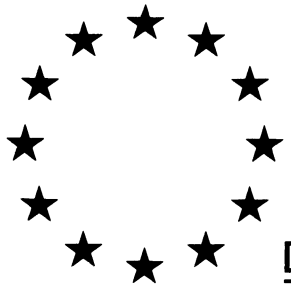

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

European Social Charter

Collected "Travaux préparatoires"

(Provisional edition)

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Section I

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(January 1958)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 6th January, 1958

Confidential
CE/Soc (58) 1

Or. Eng.

SOCIAL COMMITTEE

(Seventh Session)

EUROPEAN SOCIAL CHARTER

Points to be remembered in connection with the final checking of text

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NOTE: This list is of course not exhaustive. It contains points specifically referred to at the Sixth Session of the Committee and a few others which have been added by the Secretariat. Other points may be raised by various Delegations. In addition, the Committee should consider Doc. CE/Soc (57) 27, prepared by the Legal Department of the Secretariat, as well as decisions that may be taken by the Ministers' Deputies on the basis of their consideration of Doc. CM (57) 176.

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1. At the Sixth Session of the Committee, the Irish Delegation pointed out that Part I, paragraph 16 may have to be amended so as to correspond more fully to the provisions of Part II that deal with the right to engage in employment in other member countries.

2. Part II, paragraph 1b should be checked against Article (b) of Part V. The same applies to Part II, paragraph 18. (See Doc. CE/Soc (57) 30, page 13, foot-note 3).

3. Part II, paragraph 26: The original English text of this paragraph did not correspond to the French text. As the French text was presumably the correct one, the Secretariat has, in Doc. CM (57) 176, brought the English text into line by using the term: "up to a total of at least 12 weeks". This is, however, subject to the agreement of the Committee.

4. Part II, paragraph 29: Here, the English text speaks of "unsuitable" work, whereas the French text uses the word "penible". It should be checked whether these words really correspond.

5. Part II, paragraph 42 uses the expression: "equal treatment with all nationals of each of the Contracting Parties in respect of social security". The idea is that each Contracting Party shall treat the nationals of the other Contracting Parties on an equal footing with its own nationals in respect of social security, but this idea does not seem to be clearly expressed in the present text.

6. Part II, paragraph 45: The French text should presumably employ the word: "assurer".

7. The heading: "The right to engage in employment in other member countries" should be checked. It may be desirable to speak of "gainful employment".

8. Part II, paragraph 51 should, like paragraphs 14 and 18, be checked against Article (b) of Part V. (See Doc. CE/Soc (57) 30, page 13, foot-note 3).

9. Part II, paragraphs 52 to 54, inclusive, should be checked. The present wording may give the impression that the regulations, formalities, etc., mentioned in these paragraphs relate only to the right to leave the country to engage in gainful activity abroad. The following wording might be suggested:

> (52) to apply existing regulations concerning the employment of foreign workers in a spirit of liberality;

(53) to simplify existing formalities relating to the employment of foreign workers and to reduce or abolish chancery dues and other charges payable by such workers or their employers;

(54) No change.

10. Part IV, Article C: Paragraph (1) of this article uses the expression: "employers and trade unions in consultative status to the Council of Europe". It would be more correct to say "in consultative status with" or "having consultative status with".

11. Part V, Article G : The last phrase of the French text of this Article may need a rewording so as to make it clear that amendments to the Charter can only enter into force if a l l the Contracting Parties accept them.

Section II

Documents of the Committee of Ministers

(January/March 1958)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

Strasbourg, 9th January 1958

Confidential
CM (58) 1

EUROPEAN SOCIAL CHARTER

THE RIGHT TO EDUCATION

Draft text submitted by the Social Committee for the consideration of the Committee of Ministers

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At its Fifth Session, the Social Committee asked the Committee of Ministers for instructions concerning whether or not the right to education should be included in the Social Charter.

The Ministers' Deputies, at their 52nd Meeting, September, 1957, decided that before taking any definite position in this matter, they should have before them a draft text covering particularly the right to free and compulsory primary education.

They therefore instructed the Social Committee to prepare such a text for their consideration before taking any decision of substance.

The Social Committee discussed the question at its Sixth Session on the basis of a preliminary draft prepared by the Secretariat and contained in Doc. CE/Soc (57) 23.

The Committee decided to submit the following text for the consideration of the Committee of Ministers:

In Part I:

"Everyone has the right to education."

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In Part II:

"With a view to ensuring the effective exercise of this right, the High Contracting Parties:

(1) undertake to make primary education compulsory and free;

(2) will take the necessary steps:

(a) to make secondary education in all its forms generally available to those with aptitude for it;

(b) to make university and other higher education accessible to all on the basis of merit;

(3) to encourage the full utilisation of the facilities provided by appropriate measures such as:

(a) reducing or abolishing any fees or charges;

(b) granting financial assistance in appropriate cases."

During the discussion, some Delegations made reservations on certain points, as follows:

1. The Delegation of the Federal Republic of Germany made a reservation against the inclusion of such a text. In the Federal Republic education is a matter decided upon by the "Länder", and it is thus outside the competence of the Federal Government.

2. The Delegations of Belgium and France made a reservation on paragraph 2 (a). In their view the provision should stipulate that secondary education should be made available at least up to the age of 18 years. (1)

3. The Delegations of Belgium and France made a reservation concerning paragraph 3, because in their view it did not to a sufficient degree guarantee an increasingly free secondary education.

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(1) This was provided for in the draft submitted by the Secretariat.

Conclusions of the fifty-sith meeting of the Ministers' Deputies
(4-8 February 1958)

(b) *Report of the Social Committee*
(Letter D/15.625 of 30. 12. 1957, Doc. CM (57) 176 and Addendum, CM (58) 1)

The Deputies examined the report of the Social Committee submitting the draft European Social Charter, as well as a list reservations made by certain delegations while it was being elaborated (Doc. CM (57) 176).

The Social Committee, however, had drawn the attention of the Committee of Ministers to the following two questions which, in the opinion of the Social Committee, required a political decision :

(1) *Should the Charter provide for the possibility of the accession of States not members of the Council of Europe ?*

The preliminary draft on which the Social Committee has based its discussions contained — like certain existing European Conventions — a provision to the effect that the Committee of Ministers could invite non-Member States to accede to the Charter. The Social Committee, however, did not include this provision in its draft. The Committee considered that the question was a political one and must be referred to the Committee of Ministers.

The Deputies decided to postpone a decision until their next meeting.

(2) *Should the right to education be included in the Charter ?*

In connection with this point the Deputies examined a draft text relating to the right to education, prepared on their instructions by the Social Committee, and intended to provide a basis for a decision as to whether or not this right should be included.

The Belgian delegation said that the reservations made by the Belgian representatitive on

the Social Committee with regard to the draft text on the right to education could be withdrawn.

The representative of the Federal Republic of Germany said that his Government could not approve the inclusion of this right in the Charter since educational matters came solely within the competence of the *Länder*. If this right were to be included in the Charter, the Government of the Federal Republic would be obliged, when signing or ratifying the Charter, to declare that it did not regard itself as bound by this clause.

Certain delegations said they were in favour of the principle of including in the Charter the right to education as proposed in the text submitted by the Social Committee.

Some delegations pronounced themselves in favour in principle of including the right to education in the Charter, although they were of the opinion that the draft text might need revising. Other delegations, while not strongly opposed to such inclusion, nevertheless felt that this question did not properly belong to the social field.

The Deputies decided to postpone their decision on this until their next meeting.

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The Deputies did not consider it necessary at this stage to enter into the question of the reservations and amendments presented by certain delegations to the Social Committee. They thought it would be more appropriate to return to this question later — possibly after consulting the Social Committee — particularly in view of the fact that it had been decided in principle to submit the draft Charter to a tripartite conference.

The representative of Austria informed her colleagues that her Government had asked that the question of the ratification by Member States of certain ILO Agreements should be placed on the Agenda of the next meeting of the Social Committtee.

IX. *Cultural Fund of the Council of Europe*

(i) *Establishment of the Fund — Recommendation 74 (Docs. CM (57) 147 rev., CM (58) 6, 7, 15, 16 and 23 and Letter D 840 of 17. 1. 1958)*

The representative of Denmark stated that her Government wished to add its vote to the 12 votes cast in favour of the principle of establishing a Cultural Fund of the Council of Europe during the 53rd meeting (Item X of the Agenda). This approval was given on condition that the establishment of the Fund did not entail any increase in the contributions of Member States to the Council's cultural activities.

After certain Deputies had commented on the text of the draft Statute drawn up by the Committee of Cultural Experts and amended by the Secretariat, it was decided that those Deputies who had amendments to propose to the Secretariat text Doc. (CM. (58) 6), should send them to the Secretary-General in writing to reach him before 25th February. The Secretary-General would then draw up a single document showing in tabular form the text of the Secretariat-General and the amendments and comments presented by the Deputies, including those already submitted by the Netherlands, Norwegian and United Kingdom Governments. This document would be sent to Governments and examined by a Working Party composed of the representatives of Belgium, the Federal Republic of Germany, Italy, the Netherlands and the United Kingdom, and any other Deputies who might wish to attend. The date of meeting of the Working Party would be fixed by the Secretary-General.

On the basis of the Report of the Working Party, the Deputies would reconsider the question if possible at their next meeting and, if not, at the following one.

(ii) *Use of the Fund in the university sphere — Recommendation 108*

The Deputies endorsed the opinion expressed by the Committee of Cultural Experts at its 13th Session (May 1957) that Assembly Recommendation 108 was premature at the present stage and should be considered by the Administrative Board of the Cultural Fund when the latter had been established.

(iii) *Amendment of Article 38 of the Statute Resolution 71 Docs. (CM (57) 148 and CM (58) 24)*

On the proposal of the Swedish representative, it was agreed that this Resolution should be considered by the Working Party set up to examine the draft Statute of the Cultural Fund,

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

Strasbourg, 10th February 1958

Confidential
CM (58) 18

Or. Eng.

COMMITTEE OF MINISTERS

REPORT OF THE SOCIAL COMMITTEE

(Proceedings of the Sixth Session)

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1. The Social Committee held its Sixth Session at Strasbourg from November 25th to 29th, 1957. The list of members and observers participating in the Session is contained in Appendix I. The Agenda adopted by the Committee is set out in Appendix II.

2. The meeting was opened by the Director of Research of the Secretariat-General of the Council of Europe. He recalled that the main item on the Agenda was the completion of the draft European Social Charter, to which both the Committee of Ministers and the Consultative Assembly attached great importance. He stressed the rôle that an instrument of this nature could play, particularly on the background of present day trends in economic and political development. He then briefly mentioned the points that were still outstanding in the preparation of the draft. Among them was the drawing up of provisions for the implementation of the Charter - provisions of particular importance, since the real value of the instrument would to a large extent depend upon the efficiency of the system of implementation. In this connection the Director of Research referred to Resolution (56) 25, by which the Committee of Ministers, among others, instructed the Social Committee to consider measures for the implementation of the Social Charter such as would enable employers' and trade union organisations to assist in the supervision of the implementation.

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3. The Director of Research informed the Committee of the discussion to which its last Report had given rise in the Committee of Ministers and mentioned that views had been expressed to the effect that the standards of the European Social Charter should never be lower than those embodied in international instruments on the world-wide plane, such as particularly in the international labour conventions.

