wished to know if the withdrawal of the amendments he had introduced concerning the proposed Convention would make it possible for them to be considered for inclusion in the proposed Recommendation. In reply, the Legal Adviser said that the arguments which he had presented had the same value with regard to the proposed Recommendation as for the proposed Convention.

91. In concluding its discussion on this point, the Committee agreed with the opinion expressed by the Employers' Vice-Chairman, according to which a resolution might be prepared which would suggest to the Governing Body that it place the question on the agenda of a forthcoming session of the General Conference or of the Tripartite World Conference on Employment. It was understood that a draft resolution concerning this point would be submitted to the Committee.

Examination of the Proposed Recommendation in Report V (2)

92. At its 14th sitting, the Committee decided unanimously to set up a tripartite working party whose mandate concerned the examination of the text of the proposed Recommendation which appears in Report V (2) and of the 106 proposed amendments to it. The Working Party was to formulate detailed proposals with a view to assisting the Committee to take a decision on the 34 Paragraphs of the proposed Recommendation during its next sitting.

93. The Working Party was composed as follows: Mr. Zlitni, Chairman; Mr. Duquette, Reporter; *Government members*: Mr. Bortchevski (USSR), Miss Marquegnies (Belgium), Mr. Pomeroy (Australia), Mr. Sahli (Algeria); *Employers' members*: Mr. Myrdal (Sweden), Mr. Parion (France), assisted by Mr. Kapartis; *Workers' members*: Mr. Apostolo (France), Mr. Kavonius (Finland).

94. The Working Party held two meetings after which it submitted its proposals to the Committee.

95. During the Committee's 16th sitting, the Chairman presented the report of the Working Party and summarised its proposals. After having carefully examined the amendments submitted to the draft text, the Working Party made unanimous recommendations on all but seven points, which it decided to refer to the Committee.

96. The conclusions of the Working Party were unanimously accepted by the members of the Committee; the content of these conclusions is reflected in paragraphs 99 to 152.

97. Concerning the outstanding points, the Workers' member and the Employers' member agreed to withdraw all their amendments, except for two amendments submitted by the Employers' member.

98. The Government members of Denmark, Finland, Norway and Sweden expressed reservations on

the procedure adopted in examining the proposals resulting from the Working Party's conclusions. The Government member of Australia, himself a member of the Working Party, expressed similar reservations.

Title

99. The Working Party suggested the acceptance of an amendment submitted by the Employers' members to delete the reference to the countries of employment at the end of the title, which would now read "Proposed Recommendation concerning Migrant Workers", since migratory movements were in their opinion the joint responsibility of the countries of origin and the countries of employment.

100. The title, as amended, was adopted.

Preamble

101. The Preamble was adopted without change.

Paragraph 1

102. A second amendment was submitted by the Employers' members with a view to replacing, in the last sentence of the Paragraph, the words "correspond to" by "take account of". It would be difficult for a national migration policy, if it wished to be consistent, to correspond exactly to the respective needs of all the countries of origin. The majority of the members of the Working Party suggested a subamendment aimed at replacing the words "correspond to" by the words "be based on".

103. Paragraph 1, as amended, was adopted.

I. EQUALITY OF OPPORTUNITY AND TREATMENT

Paragraph 2

104. Several amendments were submitted to the Committee concerning this Paragraph, which defines the areas where equality of opportunity and treatment should be granted. Consequently, the Working Party suggested an amalgamation of the amendments submitted by the Government member of Mali and by a certain number of Workers' members, the other amendments having been withdrawn. The Working Party submitted the following text to the Committee, whilst reserving the right to decide on an amendment by the Employers' members (examined in the following paragraph):

Migrant workers lawfully within the territory of a Member and the members of their families should enjoy effective equality of opportunity and treatment with nationals of the Member concerned in respect of—

- (a) access to vocational guidance and placement services;
- (b) access to vocational training and employment of their own choice on the basis of individual suitability for such training and employment, account being taken of qualifications acquired outside the territory and in the country of employment;
- (c) advancement in accordance with their individual character, experience, ability and diligence;
- (d) security of tenure of employment, the provision of alternative employment, relief work and retraining;
- (e) remuneration for work of equal value;
- (f) conditions of work, including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
- (g) membership of trade unions, exercise of trade union rights and eligibility for office in trade unions and in labour-management relations bodies, including bodies representing workers in undertakings;

(h) membership in all types of co-operatives;

(i) conditions of life, including housing and the benefits of social services and educational and health facilities.

105. The Employers' members also proposed that the beginning of Paragraph 2 should be amended to read as follows: "Migrant workers and the members of their family who are lawfully in the territory of a Member should enjoy ...". This amendment was adopted by 4,384 votes to 2,632, with 546 abstentions.

106. Paragraph 2, as amended, was adopted.

Paragraph 3

107. An amendment presented by a certain number of Workers' members having been withdrawn, Paragraph 3 was adopted without change.

Paragraph 4

108. Amendments presented by several Workers' members having been withdrawn, Paragraph 4 was adopted without change.

Paragraph 5

109. No amendment having been submitted, Paragraph 5 was adopted without change.

Paragraph 6

110. Several amendments on this Paragraph were withdrawn in the light of the decisions already taken by the Committee during its examination of the Articles pertaining to the proposed Convention. The new text proposed by the Working Party was the following:

A Member may—

- (a) make free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker resides lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term less than two years, that the worker has completed his first work contract;
- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

111. Paragraph 6, as amended, was adopted by the Committee.

Paragraph 7

112. Numerous amendments submitted concerning this Paragraph were withdrawn so as to harmonise the text of the proposed Recommendation with that of Articles of the proposed Convention already adopted by the Committee. The adopted text incorporated the provisions added to Article 9 of the proposed Convention and embodied the additions submitted in the amendment of two Workers' members relating to the joint measures to be taken by States before the departure of migrants from their country of origin.

(1) In order to enable migrant workers and their families to take full advantage of their rights and opportunities in employment and occupation, such measures as may be necessary should be taken, in consultation with the representative organisations of employers and workers—

- (a) to inform them, as far as possible in their mother tongue or in a language with which they are familiar, of their rights under national law and practice as regards the matters dealt with in Paragraph 2 of this Recommendation;

- (b) to advance their knowledge of the language or languages of the country of employment, as far as possible during paid time;
- (c) generally, to promote their adaptation to the society of the country of employment and to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to receive instruction in their mother tongue.

(2) Where agreements concerning the collective recruitment of workers have been concluded between States, Members should jointly take the necessary measures before migrants' departure from their country of origin to introduce them to the language of the country of employment and also to its economic, social and cultural environment."

During the examination of this text, there was a long discussion concerning the concordance of the English version and of the French and Spanish versions of the part of clause (a) reading: "as far as possible in their mother tongue or in a language with which they are familiar". The background of the development of this provision in 1974 was discussed; it was decided to reinstate the English text adopted on this subject during the Committee's proceedings in 1974 so as to read: "to inform them, as far as possible in their own language or, if that is not possible, in a language with which they are familiar".

113. Paragraph 7, as amended, was adopted.

Paragraph 8

114. Several amendments were submitted on this Paragraph concerning the measures that should benefit migrant workers who had entered the country of employment legally. The substance of these different amendments was amalgamated and the Working Party suggested the following new text (with reservation as to its place in the final text of the proposed Recommendation) taking account of the provisions already adopted by the Committee during its examination of the proposed Convention:

(1) Without prejudice to measures designed to ensure that migrant workers and their families enter national territory and are admitted to employment in conformity with the relevant laws and regulations, a decision should be taken as soon as possible in cases in which these laws and regulations have not been respected so that the migrant worker should know whether his position can be regularised or not.

(2) Migrant workers whose position has been regularised in accordance with subparagraph (1), should benefit from all rights of migrant workers lawfully within the territory of a Member mentioned in Paragraph 2 of this Recommendation.

(3) Migrant workers whose position has not been or could not be regularised should enjoy equality of treatment for themselves and their families in respect of rights arising out of present and past employment as regards remuneration, social security and other benefits as well as with regard to membership of trade unions and exercise of trade union rights.

(4) In case of disputes about the rights referred to in the subparagraphs above, the worker should be allowed to present his case to the competent institution, either himself or through a representative.

(5) In case of expulsion of the worker and his family, the cost should not be borne by the persons concerned.

115. Paragraph 8, as amended, was adopted.

II. SOCIAL POLICY

Paragraph 9

116. The text proposed by the Working Party incorporated the amendment of the Government member of the United States, for the deletion of the word "fully" in the fourth line and a second amendment submitted by the Employers' members proposed the deletion of the word "fully" in the sixth line. Follow-

ing the suggestions of the Working Party concerning a new drafting to accord with the new subparagraph added to Article 9 of the proposed Convention, the following text was proposed:

Each Member should, in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment.

117. Paragraph 9, as amended, was adopted.

Paragraph 10

118. The amendments submitted having been withdrawn, Paragraph 10 was adopted without change.

Paragraph 11

119. The Workers' members had submitted an amendment to make it clear that those who profited the most directly from immigration should bear the social costs of it. The Employers' members, on the contrary, had submitted an amendment to eliminate the particular reference to those who profited the most from work of migrants. These two amendments having been withdrawn together with several others referring to the same problem, the text appearing in Report V (2) was retained.

120. Paragraph 11 was adopted without change.

Paragraph 12

121. Paragraph 12 was adopted without change.

A. UNITING OF FAMILIES

Paragraph 13

122. An amendment by the Government member of Italy based on the text of the proposed Convention having been withdrawn, Paragraph 13 was adopted without change.

Paragraph 14

123. The amendment of the Government member of Italy proposing a drafting modification having been withdrawn, Paragraph 14 was adopted without change.

Paragraph 15

124. Several amendments were submitted to clarify, in view of the differing definitions in national law or practice, the composition of the migrant's family. In conformity with the suggestion of the Working Party, the Committee adopted an amendment which incorporated the definition of the family given in the proposed Convention.

125. Paragraph 15, as amended, was adopted.

Paragraph 16

126. The Government member of the United States had submitted an amendment aimed at adding in the fourth line the words "help to obtain family lodging", so that migrants could derive greater benefit from the construction of family housing.

127. Paragraph 16, as amended, was adopted.

Paragraph 17

128. The Government member of Yugoslavia submitted an amendment to strengthen the rights of workers who wished to visit the country where their families lived. The Employers' members proposed two subamendments, and the following text was submitted to the Committee by the Working Party:

Where a migrant worker who has been employed for at least one year in a country of employment cannot be joined by his family in that country, he should be entitled—

- (a) to visit the country of residence of his family during the annual holiday with pay to which he is entitled according to the national law and practice of the country of employment without losing during his absence from the country of immigration any acquired rights or rights in the course of acquisition and, particularly, without having his employment terminated or his right to residence in that country withdrawn during that period; or
- (b) to be visited by his family for a period corresponding at least to the annual holiday with pay to which he is entitled."

129. Paragraph 17, as amended, was adopted.

Paragraph 18

130. The Workers' members had submitted an amendment to add a second subparagraph aimed at granting additional days of leave to workers who had a long journey to visit their families. Following the reservations expressed by the Employers' members, the Workers' members subamended their proposal in the following manner: "further, the number of days of authorised absence could be increased to take into account in certain cases the length of the journey needed to return to his country of origin". This amendment was subsequently withdrawn.

131. Paragraph 18 was adopted without change.

Paragraph 19

132. The amendment of the Employers' members aimed at adding a new Paragraph, reserving the benefits of this Part of the proposed Recommendation to a fraction only of the workers, was withdrawn in view of the previous decision taken by the Committee in that regard.

133. Paragraph 19 was adopted without change.

B. PROTECTION OF THE HEALTH OF MIGRANT WORKERS

Paragraph 20

134. Paragraph 20 was adopted without change.

Paragraph 21

135. The amendment relating to the first subparagraph submitted by the Government member of Austria was withdrawn and the text was brought into line with the wording adopted in respect of Paragraph 7.

136. Paragraph 21 was adopted without change.

Paragraph 22

137. An amendment was submitted by the Employers' members concerning the first subparagraph, taking into account the impossibility of ensuring that all workers completely understood safety notices. The Committee adopted a modified text proposed by the Working Party, which underlined the obligation of employers to "take all possible measures within their power" to ensure that workers were informed about

and "understood" safety notices. In the third subparagraph, the Committee accepted the suggestion of the Working Party to adapt its wording to that of the similar provision already adopted in the proposed Convention.

138. Paragraph 22, as amended, was adopted.

C. SOCIAL SERVICES

Paragraph 23

139. An amendment submitted by the Government member of the United States having been withdrawn, Paragraph 23 was adopted without change.

Paragraph 24

140. An amendment had been submitted by the Workers' members of Sweden and Finland to specify that the social services "should be so equipped that they can meet their obligations both to the migrant workers and to the nationals". However, given the provisions already existing in subparagraph (b) of Paragraph 24, this amendment was withdrawn.

141. Paragraph 24 was adopted without change.

Paragraphs 25 to 29

142. Paragraphs 25 to 29 were adopted without change.

III. EMPLOYMENT AND RESIDENCE

Paragraph 30

143. The amendment submitted by the Government member of the United States to add "long term" before "migrant worker" was withdrawn in view of the decision already taken in this context with regard to the Articles of the Convention.

144. Paragraph 30 was adopted without change.

Paragraph 31

145. A number of amendments were submitted for the addition of a subparagraph relating to guarantees to ensure that the worker could retain his accommodation until the time he obtains alternative employment. As this problem was regarded as being too specific for inclusion in a Recommendation dealing with general policy, these amendments were withdrawn.

146. Paragraph 31 was adopted without change.

Paragraph 32

147. The Employers' members had proposed an amendment aimed at employing a general formula guaranteeing migrant workers the same conditions and benefits as those applicable to national workers in case of dismissal. This amendment was withdrawn as were two other amendments submitted by the Government members of Austria and the United States.

148. Paragraph 32 was adopted without change.

Paragraph 33

149. The Committee had before it an amendment proposed by a number of Workers' members for the addition of a new Paragraph regarding the protection of the rights of migrants workers in case of expulsion. The representative of the Secretary-General, after consulting the Human Rights Division of the United

Nations, proposed the following slightly modified wording to the Working Party:

A migrant worker who is the object of an expulsion order should have a right of appeal before an administrative or judicial instance, according to conditions laid down in national laws or regulations. This appeal should stay the execution of the expulsion order, subject to the duly substantiated requirements of national security or public order. The migrant worker should have the same right to legal assistance as national workers and have the possibility of being assisted by an interpreter.

150. Paragraph 33, as amended, was adopted.

Paragraph 34

151. Several amendments were submitted, either to alter the wording or to delete subparagraph (c) (ii) of Paragraph 34, in view of the diversity of national law or practice concerning the reimbursement to migrant workers of social security contributions. However, since the Office text was sufficiently flexible, the Committee, on the suggestion of the Working Party, retained the text given in Report V (2).

152. Paragraph 34 was adopted without change.

Examination of the First Report, Proposed Convention and Proposed Recommendation

153. During its 16th sitting, the Committee examined the proposed Convention and the proposed Recommendation.

154. Acting on a proposal of the Employers' members, it decided to re-establish in the fifth paragraph of the Preamble of the proposed Convention the text initially adopted by the Committee: "to avoid the excessive and uncontrolled or unassisted increase of transfers of migrant workers".

155. The Government member of the United States felt that the word "enter" contained in the seventh paragraph of the Preamble of the proposed Convention should read "return" because this word was that which was contained in the Universal Declaration of Human Rights to which it referred. She expressed strong reservations concerning the choice of the word "enter". The Government member of the USSR, for

his part, said that the word "enter" was perfectly correct, that it was employed in article 12, paragraph 4, of the International Covenant on Civil and Political Rights to which the paragraph also refers. He stated that the amendment adopted concerning his proposal contained this word intentionally, in order to cover the descendants of migrants born abroad and who had never lived in the country of origin. The Committee decided to keep the text as it was.

156. The Committee, moreover, decided that Article 10 of the proposed Convention would be transferred to Part III, "Final Provisions", as a new Article 16.

157. The Committee modified Article 15 of the proposed Convention as well as Paragraphs 2, 6, 7 (1) (a) and 21 (2) of the proposed Recommendation.

158. With regard to Article 6 of the proposed Convention and Paragraph 21 (3) of the proposed Recommendation, the Employers' members indicated their reservations concerning the wording which, as it stood, gave the impression that the three types of sanctions mentioned were to be applied simultaneously. They requested that the word "and" after "civil" be replaced by "or". The Workers' members refused this change, considering that it was not obligatory that the three types of sanction mentioned be applied simultaneously but that this was not excluded in certain particularly grave instances.

Adoption of the First Report, Proposed Convention and Proposed Recommendation

159. The present report and the texts of the proposed Convention and proposed Recommendation are submitted to the Conference for consideration.

Geneva, 21 June 1975.

(Signed) A. M. ZLITNI
Chairman.

L. E. DUQUETTE,
Reporter.

Proposed Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting "the interests of workers when employed in countries other than their own", and

Considering that the Declaration of Philadelphia reaffirms, among the principles on which the Organisation is based, that "labour is not a commodity", and that "poverty anywhere constitutes a danger to prosperity everywhere", and recognises the solemn obligation of the ILO to further programmes which will achieve in particular full employment through "the transfer of labour, including for employment . . .",

Considering the ILO World Employment Programme and the Employment Policy Convention and Recommendation, 1964, and emphasising the need to avoid the excessive and uncontrolled or unassisted increase or transfers of migrant workers because of their negative social and human consequences; and

Considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology rather than the transfer of workers in accordance with the needs and requests of these countries in the reciprocal interest of the countries of origin and the countries of employment, and

Considering the right of everyone to leave any country, including his own, and to enter his own country, provided for in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, in the Employment Policy Convention and Recommendation, 1964, in the Employment Service Convention and Recommendation, 1948, and in the Fee-Charging Employment Agencies Convention (Revised), 1949, which deal with such matters as the regulation of the recruitment, introduction and placing of migrant workers, the provision of accurate information relating to migration, the minimum conditions to be enjoyed by migrants in transit and on arrival, the adoption of an active employment policy and international collaboration in these matters, and

Considering that the emigration of workers due to conditions in labour markets should take place under the responsibility of official agencies for employment or in accordance with the relevant bilateral or multilateral agreements, in particular those permitting free circulation of workers, and

Considering that evidence of the existence of illicit and clandestine trafficking in labour calls for further standards specifically aimed at eliminating these abuses, and

Recalling the provisions of the Migration for Employment Convention (Revised), 1949, which require ratifying Members to apply to immigrants lawfully within their territory treatment not less favourable than that which they apply to their nationals in respect of a variety of matters which it enumerates, in so far as these are regulated by laws or regulations or subject to the control of administrative authorities, and

Recalling that the definition of the term "discrimination" in the Discrimination (Employment and Occupation) Convention, 1958, does not mandatorily include the distinctions on the basis of nationality, and

Considering that further standards, covering also social security, are desirable in order to promote equality of opportunity and treatment of migrant workers and, with regard to matters regulated by laws or regulations or subject to the control of administrative authorities, ensure treatment at least equal to that of nationals, and

Noting that, for the full success of action regarding the very varied problems of migrant workers, it is essential that there be close co-operation with the United Nations and other specialised agencies, and

Noting that, in the framing of the following standards, account has been taken of the work of the United Nations and of other specialised agencies and that, with a view to avoiding duplication and to ensuring appropriate co-ordination, there will be continuing co-operation in promoting and securing the application of the standards, and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention supplementing the Migration for Employment Convention (Revised), 1949, and the Discrimination (Employment and Occupation) Convention, 1958,

adopts this day of June of the year one thousand nine hundred and seventy-five the following Convention which may be cited as the Migrant Workers Supplementary Provisions Convention 1975:

I. MIGRATIONS IN ABUSIVE CONDITIONS

Article 1

Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.

Article 2

1. Each Member for which this Convention is in force shall systematically seek to determine whether there are illegally employed migrant workers on its territory and whether there depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws and regulations.

2. The representative organisations of employers and workers shall be fully consulted and enabled to furnish any information in their possession on this subject.

Article 3

Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members—

- (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants; and
- (b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions;

in order to prevent and to eliminate the abuses referred to in Article 2 of this Convention.

Article 4

In particular, Members shall take such measures as are necessary, at the national and the international level, for systematic contact and exchange of information on the subject with other States, in consultation with representative organisations of employers and workers.

Article 5

One of the purposes of the measures taken under Articles 3 and 4 of this Convention shall be that the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.

Article 5

1. Provision shall be made under national laws or regulations for the effective detection of the illegal employment of migrant workers and for the definition and the application of administrative, civil and penal sanctions, which include imprisonment in their range, in respect of the illegal employment of migrant workers, in respect of the organisation of movements of migrants for employment defined as involving the abuses referred to in Article 2 of this Convention, and in respect of knowing assistance to such movements, whether for profit or otherwise.

2. Where an employer is prosecuted by virtue of the provision made in pursuance of this Article, he shall have the right to furnish proof of his good faith.

Article 7

The representative organisations of employers and workers shall be consulted in regard to the laws and regulations and other measures provided for in this Convention and designed to prevent and eliminate the abuses referred to above, and the possibilities of their taking initiatives for this purpose shall be recognised.

Article 8

1. On condition that he has resided legally in the territory for the purpose of employment, the migrant worker shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself imply the loss of his authorisation of residence or, as the case may be, work permit.

2. Accordingly, he shall enjoy equality of treatment with nationals in respect in particular of guarantees of security of employment, the provision of alternative employment, relief work and retraining.

Article 9

1. Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularised, enjoy equality of treatment

for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.

2. In case of dispute about the rights referred to in the preceding paragraph, the worker shall have the possibility of presenting his case to a competent body, either himself or through a representative.

3. In case of expulsion, the costs shall not be borne by the worker and his family.

4. Nothing in this Convention shall prevent Members from giving persons who are illegally residing or working within the country the right to stay and to take up legal employment.

II. EQUALITY OF OPPORTUNITY AND TREATMENT

Article 10

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

Article 11

1. For the purpose of this Part of this Convention, the term "migrant worker" means a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.

2. This Part of this Convention does not apply to—

- (a) frontier workers;
- (b) artistes and members of the liberal professions who have entered the country on a short-term basis;
- (c) seamen;
- (d) persons coming specifically for purposes of training or education;
- (e) employees of organisations or undertakings operating within the territory of a country who have been admitted temporarily to that country at the request of their employer to undertake specific duties or assignments, for a limited and defined period of time, and who are required to leave that country on the completion of their duties or assignments.

Article 12

Each Member shall, by methods appropriate to national conditions and practice—

- (a) seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the policy provided for in Article 11 of this Convention;
- (b) enact such legislation and promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) take measures, encourage educational programmes and develop other activities aimed at acquainting migrant workers as fully as possible with the policy, with their rights and obligations and with activities designed to give effective assistance to migrant workers in the exercise of their rights and for their protection;
- (d) repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (e) in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment;
- (f) take all steps to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue;

Art 12 here
very difficult

(g) guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of their employment.

Article 13

1. A Member may take all necessary measures which fall within its competence and collaborate with other Members to facilitate the reunification of the families of all migrant workers legally residing in its territory.
2. The members of the family of the migrant worker to which this Article applies are the spouse and dependent children, father and mother.

Article 14

A Member may—

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;
- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

III. FINAL PROVISIONS

Article 15

This Convention does not prevent Members from concluding multilateral or bilateral agreements with a view to resolving problems arising from its application.

Article 16

1. Any Member which ratifies this Convention may, by a declaration appended to its ratification, exclude either Part I or Part II from its acceptance of the Convention.
2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.
3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate in its reports upon the application of this Convention the position of its law and practice in regard to the provisions of the Part excluded from its acceptance, the extent to which effect has been given, or is proposed to be given, to the said provision and the reasons for which it has not yet included them in its acceptance of the Convention.

Proposed Recommendation concerning Migrant Workers

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting "the interests of workers when employed in countries other than their own", and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, and in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, which deal with such matters as the preparation and organisation of migration, social services to be provided to migrant workers and their families, in particular before their departure and during their journey, equality of treatment as regards a variety of matters which they enumerate, and the regulation of the stay and return of migrant workers and their families, and

Having adopted the Migrant Workers (Supplementary Provisions) Convention, 1975, and

Considering that further standards are desirable as regards equality of opportunity and treatment, social policy in regard to migrants and employment and residence and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this day of June of the year one thousand nine hundred and seventy-five the following Recommendation, which may be cited as the Migrant Workers Recommendation, 1975:

1. Members should apply the provisions of this Recommendation within the framework of a coherent policy on international migration for employment. That policy should be based upon the economic and social needs of both countries of origin and countries of employment; it should take account not only of short-term manpower needs and resources but also of the long-term social and economic consequences of migration for migrants as well as for the communities concerned.

I. EQUALITY OF OPPORTUNITY AND TREATMENT

2. Migrant workers and members of their families lawfully within the territory of a Member should enjoy effective equality of opportunity and treatment with nationals of the Member concerned in respect of—

- (a) access to vocational guidance and placement services;
- (b) access to vocational training and employment of their own choice on the basis of individual suitability for such training or employment, account being taken of qualifications acquired outside the territory and in the country of employment;
- (c) advancement in accordance with their individual character, experience, ability and diligence;
- (d) security of employment, the provision of alternative employment, relief work and retraining;
- (e) remuneration for work of equal value;
- (f) conditions of work, including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
- (g) membership of trade unions, exercise of trade union rights and eligibility for office in trade unions and in labour-management relations bodies, including bodies representing workers in undertakings;
- (h) rights of full membership in any form of co-operative;
- (i) conditions of life, including housing and the benefits of social services and educational and health facilities.

3. Each Member should ensure the application of the principles set forth in Paragraph 2 of this Recommendation in all activities under the control of a public authority and promote its observance in all other activities by methods appropriate to national conditions and practice.

4. Appropriate measures should be taken, with the collaboration of employers' and workers' organisations and other bodies concerned, with a view to—

- (a) fostering public understanding and acceptance of the above-mentioned principles;
- (b) examining complaints that these principles are not being observed and securing the correction, by conciliation or other appropriate means, of any practices regarded as in conflict therewith.

5. Each Member should ensure that national laws and regulations concerning residence in its territory are so applied that the lawful exercise of rights enjoyed in pursuance of these principles cannot be the reason for non-renewal of a residence permit or for expulsion and is not inhibited by the threat of such measures.

6. A Member may—

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;
- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

7. (1) In order to enable migrant workers and their families to take full advantage of their rights and opportunities in employment and occupation, such measures as may be necessary should be taken, in consultation with the representative organisations of employers and workers—

- (a) to inform them, as far as possible in their mother tongue or if possible in a language with which they are familiar, of their rights under national law and practice as regards the matters dealt with in Paragraph 2 of this Recommendation;
- (b) to advance their knowledge of the language or languages of the country of employment, as far as possible during paid time;
- (c) generally, to promote their adaptation to the society of the country of employment and to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue.

(2) Where agreements concerning the collective recruitment of workers have been concluded between Members, they should jointly take the necessary measures before migrants' departure from their country of origin to introduce them to the language of the country of employment and also to its economic, social and cultural environment.

8. (1) Without prejudice to measures designed to ensure that migrant workers and their families enter national territory and are admitted to employment in conformity with the relevant laws and regulations, a decision should be taken as soon as possible in cases in which these laws and regulations have not been respected so that the migrant worker should know whether his position can be regularised or not.

(2) Migrant workers whose position has been regularised should benefit from all rights which, in accordance with Paragraph 2 of this Recommendation, are provided for migrant workers lawfully within the territory of a Member.

(3) Migrant workers whose position has not been or could not be regularised should enjoy equality of treatment for themselves and their families in respect of rights arising out of present and past employment as regards remuneration, social security and other benefits as well as regards trade union membership and exercise of trade union rights.

(4) In case of dispute about the rights referred to in the preceding subparagraphs, the worker should have the possibility of presenting his case to a competent body, either or through a representative.

(5) In case of expulsion, the cost should not be borne by the worker and his family.

II. SOCIAL POLICY

9. Each Member should in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment.

10. With a view to making the policy as responsive as possible to the real needs of migrant workers and their families, it should be based, in particular on an examination not only of conditions in the territory of the Member, but also of those in the countries of origin of the migrants.

11. The policy should take account of the need to spread the social cost of migration as widely and equitably as possible over the entire collectivity of the country of employment, and in particular over those who profit most from the work of migrants.

12. The policy should be periodically reviewed and evaluated and where necessary revised.

A. Reunification of Families

13. (1) All possible measures should be taken both by countries of employment and by countries of origin to facilitate the reunification of families of migrant workers as rapidly as possible. These measures should include, as necessary, national laws or regulations and bilateral and multilateral arrangements.

(2) A prerequisite for the reunification of families should be that the worker has appropriate accommodation for his family which meets the standards normally applicable to nationals of the country of employment.

14. Representatives of all concerned, and in particular of employers and workers, should be consulted on the measures to be adopted to facilitate the reunification of families and their co-operation sought in giving effect thereto.

15. For the purpose of the provisions of this Recommendation relating to the reunification of families, the family of the migrant worker should include the spouse and dependent children, father and mother.

16. With a view to facilitating the reunification of families as quickly as possible in accordance with Paragraph 13 of this Recommendation, each Member should take full account of the needs of migrant workers and their families in particular in its policy regarding the construction of family housing, assistance in obtaining this housing and the development of appropriate reception services.

17. Where a migrant worker who has been employed for at least one year in a country of employment cannot be joined by his family in that country, he should be entitled—

(a) to visit the country of residence of his family during the paid annual holiday to which he is entitled under the national law and practice of the country of employment without losing during the absence from that country any acquired rights or rights in course of acquisition and, particularly, without having his employment terminated or his right to residence in the country of employment withdrawn during that period; or

(b) to be visited by his family for a period corresponding at least to the annual holiday with pay to which he is entitled.

18. Consideration should be given to the possibility of giving the migrant worker financial assistance towards the cost of the travel envisaged in the preceding Paragraph or a reduction in the normal cost of transport, for instance by the arrangement of group travel.

19. Without prejudice to more favourable provisions which may be applicable to them, persons admitted in pursuance of international arrangements for free movement of labour should have the benefit of the measures provided for in Paragraphs 13 to 18 of this Recommendation.

B. Protection of the Health of Migrant Workers

20. All appropriate measures should be taken to prevent any special health risks to which migrant workers may be exposed.

21. (1) Every effort should be made to ensure that migrant workers receive training and instruction in occupational safety and occupational hygiene in connection with their practical training or other work preparation and, as far as possible, as part thereof.

(2) In addition, a migrant worker should, during paid working hours and immediately after beginning his employment, be provided with sufficient information in his mother tongue or if possible in a language with which he is familiar, on the essential elements of laws and regulations and on provisions of collective agreements concerning the protection of workers and the prevention of accidents as well as on safety regulations and procedures particular to the nature of the work.

22. (1) Employers should take all possible measures so that migrant workers may fully understand instructions, warnings, symbols and other signs relating to safety and health hazards at work.

(2) Where, on account of the migrant workers' lack of familiarity with processes, language difficulties or other reasons, the training or instruction given to other workers is inadequate for them, special measures which ensure their full understanding should be taken.

(3) Members should have laws or regulations applying the principles set out in this Paragraph and provide that where employers or other persons or organisations having responsibility in this regard fail to observe such laws or regulations, administrative, civil and penal sanctions might be imposed.

C. Social Services

23. In accordance with the provisions of Paragraph 2 of this Recommendation, migrant workers and their families should benefit from the activities of social services and have access thereto under the same conditions as nationals of the country of employment.

24. In addition, social services should be provided which perform, in particular, the following functions in relation to migrant workers and their families:

(a) giving migrant workers and their families every assistance in adapting to the economic, social and cultural environment of the country of employment;

- (b) helping migrant workers and their families to obtain information and advice from appropriate bodies, for instance by providing interpretation and translation services; to comply with administrative and other formalities; and to make full use of services and facilities provided in such fields as education, vocational training and language training, health services and social security, housing, transport and recreation: Provided that migrant workers and their families should as far as possible have the right to communicate with public authorities in the country of employment in their own language or in a language with which they are familiar, particularly in the context of legal assistance and court proceedings;
- (c) assisting authorities and bodies with responsibilities relating to the conditions of life and work of migrant workers and their families in identifying their needs and in adapting thereto;
- (d) giving the competent authorities information and, as appropriate, advice regarding the formulation, implementation and evaluation of social policy with respect to migrant workers;
- (e) providing information for fellow workers and foremen and supervisors about the situation and the problems of migrant workers.

25. (1) The social services referred to in Paragraph 24 of this Recommendation may be provided, as appropriate to national conditions and practice, by public authorities, by approved non-profit-making organisations or bodies, or by a combination of both. The public authorities should have the overall responsibility of ensuring that these social services are at the disposal of migrant workers and their families.

(2) Full use should be made of services which are or can be provided by authorities, organisations and bodies serving the nationals of the country of employment, including employers' and workers' organisations.

26. Each Member should take such measures as may be necessary to ensure that sufficient resources and adequately trained staff are available for the social services referred to in Paragraph 24 of this Recommendation.

27. Each Member should promote co-operation and co-ordination between different social services on its territory and, as appropriate, between these services and corresponding services in other countries, without, however, this co-operation and co-ordination relieving the States of their responsibilities in this field.