4. The Committee then re-elected Mr. G. C. VEYSEY, C.B. (United Kingdom) as Chairman and Dr. GELLER (Federal Republic of Germany) as Vice-Chairman.

AGENDA ITEM 4: CONSULTATION WITH WORKERS' AND EMPLOYERS' ORGANISATIONS

5. It was decided to hold an ad hoc meeting for this purpose on the 25th November at 3 p.m.. The following organisations were represented at the meeting in question:

International Organisation of Employers;

European Regional Organisation of the International Confederation of Free Trade Unions;

International Federation of Christian Trade Unions.

The summary of the proceedings of the ad hoc meeting is set out in Appendix III.

AGENDA ITEM 5: JOINT MEETING WITH REPRESENTATIVES OF THE ASSEMBLY

6. The Committee requested the same Delegations that had taken part in a similar meeting during its Fifth Session to represent it also at this new joint meeting. This meeting took place on 29th November at 10 a.m.. In agreement with the Representatives of the Assembly, it was decided that no record of the discussion should be kept, but the Vice-Chairman of the Social Committee informed the Committee of the exchange of views, which had been very open and had given both parties full opportunity to explain their opinions.

AGENDA ITEM 6: EUROPEAN SOCIAL CHARTER

7. The main documents before the Committee were the second report of the Working Group, CE/Soc (57) 13 Final; a complete draft text of the Charter, based on earlier decisions of the Committee and on proposals of the Working Group,

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CE/Soc (57) 19; a Note by the United Kingdom Delegation concerning the implementation of the Charter through collective agreements, CE/Soc (57) 20; a Note by the Secretariat on the right to education, CE/Soc (57) 23, and a paper setting out the views of delegations as to the acceptability of certain draft provisions of the Charter so far adopted, CE/Soc (57) 24 with two Addenda.

At the proposal of the Chairman, the Committee adopted a detailed plan of work that would enable it to complete the drafting within the time at its disposal. According to this, it was agreed to turn first to Doc. CE/Soc (57) 19 and, on this basis, to complete the provisions of substance that had not hitherto been definitely adopted by the full Committee.(1)

The right to protection of health

8. The Delegation of the Federal Republic of Germany having withdrawn a proposal for an amendment to this Chapter, the original text was adopted, subject to minor changes of form.

9. The Delegation of Sweden made a reservation(2) against the binding form of the provisions of this Chapter, since, in its view, only provisions the implementation of which could be effectively controlled should be binding.

10. At the proposal of the Delegation of France it was agreed to point out in the Report that the text of this Chapter was based on a draft prepared in consultation with the Committee of Experts on Public Health.

The right to social security

11. At the Fifth Session of the Social Committee, the Delegations of Belgium and Italy had put forward draft texts of

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(1) The complete text of the draft Social Charter as adopted by the Committee is not appended to the present report. It has been submitted to the Committee of Ministers as a separate document, CM (57) 176.

(2) It should be noted that all reservations made in the course of the preparation of the draft Charter have been included in a list attached to the text and submitted to the Committee of Ministers together with the latter.

this chapter, contained respectively in Docs. CE/Soc (57) Misc. 3 and 4. Subsequently, the Netherlands Government had expressed a preference for the Italian draft and suggested that this question be referred to the Committee of Experts on Social Security. However, since that Committee was not to meet before the end of 1957, the proposal was changed so as to request the other Governments to give their representatives on the Social Committee itself the necessary instructions with regard to the choice of text. As the Committee now found itself faced with only one text, emanating from the Working Group, this proposal was withdrawn.

12. Paragraph 37 of CE/Soc (57) 19 was adopted.

13. Paragraph 38 gave rise to considerable discussion. The Delegation of France found it insufficient to require compliance with the conditions for ratification of the European Code of Social Security. A State could then accept para. 38 without ratifying the Code, and it would thus not be subject to the control of implementation provided for in the latter.

14. It was also proposed by the Delegation of France, supported by the Delegations of Belgium and Italy that para. 38 should enumerate the different branches of social security covered by the European Code. Other Delegations were of the opinion that this would go too far, since it could be taken to mean that in order to accept para. 38, a State must have a social security scheme which reaches the level of the European Code within all the branches of the latter.

15. The Chairman pointed out that the views mentioned above had already been expressed and discussed within the Working Group, and that the text now before the Committee represented a compromise reached by the Group. The Delegation of Norway added that para. 38 must be seen in connection with para. 39. The idea was that in order to accept the former, a State must be in a position to ratify the European Code, whereas the latter provides for a further development towards the level of the envisaged Protocol to the Code.

16. It was agreed to adopt the following text which strengthens the paragraph somewhat and thus goes some way to meet the view of the minority:

> "to maintain the social security system at a satisfactory level at least equal to that required for ratification of the European Code of Social Security".

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17. The Delegation of France made a reservation to the effect that ratification of the European Code should be required.

18. Paragraph 39 was also discussed at length. Some Delegations found it difficult to include in the Charter a reference to the Protocol to the European Code of Social Security. It involved, among others, the same problem that arose in connection with the original text of para. 38, namely whether the reference to the Protocol meant that the standards of the latter must have been reached in all the branches of social security, or whether it would be sufficient to fulfil the conditions for ratification.

19. In this connection, the Delegation of Italy recalled that the draft Code and the draft Protocol did not have the same standing, since the Committee of Ministers had definitely instructed the experts to draw up the Code, but it had only requested them to consider the desirability of preparing a Protocol. Italy could not accept a reference to the Protocol.

20. Some other Delegations preferred to maintain the reference, and the Delegation of Belgium in particular insisted that if some mention of the Protocol was not made, it could not accept the paragraph. This would, moreover, lead to a confusing situation in which one might speak of three different European levels of social security, namely that of the Code; the (undefined) level of the Charter, and that of the Protocol. The Belgian Delegation was, however, ready to accept a solution under which the reference to the Protocol was made in a Annex to the Charter.

21. Paragraph 39 was then adopted in the following form:

> "to endeavour to raise progressively the system of social security to a higher level" -

it being understood that the Annex would make it clear that if the Protocol were adopted, the level in question should be at least equal to that required for ratification of the Protocol.

22. Paragraph 40 again led to an extensive exchange of views. Some Delegations, including particularly those of the Scandinavian countries could not accept a provision for equality of treatment between the nationals of the Contracting Parties in the social security field without conditions. In this connection reference was made to the

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European Interim Agreements on Social Security, where such conditions are defined. It was also pointed out that the last sub-paragraph of para. 40, seen in the context of the whole paragraph, might lead to a situation in which aliens would be in a more favourable position than nationals with regard to payment of benefits abroad.

23. The Delegation of Denmark also drew attention to the wording of the second sub-para. of paragraph 40, which, in connection with the opening, maintenance and recovery of rights, speaks of the accumulation of insurance or employment periods. In order to take into account all the different social security systems, reference should also be made to residence periods.

24. The Delegation of Italy strongly maintained the view that the Charter should provide for full equality of treatment. The European Interim Agreements constitute a temporary arrangement which should be replaced by a more complete and far-reaching instrument for the protection of migrants' social security rights, such as the Convention to be established in the framework of the European Coal and Steel Community.

25. The Delegation of Ireland suggested that in order to maintain the principles of para. 40 and yet meet the views of those countries that could not fully apply these principles, one might reword the opening phrase of the paragraph so as to make it clear that the agreements referred to there might be subject to certain conditions.

26. After a long discussion which showed that while some Delegations could accept the principles of para. 40 only with limitations arising out of national legislation, other Delegations saw the aim of the Charter precisely in going beyond such limitations, the Delegation of Denmark was requested to prepare a new draft text as the basis of a compromise. This proposal, contained in Doc. CE/Soc (57) Misc. 8, was adopted, subject to minor amendments.

27. It was agreed in this connection to include in the Annex to the Charter a statement explaining that the words "and subject to the conditions laid down in such agreements" imply, inter alia, that with regard to non-contributory benefits, a State may require the completion of a prescribed residence period before granting such benefits to aliens.

28. The Delegation of Italy made a reservation on the grounds that the text adopted did not provide a sufficient

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guarantee for the social security rights of migrants. The Delegation had proposed an amendment to para. 40, contained in Doc. CE/Soc (57) Misc. 9.

The right to social and medical assistance

29. Paragraphs 41 to 43, inclusive, were adopted without change of substance. Para. 43, which is intended to safeguard the political and social rights of persons receiving public assistance, had originally been placed in square brackets because it had given rise to some difficulty in the Working Group. The Delegation of Denmark now stated that, although this provision did not correspond entirely to Danish law, no reservation would be made.

30. Paragraph 44 was adopted, subject to an amendment tending to ensure that the obligations arising out of this paragraph would be in accordance with the obligations flowing from ratification of the European Convention on Social and Medical Assistance.

The right of the disabled to rehabilitation and resettlement

31. This Chapter was adopted without change.

The right of the family to social and economic protection

32. The Delegation of the Federal Republic of Germany, considering the importance of this Chapter, had proposed in Doc. CE/Soc (57) Misc. 6, to elaborate it in some detail, indicating clearly the positive measures that would be involved. This proposal is set out in Appendix IV. There was, however, a majority in favour of the original text. It was pointed out that some of the measures proposed by the German Delegation were linked up with demographic considerations that would vary from country to country. Moreover, the enumeration of certain specific measures might have the disadvantage that it could be understood as exhaustive, thus excluding other measures. In these circumstances the German Delegation withdrew its proposal, and the Chapter was adopted without change.

The right of mothers and children to social and economic protection

33. The Delegation of the Federal Republic of Germany having

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withdrawn a proposal for amendment contained in Doc. CE/Soc (57) Misc. 7 (see Appendix IV), the Chapter was adopted without change.

The right to engage in employment in other member countries

34. It was agreed that paragraph 52 should be made the initial paragraph, coming immediately after the introductory phrase and being reworded so as to contain a recognition of the right of nationals to leave the country to engage in gainful employment in other member countries. The introductory phrase was reworded accordingly, so that the term "will endeavour" relates only to the original paragraphs 49-51 inclusive, which were adopted.

35. It was pointed out that because of this change one might get the impression that the provisions of paragraphs 49-51 related only to regulations and formalities concerning the right to leave the country. They do, however, relate to regulations and formalities concerning the admission of foreign workers, and this should be made clear in the final checking of the text which the Committee intends to undertake at its next Session.

The right of migrant workers to protection and assistance

36. Paragraphs 53 to 59 inclusive, were adopted with such changes of form as would make the text correspond more closely to the similar provisions of International Labour Convention No. 97. Moreover, para. 55, which deals with equality of treatment in certain fields, was transformed into an undertaking by deletion of the words "to endeavour".

37. The Delegations of Belgium, France, Luxembourg and the Netherlands, without making any formal reservation, wanted it to be stated in the Report that in their view the provision for equality of treatment could not apply to accommodation.

Protection of women workers

38. The draft text in Doc. CE/Soc (57) 19 contained a paragraph (29) under this heading. It had been drafted by the Working Group, following a proposal made by the Delegation of Ireland at the Fifth Session of the Committee, but the Committee itself had not yet adopted it.

39. Certain delegations were in principle against the inclusion in the Charter of special protective measures for women workers other than expectant and nursing mothers. They stressed that women's organisations in their countries did not want such measures.

40. Paragraph 29 was adopted, subject to the following amendments: In line 3, the word "specified" should be replaced by "industrial". Line 4 should read: "in underground mining or as appropriate on other". It was moreover decided to attach this paragraph to the Chapter entitled: The right of employed women to protection.