28. Each Member should organise and encourage the organisation, at the national regional or local level, or as appropriate in a branch of economic activity employing substantial numbers of migrant workers, of periodic meetings for the exchange of information and experience. Consideration should also be given to the exchange of information and experience with other countries of employment as well as with the countries of origin of migrant workers.

29. Representatives of all concerned and in particular of employers and workers should be consulted on the organisation of the social services in question and their co-operation sought in achieving the purposes aimed at.

III. EMPLOYMENT AND RESIDENCE

30. In pursuance of the provision of Paragraph 18 of the Migration for Employment Recommendation (Revised), 1949, that Members should, as far as possible, refrain from removing from their territory, on account of lack of means or the state of the employment market, a migrant worker regularly admitted thereto, the loss by such migrant worker of his employment should not itself involve the withdrawal of his authorisation of residence.

31. A migrant who has lost his employment should be allowed sufficient time to find alternative employment, at least for a period corresponding to that during which he may be entitled to unemployment benefit; the authorisation of residence should be extended accordingly.

32. (1) A migrant worker who has lodged an appeal against the termination of his employment, under such procedures as may be available, should be allowed sufficient time to obtain a final decision thereon.

(2) If it is established that the termination of employment was not justified, the migrant worker should be entitled, on the same terms as national workers, to reinstatement, to compensation for loss of wages or of other payment which results from unjustified termination, or to access to a new job with a right to indemnification. If he is not reinstated, he should be allowed sufficient time to find alternative employment.

33. A migrant worker who is the object of an expulsion order should have a right of appeal before an administrative or judicial instance, according to conditions laid down in national laws or regulations. This appeal should stay the execution of the expulsion order, subject to the duly substantiated requirements of national security or public order. The migrant worker should have the same right to legal assistance as national workers and have the possibility of being assisted by an interpreter.

34. (1) A migrant worker who leaves the country of employment should be entitled, irrespective of the legality of his stay therein—

- (a) to any outstanding remuneration for work performed, including severance payments normally due;
- (b) to benefits which may be due in respect of any employment injury suffered;
- (c) in accordance with national practice—
 - (i) to compensation in lieu of any holiday entitlement acquired but not used;
 - (ii) to reimbursement of any social security contributions which have not given and will not give rise to rights under national laws or regulations or inter-arrangements: Provided that where social security contributions do not permit entitlement to benefits, every effort should be made with a view to the conclusion of bilateral or multilateral agreements to protect the rights of migrants.

(2) Where any claim covered in subparagraph (1) of this Paragraph is in dispute, the worker should be able to have his interests represented before the competent body and enjoy equal treatment with national workers as regards legal assistance.

minutes to express to you, Mr. President, my sincere appreciation—which I believe is shared by a great many delegates here—for the foresight, the clarity of vision, and the wisdom which you showed last night. You did not allow yourself to be confused by the confusion which some people were bent upon creating, but you foresaw what has now been clearly established, that it would have been an exercise, as somebody said, in futility.

Article 20, paragraph 3 (1), which you mentioned and which actually is well known because it has been in the Standing Orders for a long time, was not specifically mentioned last night, but I am quite sure I had it in mind and that many of our colleagues also had it in mind. We would certainly have spent a great many hours last night in further discussion and we would be starting again today, as you quite rightly said, at exactly the same place. There is no need really for me to speak about your wisdom, Mr. President, because it is quite clearly shown by the very fact that you were elected unanimously, but I thought I ought to express my sincere and honest belief in the wisdom of your actions and I am sure this belief is shared by everyone here.

The resolution is a very important one indeed. It is so important that it should not be allowed to suffer through any technical—I hesitate to use the word “manipulation”—any wrong impression which might be created through the force of oratory, and that is why I wanted to make myself quite clear. I congratulate you, Sir, for thinking a little ahead of the rest of us!

The PRESIDENT—As there are no further speakers, the general discussion of this part of the report is now closed.

May I take it that the Conference is prepared to adopt the relevant part of the report—paragraphs 13 to 58? If there is no objection, I will regard them as adopted.

(Paragraphs 13 to 58 are adopted.)

RECORD VOTE ON THE RESOLUTION CONCERNING HUMAN AND TRADE UNION RIGHTS IN CHILE

The PRESIDENT—We will now proceed to a record vote on the resolution concerning human and trade union rights in Chile.

(A record vote is taken.)

(The detailed results of the vote will be found at the end of the record of this sitting.)

The PRESIDENT—The result of the vote is as follows: 236 votes in favour, none against, with 106 abstentions. The quorum being 216, the resolution is therefore adopted.

(The resolution is adopted.)

The PRESIDENT—Mr. Alcalde Curchaga, Employers' delegate, Chile, has the floor to explain his vote.

Interpretation from Spanish: Mr. ALCALDE CURCHAGA (*Employers' delegate, Chile*)—I asked to be allowed to take the floor before the vote but this was not possible. I abstained in this vote, and I am taking the floor solely to thank very sincerely those who acted with integrity and objectivity in the vote, and to recall that yesterday the Conference had the opportunity of hearing an opinion from the Legal Adviser. The procedure used in the plenary yesterday

was very similar to that used in the Resolutions Committee. Yesterday the Conference heard that opinion from the Legal Adviser and I would like to ask delegates to bear that opinion in mind.

FINAL RECORD VOTE ON THE CONVENTION CONCERNING MIGRATIONS IN ABUSIVE CONDITIONS AND THE PROMOTION OF EQUALITY OF OPPORTUNITY AND TREATMENT OF MIGRANT WORKERS

The PRESIDENT—Before proceeding with the next part of the first report of the Resolutions Committee we shall take the final record vote on the Convention concerning migrations in abusive conditions and the promotion of equality of opportunity and treatment of migrant workers.

(*A record vote is taken.*)

(*The detailed results of the vote will be found at the end of the record of this sitting.*)

The PRESIDENT—The results of the vote are as follows: 265 votes in favour, none against, with 81 abstentions. The quorum being 216, the Convention is therefore adopted.

(*The Convention is adopted.*)

FINAL RECORD VOTE ON THE RECOMMENDATION CONCERNING MIGRANT WORKERS

The PRESIDENT—We now proceed to the final record vote on the Recommendation concerning migrant workers.

(*A record vote is taken.*)

(*The detailed results of the vote will be found at the end of the record of this sitting.*)

The PRESIDENT—The results of the vote are as follows: 288 votes in favour, none against, with 62 abstentions. The quorum being 216, the Recommendation is therefore adopted.

I give the floor to two speakers who wish to explain their votes briefly.

Mr. TSURUMI (*Government delegate, Japan*)—I wish briefly to explain my Government's position in the final vote on the Convention and Recommendation concerning migrant workers.

The Government of Japan is in no better position to discuss the question of migrant workers than other countries, for it has so far pursued a policy of not allowing the entry of migrant workers, except for special categories, into the country, so that we are not actually faced with problems of migrant workers. On the other hand, industrialised countries in Western Europe and North America have received migrants for employment on a large scale, thereby giving rise to various human and social problems. To find a solution to these problems, international co-operation, together with national efforts, are essential. Accordingly, the Government of Japan appreciated the initiative taken by the ILO in this field and considered the proposed text of a Convention and a Recommendation contained in Report V (2) to be a satisfactory basis for discussion by the Conference. It also hoped that these proposed instruments would be unanimously adopted by the Conference on the basis of mutual understanding and co-operation between countries

of reception on the one hand and the countries of origin of migrant workers on the other. However, we must admit that there was an intractable divergence of opinion on this matter between these two categories of countries, and it is much to be regretted for the sake of migrant workers that as a result we failed to reach a compromise on it.

I would also like to point out that, however advantageous to migrant workers the Convention adopted by the Conference may be, it would be almost meaningless if we fail to secure ratification of the Convention by the countries of reception. Taking into account the fact that a considerable number of countries of reception abstained from voting on the Convention and the Recommendation, my Government became reluctant to support their adoption because they have little chance of being ratified by these countries.

Mr. HAVIE (*Government delegate, Norway*)—The Government delegates of Norway have voted in favour of the Convention on migrant workers, on the understanding that penal sanctions against anyone, including employers, shall be based on the fundamental principle that no one can be convicted without subjective guilt. We furthermore hold the view that it will be for the public authorities to furnish proof of guilt in the case of contravention of provisions contained in Article 6 of the Convention. When we later study the possibility of ratification, this will be the basis for our consideration of Article 6, paragraph 2, of the Convention.

REPLY OF THE DIRECTOR-GENERAL TO THE DISCUSSION OF HIS REPORT

The PRESIDENT—I now give the floor to the Director-General to reply to the discussion of his Report.

Interpretation from French: The SECRETARY-GENERAL—We have almost reached—with an optimism which I trust you share—the end of the 60th Session of the Conference which, this year, has been a particularly heavy one. You have devoted your main efforts to the urgent problems relating to the protection of workers and the improvement of their position. You have done this in the best ILO tradition making use of the incomparable advantage provided by its tripartite structure.

You have adopted a Convention and Recommendation on the development of human resources; a Convention on migrant workers, which has been supplemented by a Recommendation; a Convention and a Recommendation on rural workers; and you have finalised the drafts of a Convention and a Recommendation concerning tripartite machinery which are aimed at implementing ILO standards.

You have likewise approved the Programme and Budget for 1976-77 and adopted several important resolutions on which our future work will be based. I am anticipating a little here but I have no doubts about their adoption. In addition, you have, in this very hall, held a thorough discussion on the major problem of our time—the transformation of the working environment—which I had submitted for your consideration.

Such is the work that has been accomplished by the 60th Session of the International Labour Conference, during which we have had the privilege of welcoming a new member State, Swaziland, and the privilege of

a visit from Mrs. Bandaranaike, Prime Minister of Sri Lanka. Mrs. Bandaranaike, by her presence as well as her message, gave us much food for thought. She has highlighted the part played by the ILO in favour of women workers in this International Women's Year. Important texts have been adopted on this subject which will serve as a basis for the future work of the Office: the plan of action on equality of opportunity and of treatment for women workers; a declaration reaffirming fundamental rights and defining policies for implementing them and, finally, a resolution specifying those areas on which the ILO could concentrate its attention in the years to come.

All this represents an achievement of which the Conference may well be proud. Yet there are no doubt many among you who, while sharing this feeling, note with either satisfaction or regret that the Conference devoted a considerable time to what it is customary to call political questions.

In drawing up a balance sheet, even if a preliminary one, may I be allowed to dwell a moment on this question of politics in our midst.

No one may claim that the questions with which the ILO deals are all of them strictly technical, in the same manner in which certain chemical substances are neutral. A perusal of the Preamble to our Constitution and of the Declaration of Philadelphia will show that many of the problems which we have to tackle are related to the art of organising and governing societies, which is the very subject of politics.

But the ILO is not a political organisation. In the ILO political aspects are considered to the extent to which such an examination makes it possible to achieve the aims of this Organisation—which was created in order to defend workers and promote social justice—and they are considered with observance of the principles which govern this great Organisation: the freedom and dignity of each worker, human rights, tripartism and the scrupulous observance of Standing Orders.

In this connection I was struck by the frequency and sometimes even the passion with which you have recalled the principles embodied in the Constitution of our Organisation, which is bound to the United Nations Organisation by an agreement. I would like to see in this constant recalling, beyond the questions which divided you and which in any case are the cause of bitter confrontation elsewhere in the world, the will of all participants in this Conference, whoever they may be, to defend and apply the fundamental principles enshrined in our Constitution.

The significance of the ILO lies, and will continue to lie, in the ardour with which all of you, representatives of governments, employers and workers, strive to ensure respect for these principles. Its influence depends not only on the number of its member States or of those who take part in its work. It depends on the vigour with which each one of them, each one of you, is determined to strengthen the global action of the Organisation in the cause of social justice for the benefit of each and all of its constituent elements.

May I be allowed to say that our Organisation deserves neither extreme indulgence nor extreme severity for its actions or omissions. Let us refrain from any judgment, any attitudes, any measure which, while aimed at the Organisation or intended to hamper its actions, would at the same time affect those millions of workers who, as have repeatedly been said from this very rostrum, owe so much to the ILO or the millions more who still expect so much from it.

As for myself, I am confident that nothing will stop the progress of our Organisation and it will be my duty, as well as a great honour for me, to assist you in that action so that each one may fully exercise the rights bestowed upon him by the Constitution.

I have just referred to the political problems. I do not include among them the so-called problems of structure. If I mention them at this stage of my reply it is to say that I take the decisions of the Conference in this connection as an indication of its will—it's political will, I presume—to adapt the means and resources of our Organisation to the various needs of its member States. We welcome the attention with which work on the structure of the Organisation has been continued since June 1974. I have every hope that the subsequent work, wisely entrusted to the Working Party, will make it possible to decide on measures which instead of dividing them will unite the member States and the various delegations.

I believe that I may say without being presumptuous that the Conference showed interest in my Report entitled *Making work more human*.

In supporting the renewed action of our Organisation in this field, the Conference showed its intention to improve working conditions and transform them through vigorous action directed at the working environment.

While I was not surprised by your approval, I was struck by the convergence of the opinions of countries with differing levels of economic development.

Your approval, however, was accompanied by certain conditions which may best be summarised by the two words "diversity" and "interdependence".

The diversity to which you referred is primarily diversity of culture, which means the capacity of evolving different solutions for identical problems of conditions of work. Numerous speakers, including you yourself, Mr. President, have stressed the need for each country to make the maximum use of its creative potential. I imagine that this is not only so as to avoid our planet sinking into a monoculture, if I may be allowed the expression, but to prevent each national community from suffering a decline in its efforts and the waste resulting from the application of solutions evolved elsewhere.

Diversity of needs, you then said. This is derived from the differences between the levels of industrialisation, the aims of development and the economic and social systems. These different needs were stressed by numerous speakers.

It is a paradox that this very diversity which might appear to act against international action, is in fact an encouragement.

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No a... you said, if it jeopardises action to promote employment.

Not long ago, there was in some quarters a fear that these two major social objectives—employment and the improvement of working conditions—might come into conflict because they appeared to compete for the allocation of limited resources.

This conflict in my view is only an apparent one, although it is not a simple matter. Even with very

unequal or delayed development some measures for improving subhuman working conditions are profitable from the point of view of society as a whole, if not from the point of view of the sector of the undertakings concerned.

In the more developed countries it is now being realised that an organic link exists between the volume and quality of employment. The creation of more and better jobs could be not only a social proposition, but also an economic aim.

I feel convinced that the social will has a dynamic force capable of affecting classical economic analyses. We saw this in the sixties when we launched the World Employment Plan. Contrary to certain theories, which were prevalent at the time, we suggested that employment development should become a major aim in development policies.

The same boldness, born out of a similarly powerful social conviction, leads us today to put forward these two working hypotheses which I shall now sum up, and which are in line with the best traditions of this Organisation.

First, it is essential not only from the immediate social point of view, but also from the point of view of subsequent economic progress, which is the foundation of social progress, to invest in the improvement of working conditions; irrespective of the degree of development of the country concerned.

Secondly, this improvement—far from hampering the aim of employment development—strengthens it.

Your discussions have shown that, as a whole, the representatives of the three groups of all the regions of the world and all economic systems accept these theories.

The other aspect of interdependence which you emphasised bears on the solidarity and the bonds which unite all member States in the Organisation in their search for solutions to the problems facing us.

As the Prime Minister of Sri Lanka so rightly reminded us, the problem of poverty is global and indivisible.

But, in the ILO, this solidarity acquires a particular significance since, by agreeing to associate in our Organisation, your States subscribe to certain basic moral values which, whatever the economic or social system chosen by them, outlaw exploitation and oppression. This moral argument is a powerful one.

I would add that the ILO provides a privileged framework; in fact, the only framework in which one can, in the best sense of the word, negotiate measures which make it possible not only to improve working conditions but also to harmonise them between nations which are naturally in competition with each other.

From these general conclusions, I should like to go on immediately to the practical lessons which I believe I can already learn from your discussions with an eye to my task of planning the future activities of the ILO.

The first undoubtedly lesson concerns the major subject of conditions of work: you would like the ILO to draw up an international programme for vigorous action with all possible despatch.

As speakers succeeded each other on this rostrum, I was struck by the fact that this proposal, made by me in my Report, was accepted with such a broad measure of agreement, being supported, to an almost identical degree, by the ministers from Nordic countries and by those from countries in all parts of the third world, such as Indonesia, Malaysia, Sierra Leone, Zambia and other countries.

Even if there had been any doubt concerning the support given to this proposal, that doubt would have been dissipated by one of the resolutions you have just adopted in committee and which I am convinced you will also adopt in plenary sitting, by which you invite the Governing Body to instruct the Director-General to prepare and submit "an international programme for the improvement of working conditions and environment which is designed to promote or support activities of member States in this field". The adoption of this resolution which, moreover, contains very detailed suggestions for the preparation of this international programme, will be a source of powerful encouragement for the Director-General and the Office.

Numerous speakers have expressed the view that this international programme of the ILO should provide support for a whole series of national programmes for which it could supply a framework, standards, guidelines and a yardstick for measuring the progress achieved. In this connection there is one essential point which stood out from your discussion and which provides us with our second lesson: it is your wish, it seems, that, in the preparation and supervision of your national programmes for the improvement of working conditions, full use should be made of tripartite machinery.

The finalising by your Conference of the proposed Convention and proposed Recommendation concerning tripartite machinery is the best guarantee for the success of the tremendous undertaking upon which the ILO must and will embark.

I take the liberty now of expressing the hope that these draft texts, which are so characteristic of the spirit and methods of our Organisation, will be favourably received by all member States.

As far as the Office is concerned, I can assure the Conference that I shall submit precise proposals to the Governing Body for carrying out this vigorous international programme which you desire. Between the time of my appeal last year concerning the preparation of an over-all survey of human work and the discussion which has just ended, all elements of the programme have become available. As regards resources, it will no doubt be necessary to have recourse to the procedure of programme changes, at least at the first stage, independently of the proposals which I shall have occasion to make in a subsequent biennium.

It is, of course, too early to give you a broad outline of this international programme. However, your discussion has highlighted four types of urgent action which seem to warrant priority under the programme.

The first type of action relates to the improvement of conditions of work in the rural sector in developing countries especially in agriculture.

This is the sector in which the poverty-stricken masses of the world suffer and stagnate. Their often tragic poverty is both the cause and the result of inadequate health and safety conditions. High accident rates are due to inadequate protection of workers in their daily contacts with animals, insects, plants and dangerous or harmful parasites.

The time has come for the ILO to co-operate more fully with its member States in improving conditions in the rural areas in the third world, especially in tropical and sub-tropical agriculture.

In this field the ILO could undertake two types of action. First of all, it could devise practical and simple ways of providing a minimum protection for these workers; my Report makes detailed suggestions on this

matter. The ILO could also co-operate with countries in studying the setting-up in rural areas of elementary safety and health systems which could be extended to the whole of the rural environment, as suggested by the Government delegate of Tanzania.

Action of this kind will call for the co-operation of government institutions at all levels including, of course, the local level, and of employers and workers.

It is to be hoped that the new instruments concerning rural workers' organisations, as drawn up by one of the committees of the Conference with a care that has evoked general praise, will contribute to this work of simple humanity on behalf of the underprivileged workers who still constitute the majority throughout the world.

The second type of urgent action is a substantial world-wide reduction in the rate of occupational accidents in the sectors where they are most frequent, namely agriculture (again), building, metal trades, and mining.

I have proposed that our Industrial Committees, which are an excellent tool, should be systematically used to help member States to attain these objectives, and the Conference has echoed this proposal.

May I now give a brief outline of the procedure which might be followed. Each Committee concerned, in the light of our analyses and statistics and, possibly, of information resulting from study tours and exchanges of experience between countries, would lay down standards for reducing the accident rate, to be attained within a stated period of time by means of national tripartite action. It would then be regularly informed of the results achieved and might subsequently make fresh recommendations for reducing the scourge of occupational accidents.

The third type of urgent action to be undertaken relates to job satisfaction. Although your suggestions in this regard are less concordant than in the two previous fields, you have nevertheless pinpointed two priorities.

You have said, first of all, that workers must be given a wider range of choice throughout their working lives. Several of you have made special reference to the new arrangements for recurrent education reflected in the new instruments on human resources which have been finalised by this Conference. You have also mentioned other arrangements which would give workers greater freedom to begin, interrupt or end their working life.

The working-out of satisfactory arrangements relating to these matters is a complex, long-term task which should be given an appropriate place in the international programme to be prepared by the ILO.

You have further pointed out that one of the major causes of dissatisfaction among workers is the poor guidance they received in the course of their education and in their choice of occupation.

Our international programme must therefore include arrangements for the speediest possible implementation of the excellent provisions concerning vocational guidance which you have included in our new Recommendation concerning human resources.

The last of the urgent tasks to be undertaken is standard-setting.

Many speakers have commented on suggestions made in my Report concerning a comprehensive international standard relating to the working environment.

The Minister of Social Affairs and Health of Finland suggested that this standard be drawn up

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very quickly so that it might inspire research and national action. Other speakers suggested that it should, on the contrary, constitute the culmination of the work to be undertaken by the ILO during the next few years, especially as from 1976-77 when, as you know, the adoption of noise and vibration is envisaged.

Your discussion has also important aspect of possible ILO standards to improve condition the question of workers' part undertaking, in decisions concern the use of ergonomics and a work more human. The adopti ment would in all probability in the campaign for the redu accidents to which I have refer

I have however noted—and pass by—the reserved attitude of certain speakers as regards the effectiveness of standard-setting in the field of conditions of work.

Whatever decisions may be taken, it is obvious that the nature of the difficulties which have prevented the ratification of certain instruments will have to be fully explored and that particular care will have to be taken in the framing of future international standards relating to conditions of work.

Problems concerning conditions of work cannot be dissociated from employment problems, which many speakers have mentioned, as I did myself in my Report.

May I nevertheless be allowed to refrain from making detailed reference to these problems since they are to be the subject of a major debate next year in this same hall. I wish merely to make the following remarks as a preface to that debate.

My first comment concerns job security, which is emerging with increasing clarity, in these times of economic uncertainty, as a major element in job satisfaction.

In rich and poor countries alike, the idea that fluctuations in over-all economic activity and changes in the situation in particular industries may suddenly lead to massive dismissals and compulsory job changes is becoming increasingly unacceptable. True, collective bargaining has succeeded in some countries in protecting workers against evils of this kind. Moreover, government intervention can be of considerable help in the struggle to overcome them.

I am, however, convinced that the ILO can play a new role in this regard.

At the last session of the Conference, the Committee on the Application of Conventions and Recommendations observed that the Termination of Employment Recommendation, 1963 (No. 119), had had a positive effect at the national level. The Committee further emphasised the need for a new international instrument on this subject. Such an instrument might conceivably deal with arrangements for associating workers in decisions which may have an important impact on the level of employment and with the protective role to be played by governments.

Other comments relating to the very grave problem of unemployment and mass poverty in the developing countries also warrant your immediate attention with an eye to the major debate which is to take place next year.

One of these comments was made by the Prime Minister of Sri Lanka who asked the ILO to consider the possibility of intensifying intra-regional co-operation with a view to establishing a "skilled manpower

pool". That is a proposal which would change the nature of present-day migratory movements, which are directed mainly towards the industrialised countries.

In referring, in passing, to the problem of migration I should like to say that, in adopting a few moments ago the Migrant Workers (Supplementary Provisions) Convention, 1975, and the accompanying Recommendation, the Conference has initiated a new and particularly important stage of ILO action on behalf of this class of workers who are so often underprivileged.

Another comment was made by the Vice-Chancellor of Austria, who asked the ILO to help in studying the possibilities of a long-term policy for the transfer of capital to areas with an abundant manpower supply.

Yet another comment related to international trade relations, to which you have made such frequent reference. These relations as such do not lie within the competence of the ILO, but they do have an impact on employment. Because of its tripartite structure—and I stress that point—our Organisation is certainly well equipped to make a constructive study, in the light of the hoped-for resumption of world economic activity, of all possibilities of developing employment in all its member States, whose longer-term interests have not been shown to be contradictory.

I take this opportunity of appealing that the composition of the delegations which are to participate in the two conferences that will be convened in June 1976 be determined with the utmost care. I am convinced that Ministers of Labour, so many of whom have attended this Conference (no fewer than 92 out of 1,471 delegates), will enlist the support of their colleagues in the economic sectors, and especially those responsible for national plans, so as to give the World Employment Conference the necessary weight. I would also express the hope that the employers' and workers' representatives will be selected with equal care. I venture to make this appeal because I am convinced that—as has been demonstrated this year—the questions dealt with by this Organisation entail an increasing commitment on the part of States at the highest level.

I am nearing the end of this reply. I have tried to deal with matters in depth, as you did in your discussion. You may have found it a little austere, perhaps very austere. That is because I have been careful to confine myself to strictly practical questions, since that is the best way of defending and promoting the cause of the workers.

And so, ladies and gentlemen, your work will pave the way for this major international programme which you have asked the ILO to prepare and develop in order to improve conditions of work.

This is undoubtedly a great ambition. Like all ambitions, it will require willpower and time.

You have just shown willpower by giving a new boost to ILO action in this field, which is the crux of its terms of reference. You will need willpower at all stages of this tremendous task.

First, you will need willpower in your countries. It will be necessary to discard selfish attitudes and secure increasing recognition of the absolute need to improve the working environment in modern societies. It will be necessary to solve problems of conditions of work in their widest and most generous sense, in relation with other essential social tasks: employment development (more and better jobs); better income distribution (more social justice); better education and better care (more equality); and, lastly, the promotion of a better balance between working life and personal life for each and every person.

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be needed by the ILO. Imagination will have to be mobilised, of course, and have to define a consensus and commitment without which your

would be as ephemeral as dreams.

ake time, a good deal of time. But we are obsessed by short-term considerations. We have been discussing will demand a lengthy period of time—10 years, or even longer.

king of the multiple aspects of these reflecting upon your discussions, wondering whether we were not in terms of an ambitious contract for come, which would reveal to youth

the long-term objectives proposed by the International Labour Organisation and galvanise them into action.

To demonstrate willpower over a period of time demands rare perseverance.

This quality has never been lacking in the ILO. Let us use it to carry out this new and exalting task which will enable each of the Members of the Organisation—governments, employers and workers—to devote heart and talents to the creation of a just social order, within countries and among nations, so that this world may at last become truly fraternal.

The PRESIDENT.—Thank you very much Mr. Director-General, for your excellent reply to the debate.

(*The Conference adjourned at 12.45 p.m.*)

Final Record Vote on the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers

For (265)

<i>Algérie/Algeria/Argelia :</i>	<i>Chili/Chile/Chile :</i>	<i>Haute-Volta/Upper Volta/ Aïto Volta :</i>	<i>Madagascar :</i>
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Final Record Vote on the Recommendation concerning Migrant Workers

For (288)

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Mr. Khumalo (G)
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M. Kisimba Kimba Lunanda
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M. Kusu-Mansanga-a-
Makangu (G)

Against (0)

Abstentions (62)

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Uruguay :

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Mr. Sacika (G)
Mr. Sumbwe (E)
Mr. Chiluba (T/W)

VOC TRAINING
"biggest enemy."
Return air
fanned air.

#81
Smoking of
Men's room

4th 6

APPENDICES

Fifth Item on the Agenda: Migrant Workers

Second Report of the Committee on Migrant Workers.

1. Subsequent to the adoption of its first report by the Conference, the Committee held two further sittings to examine two proposed resolutions submitted by the Workers' members.

First Proposed Resolution Submitted by the Workers' Members

2. The Workers' members submitted a first resolution as follows:

"The General Conference of the ILO,

"Considering that the Preamble to the ILO Constitution draws attention to the urgent need to improve the conditions of workers employed in foreign countries,

"Considering that the Declaration of Philadelphia recognises the solemn obligation of the ILO to further the implementation of programmes designed to facilitate the transfer of labour, including migration for employment, in order to ensure that workers may be employed in occupations which provide them with the opportunity of utilising their full abilities, and skills and of contributing to the common welfare,

"Recalling that the International Labour Conference adopted the Migration for Employment Convention (Revised), 1949 (No. 97),

"Considering also that the International Labour Conference adopted the Migrant Workers (Supplementary Provisions) Convention during its 60th Session, 1975 and the Migrant Workers Recommendation,

"Considering that the social problems relating to the status of migrant workers in the countries of employment are also the subject of bilateral or regional conventions,

"Considering that the solemn obligation as prescribed in the Preamble to the Constitution and in the Declaration of Philadelphia implies that the ILO has the duty to provide information to member States, on request, concerning all questions relating to the conditions of work and life of migrant workers;

"Invites the Governing Body of the International Labour Office—

"(a) to authorise the Director-General of the ILO to establish an arbitration procedure for all interested governments or where necessary a conciliation procedure for disputes between the authorities of countries of emigration and those of countries of employment concerning conditions of work and life of migrant workers;

"(b) to entrust the Director-General of the ILO with:

- (i) establishing and keeping up to date a list of internationally well-known conciliators;
- (ii) inviting, for that purpose, each member State which so desires to designate two experts to be included on this list for renewable periods of five years;
- (iii) inviting the States interested in the arbitration or conciliation procedure each to select a conciliator from this list, whilst a third conciliator, to act as President, shall be designated by the Director-General of the ILO from among the listed experts".

3. In presenting the proposed resolution, the Workers' members indicated that it aimed at establishing the possibility for the ILO to offer its member States the means for conciliation and, if required, arbitration with regard to issues concerning the application of treaties and multilateral or bilateral agreements with respect to equality of opportunity and treatment of migrant workers. It could also concern their status within the framework of the migration policies, on the basis of ILO Conventions, whether ratified or not, or of other instruments. The aim of the procedure envisaged would be to permit, without creating new procedural constraints, an analysis and study of the problems raised, in consultation with all interested parties, with a view to a settlement of a political character. In their opinion it was essential that a positive decision be taken on the principle envisaged in subparagraph (a) of the operative section of the proposed resolution, whilst the measures provided for in subparagraph (b) could eventually be arranged according to the existing ILO procedures and machinery, whose field of application could be extended towards this end.

4. The Employers' members expressed strong reservations, indicating that this proposal called for a close examination of its numerous legal and practical aspects. They felt it would be difficult to achieve this in the limited time available, given that the proposed framework could go well beyond the existing machinery of the ILO. The Government member of Italy emphasised that the proposal only intended to broaden the existing competence of the ILO. Further, it did not propose to create binding machinery, neither with regard to its system of referral nor to its rulings; it would not entail new expenditure and it was even possible that these could be borne by the countries which would have recourse to this procedure. The Government members of Algeria, Cuba and Mexico also supported this proposal. Several other Government members, including those of Australia, Canada, the United Kingdom and the USSR felt that

the proposal was of interest, but that it should be the subject of an in-depth study by the Governing Body. The Government member of the United States opposed this proposal; the Government member of Switzerland was of the opinion that it was not possible for him to take a position at that time.

5. The Committee decided by 6,252 votes to 56, with 56 abstentions to transmit the proposed resolution to the Conference without taking position on its substance. It recommended to the Conference that it refer the proposed resolution to the Governing Body for study and any decision which it deemed appropriate.

**Second Proposed Resolution Submitted
by the Workers' Members**

6. The second proposed resolution submitted by the Workers' members was as follows:

“ [1] The General Conference of the ILO,

“ [2] Recalling that the International Labour Conference has adopted the Migration for Employment Convention (Revised), 1949 (No. 97) and Recommendation (Revised), 1949 (No. 86),

“ [3] Noting with satisfaction the Migrant Workers (Supplementary Provisions) Convention and the Migrant Workers Recommendation adopted by the International Labour Conference at its 60th Session,

“ [4] Noting that present standards do not deal adequately with all types of migratory movements and the immense problems which they raise,

“ [5] Recalling also the resolution concerning future ILO action in the field of migrant workers adopted by the International Labour Conference at its 59th Session,

“ [6] Bearing in mind all the other measures which have been, or are to be, taken by the International Labour Organisation in the context of its comprehensive programme on migrant workers and which include research, the convening of meetings of experts, symposia and tripartite meetings, and the activities concerning migrant workers which have been carried out in the framework of the ILO's Programme of Industrial Activities,

“ [7] Recalling that the International Labour Conference has adopted the Employment Policy Convention and Recommendation, 1964 (No. 122), and the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117),

“ [8] Recalling further the basic aims and principles enshrined in the International Development Strategy for the Second Development Decade and in the Programme of Action for the Establishment of the New International Economic Order,

“ [9] Bearing in mind the aims of the ILO's World Employment Programme,

“ [10] Noting that the problem of the negative repercussions which for the countries of origin could follow from undesirable massive migration for employment was dealt with at the Fourth African Regional Conference,

“ [11] Considering that migration should be based on free choice and not on economic necessity,

“ [12] Considering that, to this end, massive emigration for employment should be replaced by co-ordinated and democratically planned transfer of capital and technology to developing countries,

“ [13] Considering that the new international economic situation must arise out of a new distribution of labour,

“ [14] Considering that the economic development efforts of developing countries and the aim of achieving economic stability in the developed countries are at present hindered by the manner in which technology and capital are transferred and by the unequal exchange of goods,

“ [15] Considering that multinational enterprises play a very important role in trade and in capital and technology transfers,

“ 1. Calls upon all member States:

- “ (i) to consider the achievement of full employment as the prime goal of their long- and short-term economic policies and to act accordingly;
- “ (ii) to adapt their economic strategy to the principles which are formulated in the ILO labour standards, which standards should be ratified and strictly implemented,

“ 2. Commends the Governing Body of the International Labour Office for having placed items relating to technology, migrations for employment and multinational enterprises on the agenda of the World Employment Conference,

“ 3. Calls upon the Governing Body of the International Labour Office to:

- “ (a) include in the agenda of the World Employment Conference in 1976 and of a future session of the International Labour Conference the question of eliminating all migration for employment which does not follow from free choice;
- “ (b) draw up a set of social and labour principles in order to guide the international agencies concerned, such as UNCTAD and UNIDO, in their efforts to establish a new international economic order and with a view to ensuring that steps taken to reduce inequalities between nations are accompanied by action to achieve a more equitable distribution of wealth between classes;
- “ (c) on the basis of the studies already carried out, take the necessary action to enable the International Labour Conference to adopt a code of conduct for multinational enterprises;
- “ (d) take the necessary measures to ensure the implementation of the above-mentioned code”.