41. The Delegations of Belgium and Norway made a reservation on the grounds mentioned in para. 39 above.

The right to education

42. At the request of the Committee of Ministers the Committee then proceeded to draft provisions covering the right to education, so as to provide the Ministers with a basis for a decision as to whether or not provisions of this nature should be included in the Charter. The Committee had before it a preliminary draft prepared by the Secretariat and contained in Doc. CE/Soc (57) 23. It read as follows:

> "With a view to ensuring the exercise of this right, the High Contracting Parties:
>
> 1. undertake to make primary education compulsory and free;
>
> 2. will take the necessary steps:
>
> (a) to make secondary education, in its different forms, including technical and professional training, available to everyone at least up to the age of 18 years and to make it increasingly free;
>
> (b) to /do everything possible to/ ensure a basic education for those persons who have not received or have not completed their primary education;
>
> (c) to make university and other higher education accessible to all /who are capable of benefiting by it/;

./.

3. will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

43. Paragraph 1 was adopted without change.

44. Paragraph 2, however, gave rise to considerable discussion. The Delegation of Italy considered that sub-para. (a) which deals with secondary education was both too wide and too restrictive. It was too wide because it would make secondary education available to everyone up to the age of 18 years. It was necessary to take into account the aptitude for such education. On the other hand the sub-paragraph was too restrictive in the description of the right. It was not sufficient to make education as such free. There were many other aspects to be considered, such as the development of sufficient facilities for education, transport facilities, instruction material, etc.

45. Some Delegations agreed that it was necessary to cover these aspects of the problem by an appropriate text, while others thought that they were implicit in the term "available" as employed in this sub-paragraph. Obviously, secondary education was not "available" in the true sense of the word if those who wanted to profit from it found the way barred by all sorts of obstacles.

46. The Delegation of France proposed to delete the reference to technical and professional training, and this was agreed on the condition that it be made clear that the provision related to all forms of secondary education.

47. Some Delegations objected against the age limit of 16 years. It made the provision too rigid and did not fit the various national systems. Others considered this age limit necessary.

48. It was decided to delete sub-para. (b) which dealt with basic education for those who had not received or completed their primary education. This provision was considered unnecessary in countries where primary education was free and compulsory.

49. Sub-para. (c) was adopted in an amended form.

50. Paragraph 3 was deleted because this point is already covered by the European Convention on Human Rights. It was, however, decided to add another paragraph to ensure

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the full utilisation of the facilities provided for in paragraphs 1 and 2. The whole of the Chapter on education was thus adopted as set out in Appendix V to this Report.

51. The Delegation of the Federal Republic of Germany made a reservation against the inclusion in the Charter of provisions concerning education because in the Federal Republic this matter was outside the competence of the Federal Government.

52. The Delegations of Belgium and France made a reservation against the omission of the age limit of 18 years in respect of secondary education.

53. The same Delegations also made a reservation on the grounds that para. 3 did not to a sufficient degree guarantee an increasingly free secondary education.

The right to adequate facilities for leisure

54. The Secretariat then suggested including in the Charter provisions for adequate facilities for leisure time activities. The proposed text read as follows:

> "The High Contracting Parties recognise the necessity of providing the individual with proper guidance with regard to the use of leisure time as well as with ample opportunities for spare-time activities conducive to his physical, cultural and moral development. They will endeavour, in collaboration with local authorities and private organisations to provide or promote the provision of adequate facilities for this purpose."

55. However, the Committee decided not to include any such provision in the Charter.

PART I (OUTSTANDING QUESTIONS) AND PREAMBLE

56. The Committee then settled a few outstanding points in Part I. Thus, it was decided to delete the clause which appeared in square brackets in the introductory paragraph to Part I in Doc. CE/Soc (57) 19. This was done on the understanding that the principles on which this clause was based should be embodied in a separate article in Part V of the Charter. The Preamble was adopted without change.

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PART III

57. Agreement was quickly reached on the principle that a State which desired to ratify the Charter must undertake to consider Part I as a declaration of aims which shall be pursued by all appropriate means, and also to consider itself bound by a certain minimum number of the provisions contained in Part II. This minimum could either be a given number of Chapters or a given number of paragraphs. It was, however, pointed out by the Delegation of the Netherlands that the former alternative might have the drawback that a State might be prevented from accepting a whole Chapter because it contained one or more paragraphs that were unacceptable to that State.

58. The main discussion turned around the question as to whether or not the Charter should provide for a certain minimum number of provisions that should be binding upon all the Parties.

59. The Delegations of Belgium, France and Italy were particularly strongly in favour of establishing a common minimum of obligations. This was in their view implied in the very nature of the Social Charter, and it would also prevent Governments from basing their ratification of the Charter upon acceptance of the least onerous provisions only. It was true that under I.L.O. Convention No. 102 on Minimum Standards of Social Security (and under the draft European Code), Governments could select the obligations which they wished to undertake, but those obligations were at least all of the same basic nature since they were all in the field of social security. This did not apply to the Charter. Moreover, the obligations of the Charter were not all of the same legal nature, since in some cases, the Governments had to accept real undertakings, whereas in other cases they would only endeavour to take certain measures or recognise certain rights.

60. The Delegations that were against the idea of a common minimum argued that if such a minimum were established, it must obviously comprise some of the most important provisions of the Charter, but the informal inquiry which the Committee had made with regard to the acceptability of various provisions showed how difficult it would be to establish such a minimum which could be accepted by all. Thus some States that might otherwise have ratified the Charter could be prevented from doing so. It was, however, the wish of all Delegations to create an instrument that could be widely accepted. The danger that Governments might select mainly

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provisions of relatively small importance was not so great if the minimum number was fixed at a high level, and even the provisions under which Governments would only endeavour to take certain measures implied to some extent an obligation.

61. The Delegations of Denmark, Luxembourg, the Netherlands and Sweden while in principle in favour of a common minimum of obligations, would also accept the other solution, which already constituted a compromise, since originally some Delegations had proposed that the whole of Part II should be binding, while in the view of others, Governments should be free to select certain provisions without having to attain a given minimum number. The Delegation of Denmark had made an effort to define what might be included in a possible common minimum and had suggested that it should comprise the following Chapters: the right to work; the right to organise; the right to bargain collectively; the right to vocational guidance, and the right to vocational training.

62. Agreement on a common minimum could, however, not be reached, and the Committee adopted Part III without changes of substance.

63. The Delegations of Belgium, France, Italy and Luxembourg made a reservation on this point.

64. The Committee then discussed how the minimum to be selected individually by each Government should be defined and at which level it should be fixed. It was decided first to define the minimum as a given number of Chapters or paragraphs rather than as a given fraction of the total.

65. The Delegation of Denmark proposed not to fix the actual numbers at this stage. The Committee had before it a table (Doc. CE/Soc (57) 25) indicating roughly what the possibilities of acceptance of various provisions were according to statements made by some Delegations and contained in Doc. CE/Soc (57) 24. The enquiry had however not covered all the provisions, nor had all Delegations expressed their views. The table gave therefore only a partial impression of the possibilities. The Danish Delegation proposed to submit the question to the Committee of Ministers and take it up again at the next Session.

66. The Committee decided, however, to proceed immediately to the fixing of the numbers. A quick enquiry among the Delegations gave the following results, which, however, in

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no way would be committing their respective Governments:

Country:	Number of acceptable Chapters (out of 19)	Number of acceptable paragraphs (out of 62)
Austria		54
Belgium	15	56
Denmark	15	54
Fed. Rep. of Germany	17	56
France	(would accept the minimum adopted)	
Greece		45
Ireland	13	45
Italy	15	55
Luxembourg	18	55
Netherlands	12	47
Norway	14	51
Sweden	15	51
Turkey		34
United Kingdom	11	45

67. The Committee then fixed the figures at 10 Chapters and 45 numbered paragraphs.

PART IV

68. Article A was adopted without change. The question arose as to whether the reports from Governments on the implementation of the Social Charter might wholly or partly coincide with the reports that Governments were obliged to submit to the I.L.O. concerning the application of certain International Labour Conventions. Some Delegations thought that the reports under the Charter would probably be of a more general nature and that it might be confusing to submit the reports designed to cover the International Labour Conventions.

69. The Delegation of Sweden pointed out that it was necessary to avoid any duplication of the work of national administrative services in this field, and that it must be sufficient for Governments, where appropriate under Article A of the Charter to reproduce in whole or in part the reports submitted to the I.L.O.

70. Article B was adopted without change.

71. Article C was adopted without change. The question arose as to whether it was necessary to provide that the national organisations to which the Governments should

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communicate copies of their reports must be members of the international organisations of employers and trade unions that had consultative status with the Council of Europe. It was pointed out, however, that this clause would be useful in order to avoid difficulties in certain countries, and the Swedish Delegation, that had raised the question, did not insist.

The Delegation of Sweden also considered that since the reports of the Governments should be communicated to the organisations in question, the views of the latter should always be forwarded together with the reports, and not only if the organisations requested it. It was then explained that the Working Group had discussed this carefully, and that the proposed text was a compromise, since some Delegations originally held the view that the Governments should be free to communicate or not to communicate their reports to the organisations. Moreover, the comments of the latter might be of a purely formal nature, and the organisations might not even always want them to be forwarded.

72. Article D gave rise to a discussion as to whether t w o stages were really necessary for the examination of the reports on implementation. Certain Delegations were not convinced of the need for the Committee of Experts provided for in Article D, but the majority considered such a committee of independent experts necessary. Article D was then adopted without change.

73. The Delegation of Sweden, however, made a reservation on this point.

74. Article E was adopted without change. It was explained that the number of seven members of the Committee of Experts had been chosen in order to assure a reasonable geographic representation.

75. Article F was adopted without change.

76. Article G, paras. (1) and (3) were adopted without change. A discussion arose, however, over para. (2). The Delegation of Sweden did not agree that the representatives of international employers' and trade union organisations should have a right to be heard. The word "shall" in the first line of this paragraph should therefore, in its view, be replaced by "may".

77. The Delegation of Belgium, supported by others, could not accept this. The Belgian Delegation had originally

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been in favour of a tripartite organ to examine the reports and conclusions referred to in Article G, but it could agree to the present text, provided that the representatives of the organisations in question could participate in the meetings of the body provided for there in a consultative capacity, in accordance with a proposal made by the Delegation of Italy.

78. The Chairman stated that the intention of the Working Group had been that the representatives of the organisations should only be heard at special meetings like those already organised by the Social Committee for that purpose. Now, it was proposed to go further and let these representatives attend the whole meetings of the body in question and participate in the discussion.

79. This latter procedure was nevertheless supported by several Delegations, and the paragraph was then adopted in the following form:

> "Representatives of the international employers' and trade union organisations in consultative status with the Council of Europe shall be invited to be present as observers in a consultative capacity at the meetings of the Sub-committee."

80. The Delegation of Sweden, without making a formal reservation, wanted it stated in the Report that it did not agree to this.

81. Article H was adopted without change.

PART V.

82. Article (a) was adopted without change.

83. New article:

As mentioned in paragraph 56 above, the Committee decided to delete the clause which originally appeared in square brackets in the introductory paragraph to Part I of the Charter, on the understanding that a similar clause should be included in a separate article in Part V. The Committee now had before it a draft text, prepared by the Legal Department of the Secretariat, Doc. CE/Soc (57) Misc. 11.