7. The Workers' members in submitting the second proposed resolution recalled the circumstances of its presentation and pointed out that it resulted from a compromise in their group. The attention of the members of the Committee was drawn to the problems to which the resolution referred. The importance of these problems could not be denied both for the countries of origin and for the countries of employment, not their close relationship with the questions examined by the Committee. They referred members of the Committee to paragraph 85 and the following paragraphs of the first report of the Committee, as it appeared in the *Provisional Record*, No. 34, and to the sixth paragraph of the Preamble of the adopted Convention. They considered that it would be a mistake to try to control migrations or to attempt to solve the problems they posed without taking into account their context, their causes and their consequences for the countries of the regions concerned. The Government members of Algeria, Cuba, Egypt and USSR supported the proposed resolution.

8. The majority of the Employers' members and the Government members considered that the resolution submitted raised problems that were too serious to be usefully discussed by the Committee, as regards both form and substance, in the short time left at its disposal. The resolution, in fact, dealt with a series of questions regarding problems as diverse as undesirable migrations, the new international economic order, the adoption of a code of conduct for multinational enterprises, etc., several of which were outside the scope of the terms of reference of the Committee. They held that the Committee could not deal with such questions and that the proposed resolution should not be considered.

9. The Workers' members and some Government members who were in favour of the resolution stated that they were surprised and shocked that the difficult compromise which had been reached in the Committee when the Committee had before it the amendments proposed by the Workers' member of Egypt should now be questioned. They recalled that it was actually the Employers' Vice-Chairman himself who had made the proposal, as reported in paragraph 91 of the report of the Committee as published in the *Provisional Record*, No. 34, to which the Committee had agreed. They insisted that the Committee should discuss the substance of the proposed resolution and take immediately the necessary measures to that effect.

10. The Employers' Vice-Chairman emphasised that some of the proposals contained in the proposed resolution, for example those calling upon the Governing Body to establish "a set of social and labour principles in order to guide the international agencies concerned, such as UNCTAD and UNIDO, in their efforts to establish a new international economic order . . .", were not realistic. He also noted that these proposals were not within the scope of the Committee, nor were they compatible with the constitutional provisions of the ILO and the agreements governing the relations between that Organisation and the international agencies mentioned. In giving its agreement to the compromise proposal contained in paragraph 91 of the report of the Committee, the Employers' group did not imagine it would be faced with such a text just before the end of the Conference. The proposed resolution in no way corresponded to the Committee's compromise, which only applied to "undesirable migrations".

11. The Government members of Canada and Sweden indicated that most of the elements contained in the resolution were not new, in view of the fact that they had been discussed at length by various bodies of the ILO, including the International Labour Conference at its 59th Session, and that measures had already been taken which coincided with several of the proposals contained in the proposed resolution. They recalled, in particular, the decisions of the Governing Body relating to the agenda of the Tripartite World Conference on Employment, Income Distribution and Social Progress and the International Division of Labour as well as to multinational enterprises and to the Meeting of Experts on Migrant Workers. The Employers' member of Sweden drew attention to the fact that at least subparagraphs (c) and (d), and, indeed, also subparagraph (b) of the last paragraph of the proposed resolution contradicted the unanimous position taken by the Governing Body to await the result of the studies undertaken by the Office before deciding upon the action to be taken with regard to multinational enterprises.

12. As a compromise, the Government members of Canada and the United Kingdom thought that, in order to do justice to certain interesting ideas contained in the proposed resolution, the Committee could recommend the transmittal to the Governing Body of the text as it was without taking a stand on it, but request it to take it into account in the preparation of the World Employment Conference and the Meeting of Experts on Migrant Workers. They asked whether under these circumstances the Workers' members would agree to withdraw their proposed resolution.

13. Certain Government and Workers' members stated that they were surprised that some of those who shared the opinion that the amendments to the proposed Convention submitted by the Workers' member of Egypt were not receivable because they treated new questions, today supported the idea that these same questions were not new. The Government member of Algeria considered that this confirmed the opinion which he had expressed during the discussion of the amendments to the proposed Convention, contrary to the opinion of the Legal Adviser. These members maintained that the problems raised by the proposed resolution were important and were well within the framework of the Committee's mandate in so far as they referred to migrant workers, to certain forms of migration which were not adequately dealt with by the ILO, or that they brought to light questions which had decided effects on migration. They opposed the suggestion that the question be referred to the Governing Body of the ILO, feeling that such a procedure, which placed in doubt a unanimous decision of the Committee, did not provide sufficient guarantees. The Workers' members and Government members who supported the proposed resolution formally opposed its withdrawal. The Workers' members requested that the proposed resolution be put to the vote immediately.

14. At the end of a long procedural discussion, the Committee decided, in spite of the very short time at its disposal, to allow sufficient time for members of the Committee to submit the amendments which they wished to see taken into consideration during the discussion of the proposed resolution.

15. At its eighteenth sitting the Committee had before it 39 amendments to the text of the proposed resolution.

16. In view of this situation the Government member of the United Kingdom proposed that the Committee should recognise that it was unable, within the time-limit imposed on it, to complete its discussion of the proposed resolution and that the Committee should decide to include in its report to the Conference the text of the proposed resolution, the amendments under discussion and the other amendments submitted; and that at the same time it should express the hope that the Governing Body would take them into account in its preparations for the World Employment Conference in 1976.

17. The majority of the Workers' members were unable to support this proposal and insisted that the proposed resolution, as modified by such amendments as might have been retained by the Committee within the prescribed time-limits, should be put to the vote.

18. The amendments submitted to the Preamble were as follows:

(1) *New paragraph to be inserted after paragraph [1]:*

"Considering the rights of everyone to leave any country, including his own, and to return to his own country, provided for

in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and deplored that these fundamental rights are not observed by all ILO members."

(Amendment submitted by the Employers' members.)

(2) *Paragraph [2]*

Add the following text at the end:

"Also the Protection of Migrant Workers (Underdeveloped Countries) Recommendation (No. 100), 1955."

(Amendment submitted by the Employers' members.)

(3) *Paragraph [3]*

First line, delete the words "with satisfaction".

(Amendment submitted by the Employers' members.)

(4) *Paragraph [3]*

Second line, delete the words "in countries of employment".

(Amendment submitted by the Employers' members.)

(5) *Paragraphs [4] and [10]*

Combine as follows:

"Noting that present standards do not deal adequately with all types of migratory movements, especially those with negative repercussions resulting from undesirable massive migration, for the country of origin as well as the country of employment."

(Amendment submitted by the Government member of Algeria.)

(6) *Paragraph [4]*

Replace the words "do not" by "may".

(Amendment submitted by the Employers' members.)

(7) *Paragraph [4]*

Replace the words "all types" by "some types".

(Amendment submitted by the Employers' members.)

(8) *Paragraph [4]*

Replace the words "the immense" by "some of".

(Amendment submitted by the Employers' members.)

(9) *Paragraph [4]*

Delete the word "adequately" and the words "the immense problems they raise".

(Amendment submitted by the Employers' member of Sweden.)

(10) *Paragraph [4]*

At the end add: "but not effectively unless such standards are ratified by Members".

(Amendment submitted by the Employers' members.)

(11) *Paragraph [5]*

Add "as well as the decision by the Governing Body to implement this resolution and the expert meeting summoned to discuss the same question".

(Amendment submitted by the Employers' members.)

(12) *Paragraph [6]*

Delete "of meetings of experts, of symposia and of tripartite meetings" and insert instead "of tripartite meetings of experts and symposia".

(Amendment submitted by the Employers' members.)

(13) *Paragraph [6]*

Delete the words "and the activities concerning migrant workers which have been carried out" and insert instead "and within the framework".

(Amendment submitted by the Employers' members.)

(14) *Paragraph [8]*

Delete the paragraph.

(Amendment submitted by the Employers' members.)

(15) *New paragraph to be inserted after paragraph [8]*

"Bearing in mind the Resolution concerning Migrant Workers adopted by the Tenth Regional Conference of American States Members of the ILO."

(Amendment submitted by the Government member of Mexico.)

(16) *Paragraph [10]*

After the word "migration" add "for employment" and make other similar changes in the text each time after the word "migration".

(Amendment submitted by the Employers' members.)

(17) *Paragraph [10]*

Delete the word "negative" and the word "undesirable".

(Amendment submitted by the Employers' members.)

(18) *Paragraph [11]*

Delete this paragraph.

(Amendment submitted by the Employers' members.)

(19) *Paragraph [12]*

Delete the words "massive emigration" and replace by "migrations for employment"; substitute "complemented" for "replaced"; delete the words "co-ordinated and democratically planned"; delete the words "to developing countries".

(Amendment submitted by the Employers' members, Sweden.)

(20) *Paragraph [12]*

Replace the words "co-ordinated . . ." up to the end of the paragraph by "the creation of sources of employment with the support of foreign capital and technology, aiming at the development of the countries in the labour, economic and social fields".

(Amendment submitted by the Employers' members.)

(21) *Paragraph [13]*

Delete this paragraph.

(Amendment submitted by the Employers' members.)

(22) *Paragraph [13]*

Delete the semi-colon and add the words "by the creation of a new international economic order;".

(Amendment submitted by the Government member of Algeria.)

(23) *Paragraph [14]*

Delete this paragraph.

(Amendment submitted by the Employers' members.)

(24) *Paragraph [14]*

Replace the words "hindered by" by "favoured by"; delete the words "and by the unequal exchange of goods".

(Amendment submitted by the Employers' member of Sweden.)

(25) *Paragraph [15]*

Delete this paragraph.

(Amendment submitted by the Government member of Algeria.)

(26) *Paragraph [15]*

Delete this paragraph.

(Amendment submitted by the Employers' members.)

(27) *Paragraph [15]*

Replace by the following text: "Considering the role played by transnational corporations in trade and capital and technology transfers."

(Amendment submitted by the Government member of the USSR.)

19. The amendments concerning the operative part are reproduced hereunder:

(28) *Paragraph 1*

Subparagraph (i): replace the proposed text by the following:

"(i) to consider the implementation of a coherent policy of productive employment as the primary objective of their short-term and long-term development policy and to take the necessary measures to this effect; moreover, to apply these criteria to problems posed by international migrations".

(Amendment submitted by the Government member of Mexico.)

(29) *Paragraph 1*

Subparagraph (i): replace the proposed text by the following:

"(i) to consider the full utilisation of human resources as a goal to be achieved by member States".

(Amendment submitted by the Employers' members.)

(30) *Paragraph 1*

Subparagraph (i): add "one of" before "the prime". Change "goal" to "goals".

(Amendment submitted by the Government member of Sweden.)

(31) *Paragraph 1*

Subparagraph (i): add the words "and social" after the word "economic".

(Amendment submitted by the Employers' member of Sweden.)

(32) *Paragraph 1*

Subparagraph (ii): replace the proposed text by "to adapt their socio-economic policy to the principles formulated by the ILO;".

(Amendment submitted by the Employers' members.)

(33) *Paragraph 1*

Subparagraph (ii): replace the word "strategy" by the word "policies". Replace the words "standards, which standards

should be ratified and strictly implemented; " by " Conventions and Recommendations".

(Amendment submitted by the Employers' member of Sweden.)

(34) *Paragraph 2.*

Delete this paragraph.

(Amendment submitted by the Employers' members.)

(35) *Paragraph 3*

Subparagraph (a) : replace the text by the following: " consider whether questions relating to migration should be dealt with at the Tripartite World Conference on Employment, 1976".

(Amendment submitted by the Employers' members.)

(36) *Paragraph 3*

Subparagraph (b) : delete the subparagraph.

(Amendment submitted by the Employers' members.)

(37) *Paragraph 3*

Subparagraph (c) : delete the subparagraph.

(Amendment submitted by the Employers' members.)

(38) *Paragraph 3*

Subparagraph (d) : delete the subparagraph.

(Amendment submitted by the Employers' members.)

(39) *Paragraph 3*

Add a new subparagraph (e) drafted as follows: "study other forms of migrations, especially undesirable migrations".

(Amendment submitted by the Government member of Algeria.)

20. After the Government member of Algeria, in order to facilitate the task of the Committee, had withdrawn his amendment for the deletion of the fourteenth paragraph of the Preamble in favour of the amendment submitted by the Government member of the USSR, who proposed a new drafting, the Committee decided to discuss the amendments submitted.

Discussion of the Amendments

Preamble

21. In presenting their amendment to introduce a new paragraph, the Employers' members stated that they felt that the proposed resolution, as it stood, could be construed as placing obstacles to the right to emigrate. They therefore considered it important to have at the beginning of the proposed resolution a reference to the right to leave any country, as provided for in the Universal Declaration of Human Rights.

22. The majority of the Workers' members stated that they opposed this amendment, just as they would oppose all other amendments which, like this one, affected the substance of the proposed resolution and would thus interfere with its balance.

23. The Workers' member of Egypt regretted that this paragraph included a condemnation not relevant to this proposed resolution. The Government member of the USSR said that he was surprised that a new text was being prepared and not the one written into the Preamble of the new Convention. He felt that it would be necessary to refer precisely to the text of the International Covenant on Civil and Political Rights and to request all ILO member States to ratify the Covenant.

24. The Government member of the Federal Republic of Germany said that he was in favour of the Employers' members' amendment, the text of which appeared to him to be more precise than

that which had been adopted by the Committee for the Convention.

25. Put to the vote, the amendment obtained 2,283 votes in favour and 931 against, with 2,718 abstentions. It was not adopted for lack of a quorum.

26. In presenting their second amendment which aimed at adding a reference to Recommendation No. 100 in the proposed resolution, the Employers' members stated that they were convinced that the amendment should be unanimously adopted since its purpose was to mention all the relevant international standards.

27. The majority of the Workers' members were opposed to this amendment for the reasons indicated above.

28. The Government member of France supported this amendment and stated that during the vote on the Convention and the Recommendation he was struck by the large number of abstentions coming from developing countries, whose attention should be drawn to Recommendation No. 100.

29. The Government member of Egypt proposed, in accordance with article 64 of the Standing Orders of the Conference, a motion of closure to terminate the discussion not only on the amendment in course of consideration, but also on all the amendments submitted. This was supported by the Workers' members and declared receivable by the Assistant Legal Adviser of the Conference (whose legal opinion had been requested by the Employers' Vice-Chairman), it being understood that all amendments lawfully before a committee would have to be voted on. Put to the vote, the motion of closure did not obtain a quorum.

30. The Employers' Vice-Chairman, who raised this matter as a question of principle, in view of the importance of the subject under discussion, emphasised that each amendment that had been submitted should be introduced, opened to discussion with the possibility of being sub-amended, and be put to the vote.

31. At this point, the Committee was informed by a message from the Secretary-General of the Conference that the President and the Vice-Presidents of the Conference wished to remind the Committee that it should end its work in accordance with the conditions that had been decided by the officers of the Selection Committee—i.e., at 4.30 p.m.

32. The Chairman of the Committee then declared that the work of the Committee was ended.

33. The Committee decided to entrust its Officers with the task of approving the present report, taking into account the remarks made by various members of the Committee with respect to the draft of the first part of the report which it had had before it.

34. The present report was approved by the Officers of the Committee on behalf of the Committee and is submitted to the Conference for consideration.

Geneva, 24 June 1975

(Signed) A. M. ZLITNI,
Chairman.
L. E. DUQUETTE,
Reporter.

Convention 143

Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting "the interests of workers when employed in countries other than their own", and

Considering that the Declaration of Philadelphia reaffirms, among the principles on which the Organisation is based, that "labour is not a commodity", and that "poverty anywhere constitutes a danger to prosperity everywhere", and recognises the solemn obligation of the ILO to further programmes which will achieve in particular full employment through "the transfer of labour, including for employment ...",

Considering the ILO World Employment Programme and the Employment Policy Convention and Recommendation, 1964, and emphasising the need to avoid the excessive and uncontrolled or unassisted increase of migratory movements because of their negative social and human consequences, and

Considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology rather than the transfer of workers in accordance with the needs and requests of these countries in the reciprocal interest of the countries of origin and the countries of employment, and

Considering the right of everyone to leave any country, including his own, and to enter his own country, as set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, in the Employment Policy Convention and Recommendation, 1964, in the Employment Service Convention and Recommendation, 1948, and in the Fee-Charging Employment Agencies Convention (Revised), 1949, which deal with such matters as the regulation of the recruitment, introduction and placing of migrant workers, the provision of accurate information relating to migration, the minimum conditions to be enjoyed by migrants in transit and on arrival, the adoption of an active employment policy and international collaboration in these matters, and

Considering that the emigration of workers due to conditions in labour markets should take place under the responsibility of official agencies for employment or in accordance with the relevant bilateral or multilateral agreements, in particular those permitting free circulation of workers, and

Considering that evidence of the existence of illicit and clandestine trafficking in labour calls for further standards specifically aimed at eliminating these abuses, and

Recalling the provisions of the Migration for Employment Convention (Revised), 1949, which require ratifying Members to apply to immigrants lawfully within their territory treatment not less favourable than that which they apply to their nationals in respect of a variety of matters which it enumerates, in so far as these are regulated by laws or regulations or subject to the control of administrative authorities, and

Recalling that the definition of the term "discrimination" in the Discrimination (Employment and Occupation) Convention, 1958, does not mandatorily include distinctions on the basis of nationality, and

Considering that further standards, covering also social security, are desirable in order to promote equality of opportunity and treatment of migrant workers and, with regard to matters regulated by laws or regulations or subject to the control of administrative authorities, ensure treatment at least equal to that of nationals, and

Convention sur les migrations dans des conditions abusives et sur la promotion de l'égalité de chances et de traitement des travailleurs migrants.

La Conférence générale de l'Organisation internationale du Travail,
Convoquée à Genève par le Conseil d'administration du Bureau international
du Travail et s'y étant réunie le 4 juin 1975, en sa soixantième session ;

Considérant que le Préambule de la Constitution de l'Organisation internationale
du Travail assigne à celle-ci la tâche de défendre les « intérêts des travailleurs
occupés à l'étranger » ;

Considérant que la Déclaration de Philadelphie réaffirme parmi les principes
sur lesquels est fondée l'Organisation internationale du Travail que « le tra-
vail n'est pas une marchandise » et que « la pauvreté, où qu'elle existe, cons-
titue un danger pour la prospérité de tous » et reconnaît l'obligation solen-
nelle de l'Organisation de seconder la mise en œuvre de programmes propres
à réaliser notamment le plein emploi grâce, en particulier, à des « moyens
propres à faciliter les transferts de travailleurs, y compris les migrations de
main-d'œuvre... » ;

Considérant le Programme mondial de l'emploi de l'OIT ainsi que la conven-
tion et la recommandation sur la politique de l'emploi, 1964, et soulignant
la nécessité d'éviter l'augmentation excessive et non contrôlée ou non assis-
tée des mouvements migratoires, à cause de leurs conséquences négatives
sur le plan social et humain ;

Considérant en outre qu'afin de surmonter le sous-développement et le chômage
structurel et chronique, les gouvernements de nombreux pays insistent tou-
jours davantage sur l'opportunité d'encourager les déplacements des capi-
taux et des technologies plutôt que ceux des travailleurs, en fonction des
besoins et des demandes de ces pays et dans l'intérêt réciproque des pays
d'origine et des pays d'emploi ;

Considérant également le droit de toute personne de quitter tout pays, y com-
pris le sien, et d'entrer dans son propre pays, tel qu'établi dans la Déclara-
tion universelle des droits de l'homme et le Pacte international relatif aux
droits civils et politiques ;

Rappelant les dispositions contenues dans la convention et la recommandation
sur les travailleurs migrants (révisées), 1949 ; dans la recommandation sur
la protection des travailleurs migrants (pays insuffisamment développés),
1955 ; dans la convention et la recommandation sur la politique de l'emploi,
1964 ; dans la convention et la recommandation sur le service de l'emploi,
1948 ; dans la convention sur les bureaux de placement payants (révisée),
1949, qui traitent de questions telles que la réglementation du recrutement,
de l'introduction et du placement des travailleurs migrants, de la mise à
leur disposition d'informations précises sur les migrations, des conditions
minima dont devraient bénéficier les migrants, en cours de voyage et à leur
arrivée, de l'adoption d'une politique active de l'emploi ainsi que de la
collaboration internationale dans ces domaines ;

Considérant que l'émigration de travailleurs due aux conditions du marché de
l'emploi devrait se faire sous la responsabilité des organismes officiels de
l'emploi conformément aux accords multilatéraux et bilatéraux pertinents,
notamment ceux qui permettent la libre circulation des travailleurs ;

Considérant qu'en raison de l'existence de trafics illicites ou clandestins de
main-d'œuvre, de nouvelles normes spécialement dirigées contre ces abus
seraient souhaitables ;

Rappelant que la convention sur les travailleurs migrants (révisée), 1949,
demande à tout membre l'ayant ratifiée d'appliquer aux immigrants qui se
trouvent légalement dans les limites de son territoire un traitement qui ne
soit pas moins favorable que celui qu'il applique à ses propres ressortissants
en ce qui concerne diverses matières qu'elle énumère, dans la mesure où ces
questions sont réglementées par la législation ou dépendent des autorités
administratives ;

Rappelant que la définition du terme « discrimination » dans la convention
concernant la discrimination (emploi et profession), 1958, n'inclut pas obli-
gatoirement les distinctions fondées sur la nationalité ;

Considérant que de nouvelles normes seraient souhaitables, y compris en matière
de sécurité sociale, pour promouvoir l'égalité de chances et de traitement
des travailleurs migrants et, en ce qui concerne les questions qui sont régle-
mentées par la législation ou dépendent des autorités administratives, assurer
un traitement au moins égal à celui des nationaux ;

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Noting that, for the full success of action regarding the very varied problems of migrant workers, it is essential that there be close co-operation with the United Nations and other specialised agencies, and .

Noting that, in the framing of the following standards, account has been taken of the work of the United Nations and of other specialised agencies and that, with a view to avoiding duplication and to ensuring appropriate co-ordination, there will be continuing co-operation in promoting and securing the application of the standards, and .

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and .

Having determined that these proposals shall take the form of an international Convention supplementing the Migration for Employment Convention (Revised), 1949, and the Discrimination (Employment and Occupation) Convention, 1958,

adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-five the following Convention, which may be cited as the Migrant Workers (Supplementary Provisions) Convention, 1975:

PART I. MIGRATIONS IN ABUSIVE CONDITIONS

Article 1

Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.

Article 2

1. Each Member for which this Convention is in force shall systematically seek to determine whether there are illegally employed migrant workers on its territory and whether they depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations.

2. The representative organisations of employers and workers shall be fully consulted and enabled to furnish any information in their possession on this subject.

Article 3

Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members—

- (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and
- (b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions,

in order to prevent and to eliminate the abuses referred to in Article 2 of this Convention.

Article 4

In particular, Members shall take such measures as are necessary, at the national and the international level, for systematic contact and exchange of information on the subject with other States, in consultation with representative organisations of employers and workers.

Article 5

One of the purposes of the measures taken under Articles 3 and 4 of this Convention shall be that the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.

Article 6

1. Provision shall be made under national laws or regulations for the effective detection of the illegal employment of migrant workers and for the definition and the application of administrative, civil and penal sanctions, which include imprisonment in their range, in respect of the illegal employment of migrant workers, in respect of

tant que les activités relatives aux problèmes très divers concernant les travailleurs migrants ne peuvent atteindre pleinement leurs objectifs que s'il existe une coopération étroite avec les Nations Unies et les institutions spécialisées ;

tant que, lors de l'élaboration des présentes normes, il a été tenu compte des travaux des Nations Unies et des institutions spécialisées et qu'en vue d'éviter les doubles emplois et d'assurer une coordination appropriée une coopération continue se poursuivra en vue de promouvoir et d'assurer l'application de ces normes ;

tant que décide d'adopter diverses propositions relatives aux travailleurs migrants, question qui constitue le cinquième point à l'ordre du jour de la session ; près avoir décidé que ces propositions prendraient la forme d'une convention complétant la convention sur les travailleurs migrants (révisée), 1949, et la convention sur la discrimination (emploi et profession), 1958,

te, ce vingt-quatrième jour de juin mil neuf cent soixantequinze, la convention réés, qui sera dénommée Convention sur les travailleurs migrants (dispositions complémentaires), 1975.

PARTIE I. MIGRATIONS DANS DES CONDITIONS ABUSIVES

Article 1

Tout Membre pour lequel la présente convention est en vigueur s'engage à respecter les droits fondamentaux de l'homme de tous les travailleurs migrants.

Article 2

Tout Membre pour lequel la présente convention est en vigueur doit s'attacher à terminer systématiquement s'il existe des migrants illégalement employés sur son territoire et s'il existe, en provenance ou à destination de son territoire ou en transit par celui-ci, des migrations aux fins d'emploi dans lesquelles les migrants sont soumis au cours de leur voyage, à leur arrivée ou durant leur séjour et leur retour à des conditions contrevenant aux instruments ou accords internationaux, bilatéraux ou bilatéraux, pertinents ou à la législation nationale.

2. Les organisations représentatives d'employeurs et de travailleurs doivent être régulièrement consultées et avoir la possibilité de fournir leurs propres informations sur le sujet.

Article 3

Tout Membre doit prendre toutes les mesures nécessaires et appropriées, qu'elles soient de sa compétence propre ou qu'elles appellent une collaboration avec d'autres Membres : pour supprimer les migrations clandestines et l'emploi illégal de migrants :

a) à l'encontre des organisateurs de mouvements illicites ou clandestins de migrants aux fins d'emploi, en provenance ou à destination de son territoire, ou en transit par celui-ci, et à l'encontre de ceux qui emploient des travailleurs ayant immigré dans des conditions illégales, b) de prévenir et d'éliminer les abus visés à l'article 2 de la présente convention.

Article 4

Les Membres doivent notamment adopter, sur le plan national et international, des mesures nécessaires pour établir à ce sujet des contacts et des échanges systématiques d'informations avec les autres Etats, en consultation avec les organisations représentatives d'employeurs et de travailleurs.

Article 5

Les mesures prévues aux articles 3 et 4 doivent notamment viser à ce que les auteurs de trafics de main-d'œuvre puissent être poursuivis quel que soit le pays où ils exercent leurs activités.

Article 6

1. Des dispositions doivent être prises aux termes de la législation nationale pour une détection efficace de l'emploi illégal de travailleurs migrants et pour la définition et l'application de sanctions administratives, civiles et pénales allant jusqu'à l'emprisonnement, en ce qui concerne l'emploi illégal de travailleurs migrants.

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the organisation of movements of migrants for employment defined as involving the abuses referred to in Article 2 of this Convention, and in respect of knowing assistance to such movements, whether for profit or otherwise.

2. Where an employer is prosecuted by virtue of the provision made in pursuance of this Article, he shall have the right to furnish proof of his good faith.

Article 7

The representative organisations of employers and workers shall be consulted in regard to the laws and regulations and other measures provided for in this Convention and designed to prevent and eliminate the abuses referred to above, and the possibility of their taking initiatives for this purpose shall be recognised.

Article 8

1. On condition that he has resided legally in the territory for the purpose of employment, the migrant worker shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself imply the withdrawal of his authorisation of residence or, as the case may be, work permit.

2. Accordingly, he shall enjoy equality of treatment with nationals in respect in particular of guarantees of security of employment, the provision of alternative employment, relief work and retraining.

Article 9

1. Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularised, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.

2. In case of dispute about the rights referred to in the preceding paragraph, the worker shall have the possibility of presenting his case to a competent body, either himself or through a representative.

3. In case of expulsion of the worker or his family, the cost shall not be borne by them.

4. Nothing in this Convention shall prevent Members from giving persons who are illegally residing or working within the country the right to stay and to take up legal employment.

PART II. EQUALITY OF OPPORTUNITY AND TREATMENT

Article 10

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

Article 11

1. For the purpose of this Part of this Convention, the term "migrant worker" means a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.

2. This Part of this Convention does not apply to—

- (a) frontier workers;
- (b) artistes and members of the liberal professions who have entered the country on a short-term basis;
- (c) seamen;
- (d) persons coming specifically for purposes of training or education;
- (e) employees of organisations or undertakings operating within the territory of a country who have been admitted temporarily to that country at the request

L'organisation de migrations aux fins d'emploi définies comme impliquant les abus visés à l'article 2 de la présente convention et l'assistance sciemment apportée, à des fins lucratives ou non, à de telles migrations.

2. Lorsqu'un employeur fait l'objet de poursuites en application des dispositions prises en vertu du présent article, il doit avoir le droit d'apporter la preuve de sa bonne foi.

Article 7

Les organisations représentatives d'employeurs et de travailleurs doivent être consultées à propos de la législation et des autres mesures prévues par la présente convention en vue de prévenir ou d'éliminer les abus mentionnés ci-dessus et la possibilité de prendre des initiatives à cet effet doit leur être reconnue.

Article 8

1. A la condition qu'il ait résidé légalement dans le pays aux fins d'emploi, le travailleur migrant ne pourra pas être considéré en situation illégale ou irrégulière du fait même de la perte de son emploi, laquelle ne doit pas entraîner par elle-même le retrait de son autorisation de séjour ou, le cas échéant, de son permis de travail.

2. Il devra, en conséquence, bénéficier d'un traitement égal à celui des nationaux, spécialement en ce qui concerne les garanties relatives à la sécurité de l'emploi, le reclassement, les travaux de secours et la réadaptation.

Article 9

1. Sans porter préjudice aux mesures destinées à contrôler les mouvements migratoires aux fins d'emploi en assurant que les travailleurs migrants entrent sur le territoire national et y sont employés en conformité avec la législation pertinente, le travailleur migrant doit, dans les cas où cette législation n'a pas été respectée et dans lesquels sa situation ne peut pas être régularisée, bénéficier pour lui-même et pour sa famille de l'égalité de traitement en ce qui concerne les droits découlant d'emplois antérieurs en matière de rémunération, de sécurité sociale et autres avantages.

2. En cas de contestation sur les droits visés au paragraphe ci-dessus, le travailleur doit avoir la possibilité de faire valoir ses droits devant un organisme compétent, soit personnellement, soit par ses représentants.

3. En cas d'expulsion du travailleur ou de sa famille, ceux-ci ne devront pas en supporter le coût.

4. Rien dans la présente convention n'empêche les Membres d'accorder aux personnes qui résident ou travaillent de manière illégale dans le pays le droit d'y rester et d'y être légalement employées.

PARTIE II. ÉGALITÉ DE CHANCES ET DE TRAITEMENT

Article 10

Tout Membre pour lequel la convention est en vigueur s'engage à formuler et à appliquer une politique nationale visant à promouvoir et à garantir, par des méthodes adaptées aux circonstances et aux usages nationaux, l'égalité de chances et de traitement en matière d'emploi et de profession, de sécurité sociale, de droits syndicaux et culturels et de libertés individuelles et collectives pour les personnes qui, en tant que travailleurs migrants ou en tant que membres de leur famille, se trouvent légalement sur son territoire.

Article 11

1. Aux fins de l'application de la présente partie de la convention, le terme « travailleur migrant » désigne une personne qui émigre ou a émigré d'un pays vers un autre pays en vue d'occuper un emploi autrement que pour son propre compte ; il inclut toute personne admise régulièrement en qualité de travailleur migrant.

2. La présente partie ne s'applique pas :

- a) aux travailleurs frontaliers ;
- b) aux artistes et aux personnes exerçant une profession libérale qui sont entrés dans le pays pour une courte période ;
- c) aux gens de mer ;
- d) aux personnes venues spécialement à des fins de formation ou d'éducation ;
- e) aux personnes employées par des organisations ou des entreprises œuvrant dans le territoire d'un pays, qui ont été admises temporairement dans ce pays, à la

of their employer to undertake specific duties or assignments, for a limited and defined period of time, and who are required to leave that country on the completion of their duties or assignments.

Article 12

Each Member shall, by methods appropriate to national conditions and practice—

- (a) seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the policy provided for in Article 10 of this Convention;
- (b) enact such legislation and promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) take measures, encourage educational programmes and develop other activities aimed at acquainting migrant workers as fully as possible with the policy, with their rights and obligations and with activities designed to give effective assistance to migrant workers in the exercise of their rights and for their protection;
- (d) repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (e) in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment;
- (f) take all steps to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue;
- (g) guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of their employment.