84. Certain Delegations would have preferred a simpler text, such as for example the one that is included in Article 29, para. 2 of the Universal Declaration of Human Rights.

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85. A discussion arose in connection with the proper understanding of the term "prescribed by law". It was agreed that this should be interpreted in a wide sense, so as to include all provisions having the force of law. At the request of the Delegation of Norway, it was further agreed that the term should also be taken to cover the plenary decisions which the Norwegian Parliament takes in budgetary matters on the basis of constitutional provisions.

86. The proposed text was then adopted,(1) subject to minor drafting changes and on the understanding that the interpretations referred to in paragraph 85 above should be included in the Annex to the Charter.

87. It was also agreed to declare in the Report that this text could not be taken to provide any basis for exceptions or limitations intended generally to exclude aliens from the rights embodied in the Charter.

88. Articles (b) and (c) were adopted without change.

89. Article (d):

In connection with this Article, the Delegation of Greece proposed to add the following to paragraph 2:

> "The Charter shall apply to the non-metropolitan European territories of all member countries which have accepted the Charter, to the same extent and on the same terms as it applies to the metropolitan territory, having due regard to the delays entailed by the necessary constitutional and administrative formalities."

90. This would make a distinction between non-metropolitan territories outside and inside Europe. In respect of the latter, the Charter would apply automatically, whereas in respect of the former, the Governments would be free to apply it or not to apply it. It was pointed out that non-metropolitan territories have their own internal administration which is competent in such matters as those with which the Charter deals. They must therefore decide for themselves whether or not they wish the Charter to apply.

91. The Greek Delegation then withdrew the proposal, it being understood that reference should be made in the Report both of the proposal itself and to the fact that it was supported by the Delegation of Italy. ./.

(1) See Doc. CM (57) 176 where this text has become Article a (b) of Part V of the Charter.

92. The Delegation of the Netherlands pointed out that since the Charter included the right to engage in employment in other member countries, its application to non-metropolitan territories might be so interpreted as to give the workers of these territories the right to engage in employment in the territories of the Contracting Parties. In the Common Market Treaty there was a special provision (Article 135) saying that the free circulation of workers of overseas countries and territories in the territories of the Member States shall be governed by subsequent conventions which shall require unanimity among the Member States.

93. It was agreed to explain in the Report that under the appropriate provisions of the Charter, the Governments were not obliged to admit foreign workers to any of their territories.

94. Article (d) was then adopted without change, except that the words "or accession" which appeared in brackets in para. 1 were deleted, see under Article (g) below.

95. Article (e) was adopted without change. It was made clear that the amendments to the Charter mentioned in that Article must be accepted by all the Contracting Parties before they could enter into force.

96. Article (f) was adopted without change.

97. Article (g):

This Article would authorise the Committee of Ministers to invite any State not Member of the Council of Europe to accede to the Charter once the latter had entered into force. The Delegation of France proposed to delete the Article because, if the Charter were to be an "open" convention, third party States might invoke the "most favoured nation clause". The European Convention on Establishment was a closed convention, and the same should apply to the Charter.

98. The Delegation of Italy pointed out that the inclusion of Article (g) raised a number of problems, some of which were of a procedural nature, while others were political. The proposed text did not state whether a decision of the Committee of Ministers to invite non-Member States to accede to the Charter must be unanimous or could be taken, e.g., by two-thirds majority. Nor did it appear from the text precisely what obligations an acceding State would undertake.

Under Article (g) the Charter would come into force in respect of an acceding State immediately upon deposit of its instrument of accession, whereas for a Signatory, it would only enter into force as from the thirtieth day after the date of the deposit of its instrument of ratification. This difference was not justified.

With regard to the substance of the question, the Italian Delegation considered that it might be useful to provide for an extension of the Charter to non-Member States. Many of the provisions of the Charter applied to all persons without regard to nationality. In order to obtain some degree of reciprocity, therefore, it would be an advantage to have the Charter applied also by non-Member States. But many difficulties would arise. Should, for example, the non-Member States be represented on the various organs that would control the application of the Charter, including the Committee of Ministers itself? The Italian Delegation stressed the political nature of this problem and proposed to submit it to the Committee of Ministers.

99. The Head of the Legal Department of the Secretariat said that the Committee might express its view as to whether it would be useful to make the Charter open. The material consequences would not be great, since the Committee of Ministers would certainly apply a provision like Article (g) with considerable caution. It was true that the inclusion of the accession clause might render it more likely that third party States would invoke the most favoured nation clause, but only an international court would be competent to decide whether or not this would be justified. With regard to the European Establishment Convention, the question of accession (and of the most favoured nation clause) played a much greater rôle than in respect of the Charter, since the latter already applied to all persons, except for the provisions concerning access to employment abroad, and these provisions did not oblige Governments to admit migrants.

It was true that acceding States would be entitled to be represented on the bodies that would control the application of the Charter, although an exception must probably be made in respect of the Committee of Ministers.

The Head of the Legal Department then proposed certain drafting changes which might be made in case Article (g) were included.

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100. The Committee felt that a decision whether the Charter should be limited to Member States or open to accession by others involved political considerations beyond their competence and was one for the Committee of Ministers to take. The Committee accordingly decided to delete the Article, but to draw the attention of the Committee of Ministers to the question. As a consequence, the reference to accession in Article (d) was also deleted.

101. Article (h) gave rise to a discussion of the desirability or the disadvantage of rendering possible a partial denunciation of the Charter. It was explained that a clause similar to Article (h), para. 2 existed in the draft European Code of Social Security, but not in the European Convention on Human Rights.

102. The Delegations of Belgium, France, Italy and Luxembourg were strongly against the inclusion of such a clause. They argued that in ratifying the Charter, the Governments could themselves select those provisions by which they would consider themselves bound, and moreover, the new Article referred to in para. 83 above made it possible to them to apply certain restrictions and limitations. If there were no possibility of partial denunciation, a State that found itself in a situation where it was the only one not to have accepted a certain provision of the Charter, would be under a strong moral pressure to accept it, but this would not be the case if the State in question knew that the provision might at any time be denounced by some other State. The case of the European Social Security Code could not be invoked, since the need for flexibility was much greater in the social security field, which was in full evolution.

103. Other Delegations found it very undesirable that a State which for some reason could no longer fulfil some of the provisions of the Charter, or even one such provision, would have to denounce the whole instrument. No Government would lightly denounce a part of the Charter, so there was no reason to fear that this right might be abused, but in some cases this procedure might be necessary.

104. The Delegation of Ireland proposed to maintain the principle of Article (h), para. 2, but to add words to that effect in Part III of the Charter. This Part provides that a Government having ratified the Charter may subsequently extend its ratification to cover provisions

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not originally accepted ... might envisage that the opposite procedure would also be possible, provided that the minimum number of obligations was respected.

105. In connection with para. 1 of Article (h), the Delegation of Italy also raised the question why the Charter must go out of force if less than five Parties remain bound by it. One might well imagine that four Parties or less might remain bound.

106. The question was then raised whether para. 4 of the Article should be maintained in view of the fact that the provision for accession by non-Member States had been deleted. It readsas follows:

> "Any H.C.P. which ceases to be a Member of the Council of Europe shall also cease to be a Party to this Charter."

It was pointed out that such a provision exists also in the European Convention on Human Rights, which is a closed instrument. It was decided to maintain the paragraph but to draw the attention of the Committee of Ministers to this question in connection with the cognate point mentioned in para. 100.

Non-discrimination clause

107. The Secretariat drew the attention of the Committee to the following clause which is included in the draft Charter appended to Recommendation 104 (1956) of the Assembly:

> "The H.C.P. are opposed to all forms of discrimination on grounds of sex, race, colour, language, religion, propoerty, nationality, national or social origin, or political or other opinion."

It was decided not to include such a clause, but to mention the question in the Report.

Implementation of the Charter through collective agreements or other means

108. The Committee had discussed this question at length at its Fifth Session and had provisionally adopted the following formula, which appeared in the introductory paragraphs of the Chapters on the right to just conditions of work; the right of children and young persons to protection, and the right of employed women to protection:

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"With a view to ensuring the effective exercise of this right the H.C.P. undertake in so far as such measures are not put into effect under national schemes by agreement between employers' and workers' organisations or are normally carried out otherwise:"

It was clear that this formula implied a residual responsibility for the Governments in case the collective agreements or other means did not cover all workers or otherwise fell short of the standards of the Charter. On the other hand, several Governments could not, under their national practice, undertake such a residual responsibility in these fields, and they would thus not be in a position to accept these provisions of the Charter.

109. The Committee therefore made a new effort to find a formula that would be acceptable to all. The Delegations of the Netherlands and the United Kingdom had made proposals to this effect. The latter were included in Doc. CE/Sec (57) 20. The former were not circulated in the form of a numbered document.

The idea of the United Kingdom proposal was that a Government should be enabled to give an undertaking concerning provisions which must be implemented through collective agreements, and compliance with these provisions should be regarded as effective, if the provisions were widely observed through such agreements.

The Dutch proposal, which was based on that of the United Kingdom, was to the effect that a distinction should be made between provisions which could be implemented through collective agreements and provisions, particularly of a protective nature, that were of public order. The Charter should thus clearly indicate which of the provisions in question would fall in each of these categories.

110. After some discussion, the Committee accepted the principle embodied in the United Kingdom proposal. The Delegation of Sweden, however, wanted it mentioned in the Report that it was against the principle of ratification on the strength of collective agreements, since the implementation of such provisions could not be effectively controlled.

111. The Committee then proceeded to select the provisions of the Charter to which this principle should be applied, as suggested by the Delegation of the Netherlands. It was agreed to make reference to paras. 5,6,7,8,9,22 and 23 of Part II.

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112. The Delegation of Denmark proposed to include also paras. 12 and 13 of Part II. This was not accepted, on the grounds that the United Kingdom proposal was intended to cover provisions implying undertakings on the part of the Governments, and paras. 12 and 13 involved only a recognition of certain rights.

113. After some discussion of what should be understood by the term "widely observed" as used in the United Kingdom proposal, it was agreed to replace this by the term "applied to the great majority of workers". In this connection, the Delegation of Belgium, supported by the Delegation of France, suggested adding a provision to the effect that the Governments should in any case attempt to exercise some influence on the labour market partners in order to have the provisions of the Charter complied with. The employers' and workers' organisations should be informed of the Charter and encouraged to follow it. This was, however, not accepted.

114. The Delegation of Norway pointed out that there were matters that in some countries were dealt with by collective agreements and in others by law. Such laws need not necessarily cover all workers, and it should therefore be sufficient to fulfil the obligations under the Charter that such provisions were applied to the great majority of workers by law. The Committee agreed to this and adopted a text accordingly, see Doc. CM (57) 176 (Article (c) of Part V.)

Report to the Committee of Ministers

115. The Committee decided to submit the text of the draft Charter with the Annex and the list of reservations made by certain Delegations to the Committee of Ministers under cover of a special Report which would draw the attention of the Ministers to points of particular importance. A draft of such a Report, prepared by the Chairman - Doc. CE/Soc (57) 29 - was adopted, subject to certain amendments. It has been included in Doc. CM (57) 176 as Part A.

116. The Delegation of Austria suggested that the special Report to the Committee of Ministers should draw attention to the following additional points:

(i) The need for a decision concerning the convocation of a tripartite conference in collaboration with the I.L.O. and possibly the O.E.E.C..