Article 13

1. A Member may take all necessary measures which fall within its competence and collaborate with other Members to facilitate the reunification of the families of all migrant workers legally residing in its territory.
2. The members of the family of the migrant worker to which this Article applies are the spouse and dependent children, father and mother.

A Member may—

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;
- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

PART III. FINAL PROVISIONS

Article 15

This Convention does not prevent Members from concluding multilateral or bilateral agreements with a view to resolving problems arising from its application.

Article 16

1. Any Member which ratifies this Convention may, by a declaration appended to its ratification, exclude either Part I or Part II from its acceptance of the Convention.

demande de leur employeur, pour remplir des fonctions ou des tâches spécifiques, pour une période limitée et déterminée et qui sont tenues de quitter ce pays lorsque ces fonctions ou ces tâches ont été accomplies.

Article 12

Tout Membre doit, par des méthodes adaptées aux circonstances et aux usages nationaux :

- a) s'efforcer d'obtenir la collaboration des organisations d'employeurs et de travailleurs et d'autres organismes appropriés pour favoriser l'acceptation et l'application de la politique prévue à l'article 10 de la présente convention ;
- b) promulguer les lois et encourager des programmes d'éducation propres à assurer cette acceptation et cette application ;
- c) prendre des mesures, encourager des programmes d'éducation et développer d'autres activités visant à ce que les travailleurs migrants connaissent le plus complètement possible la politique adoptée, leurs droits et leurs obligations et les activités destinées à leur apporter une assistance effective pour assurer leur protection et leur permettre d'exercer leurs droits ;
- d) abroger toute disposition législative et modifier toute disposition ou pratique administrative qui sont incompatibles avec ladite politique ;
- e) en consultation avec les organisations représentatives d'employeurs et de travailleurs, élaborer et appliquer une politique sociale appropriée aux conditions et pratiques nationales pour que les travailleurs migrants et leur famille soient à même de bénéficier des avantages accordés à ses propres nationaux, tout en tenant compte — sans porter atteinte au principe de l'égalité de chances et de traitement — des besoins particuliers qu'ils peuvent avoir jusqu'au moment où leur adaptation à la société du pays d'emploi est réalisée ;
- f) tout mettre en œuvre en vue d'aider et d'encourager les efforts des travailleurs migrants et de leurs familles visant à préserver leur identité nationale et ethnique ainsi que leurs liens culturels avec leur pays d'origine, y compris la possibilité, pour les enfants, de recevoir un enseignement de leur langue maternelle ;
- g) garantir l'égalité de traitement en matière de conditions de travail entre tous les travailleurs migrants exerçant la même activité quelles que soient les conditions particulières de leur emploi.

Article 13

1. Tout Membre peut prendre toutes les mesures nécessaires, qui relèvent de sa compétence et collaborer avec d'autres Membres, pour faciliter le regroupement familial de tous les travailleurs migrants résidant légalement sur son territoire.

2. Le présent article vise le conjoint du travailleur migrant, ainsi que, pour autant qu'ils soient à sa charge, ses enfants et ses père et mère.

Article 14

Tout Membre peut :

- a) subordonner le libre choix de l'emploi, tout en assurant le droit à la mobilité géographique, à la condition que le travailleur migrant ait résidé légalement dans le pays aux fins d'emploi pendant une période prescrite ne devant pas dépasser deux années ou, si la législation exige un contrat d'une durée déterminée inférieure à deux années, que le premier contrat de travail soit venu à échéance ;
- b) après consultation appropriée des organisations représentatives d'employeurs et de travailleurs, réglementer les conditions de reconnaissance des qualifications professionnelles, y compris les certificats et les diplômes, acquises à l'étranger ;
- c) restreindre l'accès à des catégories limitées d'emploi et de fonctions lorsque cela est nécessaire dans l'intérêt de l'Etat.

PARTIE III. DISPOSITIONS FINALES

Article 15

La présente convention n'empêche pas les Membres de conclure des accords multilatéraux ou bilatéraux en vue de résoudre les problèmes découlant de son application.

Article 16

1. Tout Membre qui ratifie la présente convention peut, par une déclaration annexée à sa ratification, exclure de son acceptation la partie I ou la partie II de la convention.

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2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.

3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate in its reports upon the application of this Convention the position of its law and practice in regard to the provisions of the Part excluded from its acceptance, the extent to which effect has been given, or is proposed to be given, to the said provision and the reasons for which it has not yet included them in its acceptance of the Convention.

Article 17

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 18

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 19

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 20

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 21

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 22

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 23

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the

2. Tout Membre qui a fait une telle déclaration peut l'annuler en tout temps une déclaration ultérieure.

3. Tout Membre pour lequel une déclaration au titre du paragraphe 1 du présent article est en vigueur devra indiquer, dans ses rapports sur l'application de la présente convention, l'état de sa législation et de sa pratique concernant les dispositions de la partie exclue de son acceptation, en précisant la mesure dans laquelle il a été intégrée ou il est proposé de donner suite à ces dispositions ainsi que les raisons sur lesquelles il ne les a pas encore incluses dans son acceptation de la convention.

Article 17

Les ratifications formelles de la présente convention seront communiquées au Directeur général du Bureau international du Travail et par lui enregistrées.

Article 18

1. La présente convention ne liera que les Membres de l'Organisation internationale du Travail dont la ratification aura été enregistrée par le Directeur général.

2. Elle entrera en vigueur douze mois après que les ratifications de deux membres auront été enregistrées par le Directeur général.

3. Par la suite, cette convention entrera en vigueur pour chaque Membre douze mois après la date où sa ratification aura été enregistrée.

Article 19

1. Tout Membre ayant ratifié la présente convention peut la dénoncer à l'expiration d'une période de dix années après la date de la mise en vigueur initiale de la convention, par un acte communiqué au Directeur général du Bureau international du Travail et par lui enregistré. La dénonciation ne prendra effet qu'une année après avoir été enregistrée.

2. Tout Membre ayant ratifié la présente convention qui, dans le délai d'une année après l'expiration de la période de dix années mentionnée au paragraphe précédent, ne fera pas usage de la faculté de dénonciation prévue par le présent article sera lié pour une nouvelle période de dix années et, par la suite, pourra dénoncer la présente convention à l'expiration de chaque période de dix années dans les conditions prévues au présent article.

Article 20

1. Le Directeur général du Bureau international du Travail notifiera à tous les membres de l'Organisation internationale du Travail l'enregistrement de toutes les ratifications et dénonciations qui lui seront communiquées par les Membres de l'Organisation.

2. En notifiant aux Membres de l'Organisation l'enregistrement de la deuxième ratification qui lui aura été communiquée, le Directeur général appellera l'attention des Membres de l'Organisation sur la date à laquelle la présente convention entrera en vigueur.

Article 21

Le Directeur général du Bureau international du Travail communiquera au Secrétaire général des Nations Unies, aux fins d'enregistrement, conformément à l'article 102 de la Charte des Nations Unies, des renseignements complets au sujet de toutes ratifications et de tous actes de dénonciation qu'il aura enregistrés conformément aux articles précédents.

Article 22

Chaque fois qu'il le jugera nécessaire, le Conseil d'administration du Bureau international du Travail présentera à la Conférence générale un rapport sur l'application de la présente convention et examinera s'il y a lieu d'inscrire à l'ordre du jour de la Conférence la question de sa révision totale ou partielle.

Article 23

1. Au cas où la Conférence adopterait une nouvelle convention portant révision totale ou partielle de la présente convention, et à moins que la nouvelle convention ne dispose autrement :

la ratification par un Membre de la nouvelle convention portant révision entraînerait de plein droit, nonobstant l'article 19 ci-dessus, dénonciation

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provisions of Article 19 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 24

The English and French versions of the text of this Convention are equally authoritative.

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immédiate de la présente convention, sous réserve que la nouvelle convention portant révision soit entrée en vigueur;

1. à partir de la date de l'entrée en vigueur de la nouvelle convention portant révision, la présente convention cesserait d'être ouverte à la ratification des Membres.

2. La présente convention demeurerait en tout cas en vigueur dans sa forme eneur pour les Membres qui l'auraient ratifiée et qui ne ratifieraient pas la convention portant révision

Article 24

Les versions française et anglaise du texte de la présente convention font
lement foi.

Recommendation 151

Recommendation concerning Migrant Workers.

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting "the interests of workers when employed in countries other than their own", and

Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, and in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, which deal with such matters as the preparation and organisation of migration, social services to be provided to migrant workers and their families, in particular before their departure and during their journey, equality of treatment as regards a variety of matters which they enumerate, and the regulation of the stay and return of migrant workers and their families, and

Having adopted the Migrant Workers (Supplementary Provisions) Convention, 1975, and

Considering that further standards are desirable as regards equality of opportunity and treatment, social policy in regard to migrants and employment and residence, and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-five the following Recommendation, which may be cited as the Migrant Workers Recommendation, 1975:

1. Members should apply the provisions of this Recommendation within the framework of a coherent policy on international migration for employment. That policy should be based upon the economic and social needs of both countries of origin and countries of employment; it should take account not only of short-term manpower needs and resources but also of the long-term social and economic consequences of migration for migrants as well as for the communities concerned.

I. EQUALITY OF OPPORTUNITY AND TREATMENT

2. Migrant workers and members of their families lawfully within the territory of a Member should enjoy effective equality of opportunity and treatment with nationals of the Member concerned in respect of—

- (a) access to vocational guidance and placement services;
- (b) access to vocational training and employment of their own choice on the basis of individual suitability for such training or employment, account being taken of qualifications acquired outside the territory of and in the country of employment;
- (c) advancement in accordance with their individual character, experience, ability and diligence;
- (d) security of employment, the provision of alternative employment, relief work and retraining;
- (e) remuneration for work of equal value;
- (f) conditions of work, including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
- (g) membership of trade unions, exercise of trade union rights and eligibility for office in trade unions and in labour-management relations bodies, including bodies representing workers in undertakings;
- (h) rights of full membership in any form of co-operative;
- (i) conditions of life, including housing and the benefits of social services and educational and health facilities.

Recommandation concernant les travailleurs migrants.

La Conférence générale de l'Organisation internationale du Travail, convoquée à Genève par le Conseil d'administration du Bureau international du Travail et s'y étant réunie le 4 juin 1975, en sa soixantième session ;

Considérant que le Préambule de la Constitution de l'Organisation internationale du Travail assigne à celle-ci la tâche de défendre les « intérêts des travailleurs occupés à l'étranger » ;

Rappelant les dispositions contenues dans la convention et la recommandation sur les travailleurs migrants (révisées), 1949, et dans la recommandation sur la protection des travailleurs migrants (pays insuffisamment développés), 1955, qui traitent notamment de la préparation et de l'organisation des migrations, des services sociaux dont doivent bénéficier les travailleurs migrants et leurs familles, spécialement avant leur départ et en cours de voyage, de l'égalité de traitement dans différentes matières qu'elles énumèrent, de la réglementation du séjour et du retour des travailleurs migrants et de leur famille ;

Ayant adopté la convention sur les travailleurs migrants (dispositions complémentaires), 1975 ;

Considérant que de nouvelles normes seraient souhaitables en ce qui concerne l'égalité de chances et de traitement, la politique sociale en faveur des migrants et l'emploi et la résidence ;

Après avoir décidé d'adopter diverses propositions relatives aux travailleurs migrants, question qui constitue le cinquième point à l'ordre du jour de la session ;

Après avoir décidé que ces propositions prendraient la forme d'une recommandation,

adopte, ce vingt-quatrième jour de juin mil neuf cent soixantequinze, la recommandation ci-après, qui sera dénommée Recommandation sur les travailleurs migrants, 1975.

1. Les Membres devraient appliquer les dispositions de la présente recommandation dans le cadre d'une politique d'ensemble relative aux migrations internationales aux fins d'emploi. Cette politique de migrations devrait être fondée sur les besoins économiques et sociaux des pays d'origine et des pays d'emploi ; elle devrait tenir compte non seulement des besoins et des ressources à court terme en main-d'œuvre, mais aussi des conséquences économiques et sociales à long terme des migrations, tant pour les migrants que pour les communautés intéressées.

I. ÉGALITÉ DE CHANCES ET DE TRAITEMENT

2. Les travailleurs migrants et les membres de leurs familles qui se trouvent légalement sur le territoire d'un Membre devraient bénéficier de l'égalité effective de chances et de traitement avec les nationaux en ce qui concerne :

- a) l'accès aux services d'orientation professionnelle et de placement ;
- b) l'accès à la formation professionnelle et à l'emploi de leur choix, selon leurs aptitudes personnelles pour cette formation ou cet emploi en tenant compte des qualifications acquises à l'étranger et dans le pays d'emploi ;
- c) la promotion selon leurs qualités personnelles, leur expérience, leurs aptitudes et leur application au travail ;
- d) la sécurité de l'emploi, le reclassement, les travaux de secours et la réadaptation ;
- e) la rémunération pour un travail de valeur égale ;
- f) les conditions de travail, y compris la durée du travail, les périodes de repos, les congés annuels payés, les mesures de sécurité et d'hygiène du travail, ainsi que les mesures de sécurité sociale et les services sociaux et prestations sociales en rapport avec l'emploi ;
- g) l'appartenance aux organisations syndicales, l'exercice des droits syndicaux et l'éligibilité aux responsabilités syndicales et aux organes de relations professionnelles, y compris les organes de représentation des travailleurs dans les entreprises ;
- h) le droit d'être membres à part entière de coopératives de toutes sortes ;
- i) les conditions de vie, y compris le logement et le bénéfice des services sociaux et des institutions d'éducation et de santé.

3. Each Member should ensure the application of the principles set forth in Paragraph 2 of this Recommendation in all activities under the control of a public authority and promote its observance in all other activities by methods appropriate to national conditions and practice.

4. Appropriate measures should be taken, with the collaboration of employers' and workers' organisations and other bodies concerned, with a view to—

(a) fostering public understanding and acceptance of the above-mentioned principles;

(b) examining complaints that these principles are not being observed and securing the correction, by conciliation or other appropriate means, of any practices regarded as in conflict therewith.

5. Each Member should ensure that national laws and regulations concerning residence in its territory are so applied that the lawful exercise of rights enjoyed in pursuance of these principles cannot be the reason for non-renewal of a residence permit or for expulsion and is not inhibited by the threat of such measures.

6. A Member may—

(a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;

(b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;

(c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

7. (1) In order to enable migrant workers and their families to take full advantage of their rights and opportunities in employment and occupation, such measures as may be necessary should be taken, in consultation with the representative organisations of employers and workers—

(a) to inform them, as far as possible in their mother tongue or, if that is not possible, in a language with which they are familiar, of their rights under national law and practice as regards the matters dealt with in Paragraph 2 of this Recommendation;

(b) to advance their knowledge of the language or languages of the country of employment, as far as possible during paid time;

(c) generally, to promote their adaptation to the society of the country of employment and to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue.

(2) Where agreements concerning the collective recruitment of workers have been concluded between Members, they should jointly take the necessary measures before the migrants' departure from their country of origin to introduce them to the language of the country of employment and also to its economic, social and cultural environment.

8. (1) Without prejudice to measures designed to ensure that migrant workers and their families enter national territory and are admitted to employment in conformity with the relevant laws and regulations, a decision should be taken as soon as possible in cases in which these laws and regulations have not been respected so that the migrant worker should know whether his position can be regularised or not.

(2) Migrant workers whose position has been regularised should benefit from all rights which, in accordance with Paragraph 2 of this Recommendation, are provided for migrant workers lawfully within the territory of a Member.

(3) Migrant workers whose position has not been or could not be regularised should enjoy equality of treatment for themselves and their families in respect of rights arising out of present and past employment as regards remuneration, social security and other benefits as well as regards trade union membership and exercise of trade union rights.

(4) In case of dispute about the rights referred to in the preceding subparagraphs, the worker should have the possibility of presenting his case to a competent body, either himself or through a representative.

3. Tout Membre devrait assurer l'application des principes énoncés au paragraphe 2 de la présente recommandation dans toutes les activités soumises au contrôle d'une autorité publique et en encourager l'application par des méthodes adaptées aux circonstances et aux usages nationaux dans toutes les autres activités.

4. Des mesures appropriées devraient être prises, en collaboration avec les organisations d'employeurs et de travailleurs et d'autres organismes intéressés, pour :

- faire comprendre au public et lui faire admettre les principes mentionnés ci-dessus ;
- examiner les plaintes fondées sur l'inobservation de ces principes et remédier, par voie de conciliation ou par d'autres moyens appropriés, à toute pratique considérée comme incompatible avec ceux-ci.