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(ii) The view expressed by the international trade union federations that the Social Charter should be brought in line with certain international labour conventions. The Charter might contain a provision to the effect that the Parties to it should ratify the Conventions and apply the Recommendations of the I.L.O. as soon as possible if they had not already done so.

117. The Committee considered that it would be too late to take up these questions now, but they might be included in the Agenda of the next Session.

Documentation to Representatives of the Assembly and to non-governmental organisations

118. It was decided that the Representatives of the Assembly who had been elected to take part in the Joint Meeting referred to in para. 6 above might receive Docs. CE/Soc (57) 19 and 30 and CM (57) 107. These papers should be sent to them informally and confidentially for their personal information.

The organisations that had been represented at the Ad Hoc Meeting referred to in para. 5 above might receive the text of the draft Charter including the Annex, but not the list of reservations.

AGENDA ITEM 7: OTHER BUSINESS

119. The Committee took note of Doc. CE/Soc (57) 26, which explained the position with regard to the possible extension of the Convention concluded by the Brussels Treaty Powers on 17th April 1950, concerning Student Employees,

The Committee further took note of Doc. CE/Soc (55) 8 concerning the future working programme.

AGENDA ITEM 8: DATE AND PLACE OF NEXT SESSION

120. It was decided to recommend that the next Session should be held in Strasbourg from the 17th to the 21st February, 1958.

A P P E N D I X I

List of members and observers participating in the session

AUSTRIA	M. Keller	Conseiller Ministérial au Ministère des Affaires Sociales.
BELGIUM	M. A. Delpérée	Conseiller économique et social du Ministre du Travail et de la Prévoyance sociale.
	Mme. C. Gilon-Pichault	Service des Relations Internationales au Ministère du Travail et de la Prévoyance sociale.
DENMARK	M. P. Juhl-Christensen	Chief of Division, Ministry of Social Affairs.
	M. J. Bonnesen	Chief of the International Relations Division, Ministry of Social Affairs.
FRANCE	M. J. Doublet	Conseiller d'Etat Directeur Général de la Sécurité Sociale, Ministère du Travail et de la Sécurité Sociale.
	M. Ribas	Maître des Requêtes au Conseil d'Etat, Conseiller du Ministre du Travail et de la Sécurité Sociale.
	M. P. Bernusset	Secrétaire des Affaires Etrangères.
FEDERAL REPUBLIC OF GERMANY	M. Geller	Directeur au Ministère du Travail.
	M. Spahn	Conseiller au Ministère de l'Intérieur.
	Dr. H. Ernst	Conseiller, Ministère du Travail.

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GREECE	M. A. Psaras	Directeur Général du Ministère de la Prévoyance sociale.
	M. A. Triantafylou	Directeur au Ministère du Travail.
IRELAND	Mr. W. A. Honohan	Assistant Secretary, Department of Social Welfare.
	Mr. W. Kelly	Assistant Principal Officer, Department of Industry & Commerce.
ITALY	M. Carloni	Inspecteur Général au Ministère du Travail
	M. G. Sperduti	Professeur de droit international à l'Université de Pisa
	M. Marinelli	Conseiller au Ministère du Travail
LUXEMBOURG	M. G. van Werveke	Secrétaire Général du Ministère du Travail et de la Sécurité sociale.
	M. R. Bertrand	Rédacteur au même Ministère.
NETHERLANDS	M. T.M. Pellinkhof	Chef du Service des Affaires Internationales du Ministère des Affaires Sociales et de la Santé Publique.
	M. J. J. M. Geldens	Chef de Division au Bureau de Travail, (même Ministère).
	M. H. B. Eldering	Attaché à la Division de la Protection des Travailleurs, (même Ministère).

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NORWAY	M. A. Kringlebotten	Secretary-General of the Ministry of Social Affairs.
	M. B. Ulsaker	Director in the Ministry of Labour and Municipal Affairs.
SWEDEN	M. W. Björck	Ancien Chef de la Direction Générale du Trésor.
	M. E. Bexelius	Chef de la Direction Générale de la Prévoyance sociale.
TURKEY	Dr. Esad Sibay	Président du Conseil des Recherches au Ministère du Travail.
	M. N. Sari	Membre du Conseil de Recherches du Ministère du Travail.
UNITED KINGDOM	Mr. G. C. Veysey, C.B.	Under-Secretary, Ministry of Labour and National Service.
	Mr. C. A. Larsen	Principal, Ministry of Labour and National Service.

OBSERVERS

I.L.O.	M. P. Fano	Chef de la Division des Organisations Internationales.

A P P E N D I X II

AGENDA ADOPTED BY THE COMMITTEE

1. Opening of the meeting.

2. Election of the Chairman and Vice-Chairman.

3. Adoption of the Agenda.

4. Exchange of views concerning the consultation with workers' and employers' organisations with regard to the European Social Charter.

5. Exchange of views concerning the joint meeting between representatives of the Social Committee and Representatives of the Consultative Assembly.

6. European Social Charter:

   (a) Examination of the Report of the Working Group and the complete draft text of the Charter.

   (b) Examination of the draft text concerning the right to education.

   (c) Examination of the extent to which Governments may be willing to accept the draft Charter as binding.

7. Other business:

   (a) Oral report concerning the extension of the Convention concluded by the Brussels Treaty Powers on 17th April 1950 (Exchange of Student Employees).

   (b) Future programme of work.

8. Date and place of next session.

APPENDIX III

SUMMARY OF THE PROCEEDINGS OF THE SPECIAL MEETING TO HEAR THE REPRESENTATIVES OF EMPLOYERS' AND WORKERS' ORGANISATIONS

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1. The Committee first heard the Representatives of the International Organisation of Employers, M. Pierre Waline (President) and M. A. G. Fennema (Vice-President).

M. Waline made the following statement on behalf of the European members of the International Organisation of Employers:

The following observations relate to the most recent of the documents communicated to us, i.e. the texts adopted by the Social Committee at its Fifth Session (July 1957), which, if we understand correctly, replace the draft Articles previously prepared by a Working Group of that Committee.

We do not know whether the title of this document (Appendix IV) means that it embodies only part of the present draft Charter. Our comments might also have been different if we had been acquainted with the report of the Working Group, which accompanied the text drafted by the latter.

With these reservations, and pending the receipt of certain clarifications or additional information, we feel called upon, in connection with Appendix IV, to make a number of general remarks which we shall illustrate with examples from the text, though these comments on the contemplated provisions are not given as expressing our exhaustive or final opinion.(1)

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1. We appreciate the generous intention which, for several years past, has inspired the Council of Europe in its attempts to prepare a European Social Charter. We also approve many of the principles or wishes enumerated in the draft submitted to us. Many of them, with our members' agreement,

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(1) We were unable to consult our members on the documents sent to us on 15th November, which we received after the present memorandum was prepared.

have already been incorporated in national or international conventions or domestic legislation.

We venture, however, to express some doubt as to the advisability of adding yet another text to those already existing in the same field. We need only mention in this respect the Preamble to the Constitution of the International Labour Organisation, supplemented by the Philadelphia Declaration and the Declaration of Human Rights prepared by the United Nations.

As we shall show later, there is a danger that in the drafting, in order to avoid repetition, alternative versions may be adopted, which may give rise to some confusion, or an attempt may be made to insert more detailed provisions, which may be out of place in a solemn declaration intended to have lasting value.

2. Since the Council of Europe began to study the preparation of the Charter, certain new facts have changed (or are in process of changing) the relations between a number of the Member States. We are thinking in particular of the Treaty establishing the Common Market and the negotiations for a Free Trade Area. Such measures of economic rapprochement or integration will probably include clauses on the alignment of social legislation. Should not a clearer view of this development be awaited before a European Social Charter is finally drafted?

3. Not only in a desire for originality, but also for reasons of equity, the Charter should, in our opinion, mention duties as well as rights, at least in regard to certain points.

Perhaps this might not have been necessary a few decades ago, when the condition of the workers demanded unilateral protective action, in which, incidentally, industrialists of West European countries were the prime movers, just as much as trade unionists, sociologists and politicians, all inspired by the same ideal of social justice. Today no one would dare dispute that the condition of the wage-earners has considerably improved, whether by collective agreements or by national legislation capped by I.L.O. Conventions and Recommendations. The rights of the workers, in most member countries of the Council of Europe, are amply established and recognised.

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On the other hand, events are tending increasingly to stress the legal and moral obligations which are the natural counterpart of some of these rights. Freedom of association, for example, should not mean only the right freely to join any trade union of one's choice, but also the obligation to respect anyone else's right not to join a union, if such is his freely-expressed desire, without being victimised as regards opportunities of employment. Similarly, a collective agreement is not merely a list of rights or advantages granted to wage-earners; it also comprises an undertaking by the wage-earners, who are parties to the contract through the medium of the signatories, to respect the rules and conditions of work therein laid down throughout the period stipulated by the convention.

In Western Europe the trade union organisations have, in general, acquired considerable power and stability, and collective bargaining on working conditions is consequently becoming the rule, in matters affecting working conditions. We therefore feel that a proclamation of the essential principles governing labour/management relations should deal with the duties as well as the rights of both sides.

The drafters of the text before us have, we consider, somewhat overdone the use of the word "right", which returns like a refrain in each paragraph of the Preamble and in the title of each of the following series of paragraphs - whereas what is meant is frequently not a right in the strict sense, but simply a principle of somewhat vague content and no practical bearing. (Examples: "right to safe and healthy working conditions"; "right to vocational guidance"; "right to vocational training"...).

4. While appreciating the difficulties doubtless encountered by the authors of the draft in trying to give form and substance to such declarations of principle, we are obliged to note that they have been unable to avoid now the Scylla of imprecision and now the Charybdis of excessive detail.

We feel, for example, that we should draw attention to the tenor of paragraph 18, which recognises "the right of workers and employers to collective action in cases of conflicts of interest, subject only to limitations prescribed by law for reasons of national security or public interest". What is meant by "collective action"? Does it refer to all types of strike or lock-out? This is in any case a weighty problem, on which not even the International Labour Organisation, for nearly forty years, has yet ventured to adopt any text. Is it hoped that it will thus be settled in a few vague words?

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Conversely, would it be really appropriate to include in a "European Social Charter" the rules listed in the chapter on just conditions of work (such as additional paid holidays for workers engaged in dangerous or unhealthy occupations), or in those dealing with the right of children, young persons and women to protection (which include a number of rules borrowed from various international labour conventions, some of them made even more far-reaching)?

Failing any indication of the Social Committee's real intentions, it may be wondered if it wishes the Charter to be sufficient unto itself (in which case a great deal of further detail would be necessary), or whether, on the contrary, it intends that, like the preamble to Part XIII of the Versailles Treaty, it shall list only the guiding principles (which would mean the exclusion of many details appearing in the text).

5. We do not know how far the "undertaking" to be entered into by the High Contracting Parties on a large number of points should be interpreted as a strict obligation, possibly accompanied by controls and sanctions. We should greatly appreciate some enlightenment in this respect.

In any event many of our members, having a long and satisfactory experience of free collective bargaining, consider that some paragraphs in the draft would entail a serious threat of State intervention in relations between trade organisations. Indeed, to the extent that the State would "undertake" - using the term found in the draft - to adopt measures or apply conditions of work which, on its territory, are traditionally a matter for collective agreements, it would have to bring to bear on the negotiators of such agreements a pressure which they must reject a priori.

We are not aware if the Committee have considered this question and we therefore venture to bring it to their attention.

6. Finally, we have difficulty in imagining, with the information now at our disposal, how certain rules to be listed in the Charter would be compatible with those formulated elsewhere in labour conventions or treaties ratified or adopted by the same States. On a question such as equal wages for men and women various formulae are already embodied in several texts. We consider it essential to avoid multiplying divergencies of this kind,

which are productive of misunderstandings and disputes.

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Such are the main observations which, in response to the Council's wishes, we have set forth without further delay. We shall be most interested in any additional information which it is prepared to give us, especially on the points we have mentioned, and we remain at the Council's disposal to inform it, in the light of such new information, of the opinion of the European members of our organisation.

Pierre WALINE A. G. FENNEMA

The Representative of Denmark stated that he could find no provision in the draft Social Charter that would be contrary to the provisions of the Common Market Treaty relating to social security or the free movement of workers. The Charter might become a supplement to the provisions of the Treaty.

The CHAIRMAN asked the representatives of the I.C.E. whether in their view the preparation of the Charter should be postponed pending the establishment of the Common Market and the Free Trade Area.

M. WALINE replied that there was no contradiction between the Common Market Treaty and the Charter but it might seem unfortunate that the Council of Europe should have proceeded to the preparation of the Charter in parallel with the negotiations of the Six relating to the Treaty. The entry into force of the Treaty would give some experience as to the working of the social provisions which it contains. The establishment of the Social Charter may lead to a multiplicity of texts of the same nature that may be differently worded and thus lead to confusion.

The Representative of the Federal Republic of Germany remarked that it was not for the Social Committee to decide whether or not this was the appropriate moment to draw up the Social Charter, since it was bound by its mandate to do so. Although the representatives of the I.C.E. had not yet had the opportunity to examine the whole of the draft Charter, they would be aware of the fact that some provisions implied real undertakings on the part of the Governments, while others only implied that the latter would endeavour to take certain measures. Did the representatives of the I.C.E. consider that the Charter should contain some provisions of a binding nature, or did they prefer a wholly declaratory instrument?

M. WALINE referred to the practice of the I.L.O. according to which only texts that were absolutely precise could take the form of binding conventions. Otherwise, the form of a Recommendation would be appropriate.

M. FENNEMA added that the Charter seemed to contain a mixture of statements of principle and detailed provisions. In view of the fact that some measure of social harmonisation will be brought about as a consequence of the Common Market Treaty, it might be prefereble to confine the Social Charter to declarations of principle.

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The Representative of Belgium referred to the fear expressed by M. Waline that the adoption of different texts might lead to confusion. One must take into account, however, that while in the Common Market Treaty the social provisions appeared only as a necessary corollary to measures of an economic nature, the Social Charter was an independent social instrument. There would, in his view, be no confusion or overlapping. He further raised the question as to whether, in the view of the I.O.E., the envisaged Treaty on the Free Trade Area should contain social provisions similar to those embodied in the Common Market Treaty. If the Treaty on the Free Trade Area were not to contain such provisions, there could be no overlapping. The Representative of Belgium then referred to the draft provisions concerning the implementation of the Charter, which would, according to the mandate of the Social Committee, associate employers' and workers' organisations with the control of the implementation. Could the representatives of the I.O.E. express any opinion on that point?

M. WALINE replied that he would like to consult his colleagues on the question as to whether the Treaty on the Free Trade Area should, in their view, contain social provisions, and also with regard to their opinion on the rôle to be played by employers' organisations in the implementation of the Social Charter.

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It was agreed that the I.O.E. should be given the opportunity, on the basis of an examination of the entire draft text of the Charter, to give its views at a later stage.

II. The Committee then heard the Representative of the Regional European Organisation of the International Confederation of Free Trade Unions, M. Schevenels.

M. SCHEVENELS expressed his apologies that the I.C.F.T.U. had been unable to act upon the invitations previously sent to it by the Social Committee. Having constantly participated in the work of the various Committees of the Consultative Assembly engaged in drafting a European Social Charter, the I.C.F.T.U. had already submitted a number of observations to which it seemed unnecessary to revert. Moreover, since the Trade Union representatives had not taken part in the work at the second stage, i.e. in the governmental Social Committee, it would be preferable to fill that gap by calling

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a European tripartite conference, as requested by the I.C.F.T.U. in letters to the President of the Assembly in October 1956 and 1957. As the purpose of the Social Charter was to protect those who needed protection, it seemed reasonable that the persons immediately concerned should be consulted before any such Convention was concluded.

Turning to the text submitted to him for consideration (CE/Soc (57) 19), M. Schevenels made the following observations:

Preamble and Part I of the Draft: the general aims should conform to those envisaged in the Premable to the I.L.O. Constitution. It was not clear what was meant by paragraph 16, referring to the right to engage in gainful occupation, which after all also applied to employers. It was doubtful whether that was in fact a measure of social protection.

Part II, paragraph 13: The principle here was sound, but he wondered whether the wording might not lead to ambiguity. It would be preferable to express the principle in the form of a general provision relating to discrimination. In the same context there arose the question of the promotion of workers either on seniority or on merit.

Paragraphs 15 and 18: The position of these two paragraphs should be reversed.

Paragraphs 19 and 21: -In proposing the merger of these two paragraphs, the I.C.F.T.U. was advocating the prohibition of any work for children below the school leaving age and in any event below fifteen years old, except in special cases governed by legislation or public regulations.

Paragraph 26: Maternity leave might be extended from twelve to fourteen weeks, of which eight would be after confinement.

Paragraph 27: This provision came close to the concept of leave without pay. The wording of the French text verged on the tautological.

Paragraph 29: This was a matter which should be more strictly controlled. The I.C.F.T.U. was unanimous in prohibiting that type of work in principle and was in favour of regulations in specified employment. The

women's organisations affiliated to I.C.F.T.U. agreed with that attitude.

Paragraph 34: The word "dislocations" should be amended to read "necessary re-organisation".

Paragraph 35(c): The words "at the request of his employer" should be omitted.

Paragraph 36: The I.C.F.T.U. would like this provision to contain special protection for the health of workers.

In general, the I.C.F.T.U. objected to the use of the term "Exercise of a right". It preferred the expression "in order to ensure this right" (the same remark applied to para. 37).

Paragraph 52: Since here the primary concern was always authorisation by the immigration country, this paragraph might lead to misunderstanding.

Paragraph 55: The term "undertake to endeavour" was perhaps unfortunate. It would be preferable to say "undertake to secure". On the other hand, to guarantee accommodation was perhaps going a little too far.

Part III: The choice of a specified minimum number of obligations appeared somewhat unfortunate in a document styled a "Charter". Since the figures which would replace the "X" and "Y" were still unknown, the I.C.F.T.U. would refrain from further criticism for the present.

Part IV:- Article (C): Copies of the reports should preferably be submitted to the European organisations, as part of the task of co-ordination incumbent upon these organisations.

Article (D): Trade Union representatives on the Committee of Experts would be useful, so that the Unions might be able to understand the reasons underlying the Committee's decisions. If necessary, their representative might attend in an advisory capacity.

Part V:- Article (B): The words "immediately upon" should be amended to read "as from the thirtieth day after" in conformity with Article (F), paragraph 2.

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Article (H), (paragraph 4): The time-limits for the operation of this paragraph should be specified.

Continuing with criticisms of a general nature, M. Schevenels stressed the need to submit the draft Charter to a European tripartite conference. Since the Council of Europe was responsible for the Charter, such conference should be convened by the Council with the technical assistance of I.L.O.. Co-operation between the Council of Europe and I.L.O. should be on the same lines as that between the latter and O.E.E.C.. It was O.E.E.C. that took the decisions, while using the I.L.O. in the capacity of an expert. Apart form the Social Charter, the tripartite conference could also examine the draft European Code of Social Security. Lastly, the I.C.F.T.U. emphasised the economic aspects of trade union consultation. In the project for a Social Charter appearing in Assembly Recommendation 104, those aspects had not been sufficiently taken into account.

The CHAIRMAN thanked M. Schevenels for his observations and invited members of the Committee to ask him any questions.

Mme. GILON pointed out to M. Schevenels that a new development was taking shape in regard to the protection of women workers, particularly within the I.L.O., where conventions on the subject were becoming increasingly flexible. Prohibitions had become very much fewer and regulations were becoming increasingly rarer.

M. SCHEVENELS said that he had been referring only to night work in industry. Admittedly, many other forms of night work were frequently inevitable. That did not prevent the I.C.F.T.U. from holding on to its point of view. Night work for women must be avoided wherever possible.

M. CARLONI criticised the observations presented on the question of accommodation for migrant workers. A distinction should be drawn between (1) accommodation which met the minimum standard at reasonable prices and (2) the encouragement of workers to become home-owners. Point (1) was the more important.

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M. SCHEVENELS pointed out that foreign workers were sometimes offered better accommodation than national workers.

In reply to a question by M. van WERVEKE, he explained the attitude of I.C.F.T.U. towards the conciliation and arbitration question, for which provision was made in Part II (para. 16) of the draft Charter. Briefly, the I.C.F.T.U. refused to submit ab initio to a system of compulsory arbitration.

M. van WERVEKE said that that system should be carefully distinguished from cases where there were conciliation tribunals to which the parties were obliged to have recourse, since the awards of such tribunals were not mandatory.

M. SCHEVENELS thought that the text of paragraph 16 was not explicit enough; it allowed of both interpretations.

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Replying to M. DELPEREE, he said that the I.C.F.T.U. opposed the reference to civil servants in the last sentence of paragraph 14. The Confederation also regretted that there was no express mention of the right to strike, though it was understood that the exercise of that right might be linked with carefully graded conditions, for instance with regard to doctors, customs officers and so forth.

III. The Committee then heard M. KULAKOWSKI, Representative of the International Federation of Christian Trade Unions.

M. KULAKOWSKI said that the I.F.C.T.U. regretted the procedure for consultation laid down by the Social Committee. It would have preferred an opportunity for direct co-operation with the Committee's discussions, as had been the case in the Assembly Committees.

As a preliminary question, he asked whether the Social Charter had not ceased to be topical, now that the Treaty establishing the European Economic Community had been concluded. The Charter unquestionably took on a fresh interest, however, in the light of the establishment of the European Free Trade Area.

In that connection, however, the Social Charter would not fulfil its aims unless it were a common undertaking to pursue an overall social policy. The I.C.F.T.U. therefore regretted that the Social Committee's draft did not include a number of common undertakings to be entered into by all participating States; indeed, almost all the rights envisaged in the draft lent themselves to such an under-

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taking. Some provisions in the draft would, moreover, become meaningless unless accepted by all the contracting parties. The I.C.F.T.U. had submitted a memorandum on the subject to the Social Committee.

The I.C.F.T.U. had the following detailed comments to make:

Part II

Paragraph 29: While agreeing with this provision, the I.C.F.T.U. wished to emphasise its importance.

Paragraphs 38 and 39: Holding that the draft European Code of Social Security contained no satisfactory standards, the I.C.F.T.U. would have preferred paragraph 39 to include a reference to the draft Protocol appended to that Code.

In the paragraphs relating to the protection of migrant workers, a reference to political refugees should be inserted, on the lines of the I.L.O. Conventions and the European Interim Agreements on Social Security.