5. Tout Membre devrait s'assurer que la législation nationale relative aux conditions de résidence sur son territoire est appliquée de telle manière que l'exercice légal des droits garantis conformément à ces principes ne puisse être un motif de non-renouvellement de l'autorisation de résidence ou d'expulsion et ne soit pas découragé par la menace de telles mesures.

6. Tout Membre pourrait :

- subordonner le libre choix de l'emploi, tout en assurant le droit à la mobilité géographique, à la condition que le travailleur migrant ait résidé légalement dans le pays aux fins d'emploi pendant une période prescrite ne devant pas dépasser deux années ou, si la législation exige un contrat d'une durée déterminée inférieure à deux années, que le premier contrat de travail soit venu à échéance ;
- après consultation appropriée des organisations représentatives d'employeurs et de travailleurs, réglementer les conditions de reconnaissance des qualifications professionnelles, y compris les certificats et les diplômes, acquises à l'étranger ;
- restreindre l'accès à des catégories limitées d'emploi et de fonctions lorsque cela est nécessaire dans l'intérêt de l'Etat,

7. (1) En vue de permettre aux travailleurs migrants et à leurs familles de faire pleinement usage de leurs droits et possibilités en matière d'emploi et de profession, toutes mesures nécessaires devraient être prises, en consultation avec les organisations représentatives d'employeurs et de travailleurs :

- pour les informer, dans la mesure du possible dans leur langue maternelle ou sinon dans une langue qui leur est familière, des droits dont ils bénéficient en vertu de la législation et de la pratique nationales dans les matières traitées au paragraphe 2 ;
- pour améliorer leur connaissance de la langue ou des langues du pays d'emploi, dans la mesure du possible pendant le temps rémunéré ;
- pour favoriser, d'une manière générale, leur adaptation à la société du pays d'emploi et pour aider et encourager les efforts des travailleurs migrants et de leurs familles visant à préserver leur identité nationale et ethnique ainsi que leurs liens culturels avec leur pays d'origine, y compris la possibilité, pour les enfants, de recevoir un enseignement de leur langue maternelle.

(2) Lorsque des Membres ont conclu entre eux des accords concernant les recrutements collectifs de travailleurs, ils devraient prendre conjointement les mesures nécessaires avant le départ des migrants de leur pays d'origine pour les initier à la langue du pays d'emploi ainsi qu'à son environnement économique, social et culturel.

8. (1) Sans porter préjudice aux mesures destinées à assurer que les travailleurs migrants et leurs familles sont introduits sur le territoire national et admis à l'emploi conformément à la législation applicable, une décision devrait être prise dès que possible, dans les cas où la législation n'a pas été respectée, pour que le travailleur migrant sache si sa situation peut être régularisée.

(2) Les travailleurs migrants dont la situation a été régularisée devraient bénéficier de tous les droits qui, conformément au paragraphe 2 de la présente recommandation, sont accordés aux travailleurs migrants régulièrement admis sur le territoire du Membre.

(3) Les travailleurs migrants dont la situation n'est pas régulière ou n'a pas pu être régularisée devraient bénéficier de l'égalité de traitement pour eux et leurs familles en ce qui concerne les droits résultant de leur emploi ou d'emplois antérieurs en matière de rémunération, de sécurité sociale et autres avantages, aussi bien qu'en matière d'appartenance aux organisations syndicales et d'exercice des droits syndicaux.

(4) En cas de contestation sur les droits visés aux sous-paragrapthes précédents, le travailleur devrait avoir la possibilité de faire valoir ses droits devant un organe compétent, soit personnellement, soit par ses représentants.

(5) In case of expulsion of the worker or his family, the cost should not be borne by them.

II. SOCIAL POLICY

9. Each Member should, in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment.

10. With a view to making the policy as responsive as possible to the real needs of migrant workers and their families, it should be based, in particular, on an examination not only of conditions in the territory of the Member but also of those in the countries of origin of the migrants.

11. The policy should take account of the need to spread the social cost of migration as widely and equitably as possible over the entire collectivity of the country of employment, and in particular over those who profit most from the work of migrants.

12. The policy should be periodically reviewed and evaluated and where necessary revised.

A. Reunification of Families

13. (1) All possible measures should be taken both by countries of employment and by countries of origin to facilitate the reunification of families of migrant workers as rapidly as possible. These measures should include, as necessary, national laws or regulations and bilateral and multilateral arrangements.

(2) A prerequisite for the reunification of families should be that the worker has, for his family, appropriate accommodation which meets the standards normally applicable to nationals of the country of employment.

14. Representatives of all concerned, and in particular of employers and workers, should be consulted on the measures to be adopted to facilitate the reunification of families and their co-operation sought in giving effect thereto.

15. For the purpose of the provisions of this Recommendation relating to the reunification of families, the family of the migrant worker should include the spouse and dependent children, father and mother.

16. With a view to facilitating the reunification of families as quickly as possible in accordance with Paragraph 13 of this Recommendation, each Member should take full account of the needs of migrant workers and their families in particular in its policy regarding the construction of family housing, assistance in obtaining this housing and the development of appropriate reception services.

17. Where a migrant worker who has been employed for at least one year in a country of employment cannot be joined by his family in that country, he should be entitled—

(a) to visit the country of residence of his family during the paid annual holiday to which he is entitled under the national law and practice of the country of employment without losing during the absence from that country any acquired rights or rights in course of acquisition and, particularly, without having his employment terminated or his right to residence in the country of employment withdrawn during that period; or

(b) to be visited by his family for a period corresponding at least to the annual holiday with pay to which he is entitled.

18. Consideration should be given to the possibility of giving the migrant worker financial assistance towards the cost of the travel envisaged in the preceding Paragraph or a reduction in the normal cost of transport, for instance by the arrangement of group travel.

19. Without prejudice to more favourable provisions which may be applicable to them, persons admitted in pursuance of international arrangements for free movement of labour should have the benefit of the measures provided for in Paragraphs 13 to 18 of this Recommendation.

B. Protection of the Health of Migrant Workers

20. All appropriate measures should be taken to prevent any special health risks to which migrant workers may be exposed.

(5) En cas d'expulsion du travailleur ou de sa famille, ceux-ci ne devraient pas en supporter le coût.

II. POLITIQUE SOCIALE

9. Tout Membre devrait, en consultation avec les organisations représentatives d'employeurs et de travailleurs, élaborer et appliquer une politique sociale appropriée aux conditions et pratiques nationales pour que les travailleurs migrants et leurs familles soient à même de bénéficier des avantages accordés à ses propres nationaux, tout en tenant compte — sans porter atteinte au principe de l'égalité de chances et de traitement — des besoins particuliers qu'ils peuvent avoir jusqu'au moment où leur adaptation à la société du pays d'emploi est réalisée.

10. Pour que cette politique réponde aussi pleinement que possible aux besoins réels des travailleurs migrants et de leurs familles, elle devrait se fonder notamment sur un examen, non seulement des conditions qui prévalent sur le territoire du Membre, mais aussi de celles du pays d'origine des migrants.

11. Cette politique devrait tenir compte de la nécessité d'assurer une répartition aussi large et équitable que possible du coût social des migrations sur l'ensemble de la collectivité du pays d'emploi, en particulier sur ceux qui profitent le plus du travail des migrants.

12. Cette politique devrait être périodiquement réexaminée, évaluée et, au besoin, révisée.

A. Regroupement familial*

13. (1) Toutes les mesures possibles devraient être prises par les gouvernements des pays d'emploi et des pays d'origine pour faciliter le regroupement familial des travailleurs migrants le plus rapidement possible. Ces mesures devraient inclure la législation et les arrangements bilatéraux ou multilatéraux nécessaires.

(2) Préalablement au regroupement familial, il serait nécessaire que le travailleur dispose pour sa famille d'un logement approprié qui réponde aux critères normalement applicables aux travailleurs nationaux du pays d'emploi.

14. Les représentants de tous les milieux intéressés et, en particulier, les représentants des employeurs et des travailleurs devraient être consultés au sujet des mesures à adopter pour favoriser le regroupement familial, et leur collaboration devrait être recherchée pour en assurer la mise en œuvre.

15. Aux fins des dispositions de la présente recommandation relatives au regroupement familial, la famille d'un travailleur migrant devrait comprendre son conjoint, ainsi que, pour autant qu'ils soient à sa charge, ses enfants et ses père et mère.

16. En vue de faciliter un regroupement familial aussi rapide que possible, conformément au paragraphe 13, tout Membre devrait, notamment dans sa politique de construction de logements familiaux, d'aide pour obtenir ces logements et de développement de services d'accueil appropriés, tenir pleinement compte des besoins des travailleurs migrants et de leurs familles.

17. Lorsqu'un travailleur migrant employé depuis un an dans un pays d'emploi ne peut être rejoint, dans ce pays, par sa famille, il devrait avoir le droit :

- a) soit de se rendre dans le pays où réside sa famille, pendant le congé annuel payé auquel il peut prétendre en vertu de la législation et de la pratique nationales du pays d'emploi, sans que son absence de ce pays ait pour effet de porter atteinte à ses droits acquis ou en cours d'acquisition et particulièrement sans qu'il puisse être mis fin à son contrat ou à son droit à résidence durant cette période ;
- b) soit de recevoir la visite de sa famille pour une durée qui ne devrait pas être inférieure à celle du congé annuel payé auquel il a droit.

18. La possibilité d'accorder une aide financière aux travailleurs migrants quant au coût des voyages prévus au paragraphe 17, ou une réduction du coût normal de transport grâce par exemple à l'organisation de voyages de groupes, devrait être envisagée.

19. Sous réserve de dispositions plus favorables qui pourraient leur être applicables, les personnes pouvant se prévaloir d'arrangements internationaux de libre circulation devraient bénéficier des mesures prévues aux paragraphes 13 à 18 ci-dessus.

B. Protection de la santé des travailleurs migrants

20. Toutes les mesures appropriées devraient être prises pour prévenir tous risques de santé particuliers auxquels les travailleurs migrants peuvent être exposés.

21. (1) Every effort should be made to ensure that migrant workers receive training and instruction in occupational safety and occupational hygiene in connection with their practical training or other work preparation and, as far as possible, as part thereof.

(2) In addition, a migrant worker should, during paid working hours and immediately after beginning his employment, be provided with sufficient information in his mother tongue or, if that is not possible, in a language with which he is familiar, on the essential elements of laws and regulations and on provisions of collective agreements concerning the protection of workers and the prevention of accidents as well as on safety regulations and procedures particular to the nature of the work.

22. (1) Employers should take all possible measures so that migrant workers may fully understand instructions, warnings, symbols and other signs relating to safety and health hazards at work.

(2) Where, on account of the migrant workers' lack of familiarity with processes, language difficulties or other reasons, the training or instruction given to other workers is inadequate for them, special measures which ensure their full understanding should be taken.

(3) Members should have laws or regulations applying the principles set out in this Paragraph and provide that where employers or other persons or organisations having responsibility in this regard fail to observe such laws or regulations, administrative, civil and penal sanctions might be imposed.

C. Social Services

23. In accordance with the provisions of Paragraph 2 of this Recommendation, migrant workers and their families should benefit from the activities of social services and have access thereto under the same conditions as nationals of the country of employment.

24. In addition, social services should be provided which perform, in particular, the following functions in relation to migrant workers and their families—

- (a) giving migrant workers and their families every assistance in adapting to the economic, social and cultural environment of the country of employment;
- (b) helping migrant workers and their families to obtain information and advice from appropriate bodies, for instance by providing interpretation and translation services; to comply with administrative and other formalities; and to make full use of services and facilities provided in such fields as education, vocational training and language training, health services and social security, housing, transport and recreation: Provided that migrant workers and their families should as far as possible have the right to communicate with public authorities in the country of employment in their own language or in a language with which they are familiar, particularly in the context of legal assistance and court proceedings;
- (c) assisting authorities and bodies with responsibilities relating to the conditions of life and work of migrant workers and their families in identifying their needs and in adapting thereto;
- (d) giving the competent authorities information and, as appropriate, advice regarding the formulation, implementation and evaluation of social policy with respect to migrant workers;
- (e) providing information for fellow workers and foremen and supervisors about the situation and the problems of migrant workers.

25. (1) The social services referred to in Paragraph 24 of this Recommendation may be provided, as appropriate to national conditions and practice, by public authorities, by approved non-profit-making organisations or bodies, or by a combination of both. The public authorities should have the over-all responsibility of ensuring that these social services are at the disposal of migrant workers and their families.

(2) Full use should be made of services which are or can be provided by authorities, organisations and bodies serving the nationals of the country of employment, including employers' and workers' organisations.

26. Each Member should take such measures as may be necessary to ensure that sufficient resources and adequately trained staff are available for the social services referred to in Paragraph 24 of this Recommendation.

21. (1) Tous les efforts devraient être faits pour que les travailleurs migrants reçoivent une formation et une instruction en matière de sécurité et d'hygiène du travail, à l'occasion de leur formation professionnelle ou d'une autre préparation professionnelle pratique, et qu'elles soient, autant que possible, intégrées à celles-ci.

(2) En outre le travailleur migrant devrait, durant les heures de travail rémunérées et immédiatement après son engagement, recevoir une information suffisante dans sa langue maternelle ou sinon dans une langue qui lui est familière, sur les éléments essentiels de la législation et des stipulations des conventions collectives concernant la protection des travailleurs et la prévention des accidents, ainsi que sur les règlements et les procédures de sécurité spécifiques à la nature du travail.

22. (1) Les employeurs devraient prendre toutes les mesures en leur pouvoir pour assurer que les travailleurs migrants soient à même de comprendre pleinement les instructions, avis de mise en garde, symboles et autres signaux relatifs aux risques de sécurité et d'hygiène concernant leur travail.

(2) Lorsqu'en raison du manque de familiarité des travailleurs migrants avec les procédés de fabrication, ou par suite de difficultés linguistiques ou pour toute autre cause, la formation ou les instructions destinées aux autres travailleurs sont inadéquates pour eux, des mesures spéciales devraient être prises pour assurer une compréhension complète de leur part.

(3) Les Membres devraient avoir une législation en vue d'appliquer les principes énoncés au présent paragraphe et prévoir que lorsque des employeurs ou d'autres personnes ou organisations qui ont une responsabilité à cet égard n'observent pas cette législation, des sanctions administratives, civiles et pénales pourraient être imposées.

C. Services sociaux

23. Conformément aux dispositions prévues dans le paragraphe 2 de la présente recommandation, les travailleurs migrants et leurs familles devraient bénéficier des activités des services sociaux et avoir accès à ces services dans les mêmes conditions que les nationaux du pays d'emploi.

24. Des services sociaux devraient aussi être disponibles pour assurer, notamment, les fonctions suivantes à l'égard des travailleurs migrants et de leurs familles :

- a) apporter toute assistance aux travailleurs migrants et à leurs familles en vue de leur adaptation à l'environnement économique, social et culturel du pays d'emploi ;
- b) aider les travailleurs migrants et leurs familles : à obtenir des informations et des consultations auprès d'organismes qualifiés, par exemple en leur fournissant une assistance pour l'interprétation et la traduction ; à accomplir des formalités administratives ou autres ; à faire plein usage des services et facilités offerts dans des domaines tels que l'éducation, la formation professionnelle et l'enseignement des langues, les services de santé et la sécurité sociale, le logement, les transports et les loisirs, étant entendu que les travailleurs migrants et leurs familles devraient avoir autant que possible le droit de communiquer dans leur propre langue ou dans une langue qui leur est familière avec les autorités publiques du pays d'emploi, en particulier dans le cadre de l'assistance judiciaire et des procédures légales ;
- c) assister les autorités et les institutions s'occupant des conditions de vie et de travail des travailleurs migrants et de leurs familles à identifier leurs besoins et à s'y adapter ;
- d) fournir aux autorités compétentes des informations et, dans les cas appropriés, des avis pour l'élaboration, la mise en œuvre et l'évaluation de la politique sociale relative aux travailleurs migrants ;
- e) fournir des informations aux collègues de travail et aux contremaîtres et cadres sur la situation et les problèmes des travailleurs migrants.

25. (1) Les services sociaux visés au paragraphe 24 de la présente recommandation pourraient être assurés, selon les conditions et pratiques nationales, par des autorités publiques, par des organisations ou des organismes à fins non lucratives reconnus, ou par une combinaison des uns ou des autres. Les autorités publiques devraient avoir la responsabilité générale de s'assurer que les services mentionnés ci-dessus sont mis à la disposition des travailleurs migrants et de leurs familles.

(2) Il devrait être fait pleinement usage des services qui sont ou peuvent être fournis par les autorités, organisations ou organismes existants pour les nationaux du pays d'emploi, y compris les organisations d'employeurs et de travailleurs.

26. Tout Membre devrait prendre toutes mesures nécessaires afin que des ressources suffisantes et un personnel formé de manière adéquate soient disponibles pour les services sociaux mentionnés au paragraphe 24 de la présente recommandation.