Part III

Part I could hardly be interpreted otherwise than as a simple declaration of aims. It might therefore be wondered why it was necessary to return to that part in para. 1 (a) of Part III. The I.C.F.T.U. also made express reservations concerning the system of a numerical minimum of undertakings stipulated in Part III, which should be replaced by a system with a common specified minimum.

Part IV

Article (E): While supporting the idea of an expert committee independent of governments, the I.C.F.T.U. would like to see a more precise definition of the experts' qualifications from the social and economic standpoint. The I.C.F.T.U. would also like to be closely associated with the bodies in question. Such association should be organic in form, at least so far as the Sub-committee provided for in Article (G) was concerned.

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Article (G): The I.C.F.T.U. wished to make express reservations on the composition of the Sub-committee, more especially as the members of the latter, being senior civil servants entrusted with implementing national social policy, would be judges in their own cause. That disadvantage could be overcome by associating representatives of both sides of industry with the Sub-committee, thus investing it with a tripartite composition similar to I.L.O. bodies which were responsible for putting labour conventions into effect.

That result should be carefully distinguished from another question raised in relation to the draft Charter, namely, whether it should be submitted to a tripartite regional conference before final adoption. Such a conference, which the I.C.F.T.U. supported, could also usefully pronounce on the draft Code of Social Security and its Protocol.

The I.C.F.T.U. had just considered that question at a meeting of its European Committee, and considered that consultation with the national employers' and workers' associations was essential. Some formula for co-operation between the Council of Europe and I.L.O. could probably be found.

The CHAIRMAN, after thanking M. Kulakowski for his comments, gave the floor to members of the Committee desirous of asking questions.

M. DELPEREE asked whether it was the view of the I.C.F.T.U. that the Social Charter would be likely to solve the social problems raised by the Free Trade Area.

M. KULAKOWSKI replied that the I.C.F.T.U. had just addressed a memorandum to O.E.E.C. on that subject. He thought the Social Charter was a very useful basis for examining and defining the social impact of the Free Trade Area.

M. CARLONI asked whether, in the opinion of the I.C.F.T.U., the tripartite conference should be held solely within the framework and in accordance with the practice of the I.L.O. or whether other principles should apply.

M. KULAKOWSKI replied that that was rather a matter for the I.L.O. representative. He himself, however, regarded such a conference as an ad hoc conference, implying an understanding between the Council of Europe and the I.L.O..

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In reply to the CHAIRMAN he said that in the I.C.F.T.U. view the draft Charter prepared by the Social Committee should be subjected to widespread discussion, particularly by those whom it most closely affected, although the decisions of the proposed conference should bind neither the Council of Europe nor the I.L.O., in whose eyes the conference's task would be merely one of consultation, for which no satisfactory opportunity had been found during the Social Committee's work.

In reply to M. van WERVEKE, he said that the conference should take place before ministerial and governmental views on the Social Charter were expressed.

M. GELIER drew the attention of M. Kulakowski to the composition of the Sub-committee charged with implementing the Charter. Were there no possibilities other than that advocated by M. Kulakowski?

M. KULAKOWSKI replied that the usual I.L.O. practices could be adhered to, particularly the machinery for the implementation of its Labour Conventions, which was similar in nature to that in the Social Charter. On the one hand, it provided for a committee of independent experts and on the other hand for a committee on a tripartite basis; both bodies worked within the I.L.O. framework. Similarly, the Trade Union representatives should be associated, not with the Committee of Experts, but with the other of the two bodies for which provision was made in Part IV of the draft Charter. There would be a choice between two methods: (1) participation on a basis of parity, i.e. one-third for each of the groups (governments, employers' associations and trade unions), and (2) the I.L.O. formula: two-fourths for the governments and one-fourth for each of the two sides of industry.

In reply to Mme. GILON, he said that copies of the reports, as stipulated in Article (C), para. 2, of Part IV, should be sent to the national organisations. At that stage, intervention by the International Confederations did not yet appear to be called for.

The CHAIRMAN thanked M. Kulakowski for his statements and declared the ad hoc Session of the Social Committee closed.

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A P P E N D I X IV

PROPOSALS MADE BY THE DELEGATION OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE RIGHT OF THE FAMILY AND OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

I. The right of the family to social and economic protection

Paragraph (47) to be formulated as follows:

"With a view to ensuring the exercise of this right the High Contracting Parties undertake:

(a) to take economic measures facilitating the founding of homes;

(b) to grant special protection to families with children, especially to families with many children, by taking into account the size of the family when assessing direct personal rates and taxes or public utility tariffs;

(c) to promote the building of houses for owner-occupancy and of flats, which are suitable for families, as well as the family recreation;

(d) to restrict the right of the parents to the care for and education of their children only to the extent required by the interest of the child and only in accordance with legal provisions;

(e) to assist dependants as designated by national legislation in the recovery of maintenance."

II. The right of mothersand children to social and economic protection

Paragraph (48) to be formulated as follows:

"With a view to ensuring the exercise of this right, the High Contracting Parties undertake:

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(a) to promote measures enabling mothers to devote sufficient time to their family duties;

(b) to encourage and promote the provision of recreation facilities for mothers;

(c) to grant special protection to homeless children and to foster children;

(d) to establish appropriate services for juvenile delinquents as well as for children in social and moral danger;

(e) to ensure that every minor is provided with a guardian, and that guardianship is regulated by law;

(f) to take appropriate measures protecting the interests of minors in case of adoption;

(g) to protect juveniles against dangerous influences in the public."

A P P E N D I X II

TEXT ADOPTED BY THE COMMITTEE CONCERNING THE RIGHT TO EDUCATION (1)

The right to education:

It was decided to submit to the Committee of Ministers the following draft texts relating to this right:(2)

In Part I:

"Everyone has the right to education."

In Part II:

"With a view to ensuring the effective exercise of this right, the High Contracting Parties:

(1) undertake to make primary education compulsory and free;

(2) will take the necessary steps:

(a) to make secondary education in all its forms generally available to those with aptitude for it;(3)

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(1) The Committee was requested by the Committee of Ministers to prepare such a text as a basis for a decision as to whether or not the right to education should be included in the Social Charter.

(2) The Delegation of the Fed. Rep. of Germany made a reservation against the inclusion of such a text. In the Federal Republic education is a matter decided upon by the "Länder", and it is thus outside the competence of the Federal Government.

(3) The Delegations of Belgium and France made a reservation on this point. In their view the provision should stipulate that secondary education should be made available at least up to the age of 18 years.

(b) to make university and other higher education accessible to all on the basis of merit;

(3) to encourage the full utilisation of the facilities provided by appropriate measures such as:

(a) reducing or abolishing any fees or charges;

(b) granting financial assistance in appropriate cases.(1)

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(1) The Delegations of Belgium and France made a reservation concerning this paragraph because in their view it did not to a sufficient degree guarantee an increasingly free secondary education.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

Strasbourg, 24th February 1958

Confidential
CM (58) 27

APPENDIX IV

TEXT OF THE

EUROPEAN SOCIAL CHARTER

amended by the Social Committee

at its Seventh Session

A 38.960

A P P E N D I X IV

DRAFT TEXT OF THE EUROPEAN SOCIAL CHARTER AS AMENDED BY THE SOCIAL COMMITTEE

PREAMBLE

The Governments signatory hereto, being Members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms,

Considering that in the European Convention for the protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950, and the Protocol thereto signed at Paris on 20th March 1952, the Member States of the Council of Europe agreed to secure to their peoples the civil and political rights and freedoms therein specified,

Being resolved to make every effort in common to improve the standard of living and to promote the social well-being of their peoples,

Have agreed as follows:

PART I

The Contracting Parties accept as an aim of policy to be pursued by all appropriate means both national and international in character the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in a freely accepted occupation.

2. All workers have the right to just conditions of work.

3. All workers have the right to safe and healthy working conditions.

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4. All workers have the right to a fair wage sufficient for a decent standard of living for themselves and their families.

5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.

6. All workers and employers have the right to bargain collectively.

7. Children and young persons have the right to a special protection against physical and moral hazards arising in their work.

8. Expectant or nursing mothers in employment and other employed women as appropriate have the right to a special protection in their work.

9. Everyone has the right to appropriate facilities for vocational guidance with a view to helping him to choose an occupation suited to his personal aptitude and to his interests.

10. Everyone has the right to appropriate facilities for vocational training.

11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.

12. All workers and their dependants have the right to social security.

13. Anyone without adequate resources has the right to social and medical assistance.

14. Disabled persons have the right to rehabilitation and resettlement, whatever the origin and nature of their disability.

15. The family as a fundamental unit of society has the right to appropriate social and economic protection.

16. Mothers and children, irrespective of marital status and family relations, have the right to appropriate social and economic protection.

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17. The nationals of any of the Contracting Parties have the right to engage in any gainful occupation in the territory of any of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.

18. Migrant workers have the right to protection and assistance.

PART II

The Contracting Parties undertake to consider themselves bound by the obligations laid down in the following Articles and paragraphs as provided for in Part III.

Article 1

The right to work

With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of employment;

2. to protect effectively the right of the worker freely to choose any available occupation, provided that this provision shall not be interpreted as prohibiting or authorising any union security clause or practice;

3. to establish or maintain free employment services;

4. to promote appropriate vocational guidance, training and rehabilitation.

Article 2

The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Contracting Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;

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2. to provide for recognised public holidays with pay;

3. to provide for a minimum of two weeks' annual holiday with pay;

4. to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed;

5. to ensure a weekly rest period.

Article 3

The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to safe and healthy working conditions the Contracting Parties undertake to provide for adequate protection of life and health during work.

Article 4

The right to a fair wage

With a view to ensuring the effective exercise of the right to a fair wage, the Contracting Parties undertake:

1. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award;

and recognise:

2. the right of all workers to additional wages for work performed at the request of the employer in addition to normal working hours;

3. the right of men and women workers to equal pay for work of equal value.

The exercise of these rights may be assured by voluntary collective agreement, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

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Article 5

The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests, and to join these organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom.. The extent to which the guarantees provided for in this paragraph shall apply to the armed forces, the police and the administration of the State shall be determined by national laws or regulations.

Article 6

The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Contracting Parties undertake:

1. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;

2. to promote the establishment and use of appropriate machinery for conciliation or arbitration for the settlement of labour disputes;

3. to promote joint consultation of workers and employers;

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest.

Article 7

The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

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1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;

2. to provide that a higher minimum age of admission to employment shall be fixed with regard to prescribed occupations regarded as dangerous or unhealthy;

3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

4. to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development and particularly with their need for vocational training;

5. to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay;

6. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national law or regulations;

7. to provide that persons under 18 years of age employed in occupations prescribed by national law or regulations shall be subject to regular medical control.

Article 8

The right of employed women to protection

With a view to ensuring the effective exercise of the the right of employed women to protection, the Contracting Parties undertake:

1. to provide either by paid leave or by adequate social security benefits for women to take leave before and after childbirth up to a total of at least 12 weeks;

2. to prohibit dismissal from employment during or on account of maternity absence;

3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;

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4. to regulate the employment of women workers on night work in industrial employment and to prohibit their employment in underground mining or as appropriate on other work which is unsuitable for them.

Article 9

The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Contracting Parties will endeavour:

1. to provide or promote assistance to individuals to enable them to solve problems related to occupational choice and progress with due regard for the individual's characteristics and their relation to occupational opportunity; such assistance to be available both to young persons, including school children, and to adults;

2. to encourage the full utilisation of the facilities provided, by appropriate measures such as reducing or abolishing any fees or charges.

Article 10

The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Contracting Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of workers;

2. to provide or promote a system of apprenticeship;

3. to provide or promote, as necessary, special facilities for re-training of adult workers where this is necessary as a consequence, particularly, of technological developments or of dislocations of the employment market;

4. to encourage the full utilisation of the facilities provided, by appropriate measures such as:

   (a) reducing or abolishing any fees or charges;

   (b) granting financial assistance in appropriate cases;

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(c) including in the normal working hours time spent on supplementary training, taken by the workman with the consent of his employer, during employment;

(d) ensuring, through adequate supervision, the efficiency of apprenticeship arrangements and the adequate protection of apprentices.

Article 11

The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

1. to remove as far as possible the causes of ill-health;

2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;

3. to prevent as far as possible epidemic, endemic and other diseases.

Article 12

The right to social security

With a view to ensuring the effective exercise of the right to social security, the Contracting Parties undertake:

1. to establish or maintain a system of social security;

2. to maintain the social security system at a satisfactory level at least equal to that required for ratification of the European Code of Social Security;

3. to endeavour to raise progressively the system of social security to a higher level;

4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements, or by other means, and subject to the conditions laid down in such agreements, to ensure:

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(a) equal treatment with their own nationals of the nationals of other Contracting Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Contracting Parties;

(b) the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Contracting Parties;

Article 13

The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Contracting Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted the necessary means of subsistence and in case of sickness, the care necessitated by his condition;

2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;

3. to provide that everyone may receive by appropriate services such advice and personal help as may be required to prevent, to remove, or to alleviate want;

4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this Article on an equal footing to nationals of other Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

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Article 14

The right of the disabled to rehabilitation and resettlement

With a view to ensuring the effective exercise of the right of the disabled to rehabilitation and resettlement, the Contracting Parties undertake:

1. to take adequate measures for the provision of training facilities, including specialised institutions where necessary;

2. to take adequate measures for the placing of disabled persons in employment, such as specialised placing services, facilities for sheltered employment, and measures to encourage employers to admit disabled persons to employment.

Article 15

The right of the family to social and economic protection

The Contracting Parties, recognising the importance of the family as a fundamental unit of society, will endeavour to ensure the economic and social protection of family life.

Article 16

The right of mothers and children to social and economic protection

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

Article 17

The right to engage in a gainful occupation in other member countries

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in other member countries, the Contracting Parties will endeavour:

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1. to apply existing regulations in a spirit of liberality;

2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;

3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

and recognise:

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Contracting Parties.

Article 18

The right of migrant workers to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers to protection and assistance, the Contracting Parties undertake:

1. to maintain or to satisfy themselves that there is maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

3. to secure for such workers lawfully within their territories, in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than of their own nationals in respect of the following matters:

   (a) remuneration and other employment and working conditions;

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(b) membership of trade unions and enjoyment of the benefits of collective bargaining;

(c) accommodation;

4. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

5. to secure for such workers lawfully within their territories treatment not less favourable than of their own nationals, with regard to legal proceedings relating to matters referred to in this Article;

6. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

7. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as he may desire;

8. to extend the protection and assistance provided for in this Article to self-employed migrants in so far as such measures apply to this category.

PART III

Article 19

Undertakings

1. Each of the Contracting Parties undertakes:

   (a) to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that Part;

   (b) to consider itself bound by not less than 10 of the Articles or by not less than 45 of the numbered paragraphs and Articles containing only one paragraph of Part II of this Charter to be selected by it. The Articles or paragraphs selected shall be notified to the Secretary-General of the Council of Europe at the time when the instrument of ratification of the Contracting Party concerned is deposited.

2. Any Contracting Party may, at a later date, declare by notification to the Secretary-General that it considers itself bound by any Articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this Article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification and shall have the same effect as from the thirtieth day after the date of the notification.

3. The Secretary-General shall communicate to all the other Contracting Parties any notification which he shall have received pursuant to this Part of the Charter.

PART IV

Article 20

Reports concerning accepted provisions

The Contracting Parties shall send to the Secretary-General of the Council of Europe a report at two-yearly intervals, in a form to be determined by the Committee of Ministers, concerning the application of such provisions of Part II of the Charter as they have accepted.

Article 21

Reports concerning provisions which are not accepted

The Contracting Parties shall send to the Secretary-General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

Article 22

Communication of copies

1. Each Contracting Party shall communicate copies of its reports referred to in Articles 20 and 21 to such of its national organisations as are members of the international organisations of employers and trade unions in consultative status with the Council of Europe.

2. The Contracting Party shall forward to the Secretary-General any comments on the said reports received from these national organisations, if so requested by them.

Article 23

Examination of the reports

The reports sent to the Secretary-General in accordance with Articles 20 and 21 shall be examined by a Committee of Experts, who shall have also before them any comments forwarded to the Secretary-General in accordance with paragraph 2 of Article 22.

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Article 24

Committee of Experts

1. The Committee of Experts shall consist of not more than seven members appointed by the Committee of Ministers from a list of independent experts of the highest integrity and of recognised competence in social and international questions, nominated by the Contracting Parties.

2. The members of the Committee shall be appointed for a period of six years. They may be re-appointed. However, of the members first appointed, the terms of office of two members shall expire at the end of four years.

3. The members whose terms of office are to expire at the end of the initial period of four years, shall be chosen by lot by the Committee of Ministers immediately after the first appointment has been made.

4. A member of the Committee of Experts appointed to replace a member whose term of office has not expired, shall hold office for the remainder of his predecessor's term.

Article 25

Participation of the International Labour Organisation

The International Labour Organisation shall be invited to nominate a representative to participate in a consultative capacity in the deliberations of the Committee of Experts.

Article 26

Sub-Committee of the Governmental Social Committee

1. The reports of the Contracting Parties and the conclusions of the Committee of Experts shall be submitted for examination to a Sub-committee of the Governmental Social Committee of the Council of Europe.

2. This Sub-committee shall be composed of one representative of each of the Contracting Parties. The international employers' and trade union organisations in consultative status with the Council of Europe shall be invited to be represented by observers in a consultative capacity at the meetings of the Sub-committee.

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3. The Sub-committee shall present to the Committee of Ministers a report containing its conclusions and appending the report of the Committee of Experts.

Article 27

Committee of Ministers

The Committee of Ministers may, on the basis of the report of the Sub-committee, and after consultation with the Consultative Assembly, make to each Contracting Party any necessary recommendations.

PART V

Article 28

Emergency clause

1. In time of war or other public emergency threatening the life of the nation any Contracting Party may take measures derogating from its obligations under this Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. Any Contracting Party which has availed itself of this right of derogation shall within a reasonable lapse of time keep the Secretary-General of the Council of Europe fully informed of the measures taken and of the reasons therefor. It shall likewise inform the Secretary-General when such measures have ceased to operate and the provisions of the C h a r t e r which it has accepted are again being fully executed.

3. The Secretary-General shall in turn inform the other Contracting Parties of all communications received in accordance with paragraph 2 of this Article.

Article 29

Restrictions

1. The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to any restrictions or limitations not specified in those Parts, except such as are prescribed by legal provision or are imposed constitutionally, and are compatible with the nature of these rights and principles or are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

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2. The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.

Article 30

Relations between the Charter and domestic law or international agreements

The provisions of this Charter shall not prejudice the provisions of domestic law or of any bilateral or multilateral conventions or agreements which are already in force, or may come into force, under which more favourable treatment would be accorded to the persons protected.

Article 31

Implementation by collective agreements

1. In Member States where the provisions of paragraphs 1, 2, 3, 4 and 5 of Article 2, paragraphs 4 and 5 of Article 7 and paragraphs 1, 2, 3 and 4 of Article 10 of Part II of this Charter are matters normally left to agreements between employers or employers' organisations and workers' organisations or are normally carried out otherwise than by law, the undertakings of those paragraphs may be given and compliance with them shall be treated as effective if their provisions are applied through such agreements or other means to the great majority of the workers concerned.

2. In Member States where these provisions are normally the subject of legislation, the undertakings concerned may likewise be given and compliance with them shall be treated as effective if the provisions are applied by law to the great majority of the workers concerned.

Article 32

Territorial application

1. This Charter shall apply to the metropolitan territory of each Contracting Party. Each Contracting Party may, at the time of signature or of the deposit of its instrument of ratification, specify, by declaration addressed to the Secretary-General of the Council of Europe, the territory which shall be considered to be its metropolitan territory for this purpose.

2. Any Contracting Party may at the time of ratification of this Charter or at any time thereafter, declare by notification addressed to the Secretary-General, that the Charter shall extend in whole or in part to a non-metropolitan territory or

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territories specified in the said declaration for whose international relations it is responsible. It shall specify in the declaration the Articles or paragraphs of Part II of the Charter which it accepts as binding in respect of the territories named in the declaration.

3. The Charter shall extend to the territory or territories named in the aforesaid declaration as from the thirtieth day after the date on which the Secretary-General shall have received notification of such declaration.

4. Any Contracting Party may declare at a later date by notification addressed to the Secretary-General that, in respect of one or more of the territories to which the Charter has been extended in accordance with paragraph 2 of this Article, it accepts as binding any articles or any numbered paragraphs which it has not already accepted in respect of that territory or territories. Such undertakings subsequently given shall be deemed to be an integral part of the original declaration in respect of the territory concerned, and shall have the same effect as from the thirtieth day after the date of the notification.

5. In the territories referred to in paragraphs 2, 3 and 4 of this Article the provisions of this Charter shall be applied with due regard to local requirements.

6. The Secretary-General shall communicate to the other Contracting Parties any notification transmitted to him in accordance with this Article.

Article 33

Signature, ratification and entry into force

1. This Charter shall be open for signature by the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.

2. This Charter shall come into force as from the thirtieth day after the date of deposit of the fifth instrument of ratification.

3. In respect of any Signatory Government ratifying subsequently, the Charter shall come into force as from the thirtieth day after the date of deposit of its instrument of ratification.

4. The Secretary-General shall notify all the Members of the Council of Europe of the entry into force of the Charter, the names of the Contracting Parties which have ratified it and the subsequent deposit of any instruments of ratification.

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Article 34

Amendments

Any Signatory Government may propose amendments to this Charter in a communication addressed to the Secretary-General of the Council of Europe. The Secretary-General shall transmit to the other Signatory Governments any amendments so proposed, which shall then be considered by the Committee of Ministers and submitted to the Consultative Assembly for opinion. Any amendments approved by the Committee of Ministers shall enter into force as from the thirtieth day after all the Contracting Parties have informed the Secretary-General of their acceptance. The Secretary-General shall notify all the Members of the Council of Europe of the entry into force of such amendments.

Article 35

Denunciation

1. Any Contracting Party may denounce this Charter only at the end of a period of five years from the date on which the Charter entered into force for it or at the end of any successive period of two years, and in each case after giving six months notice to the Secretary-General of the Council of Europe, who shall inform the other Parties accordingly. Such denunciation shall not affect the validity of the Charter in respect of the other Contracting Parties provided that at all times there are not less than five such Contracting Parties.

2. Any Contracting Party may on the terms specified in the preceding paragraph, denounce any of the Articles or paragraphs of Part II of the Charter which it has accepted, provided that the number of Articles or paragraphs binding upon that Party shall at all times not be less than 10 or 45 respectively.

3. Any Contracting Party may denounce the present Charter or any of the Articles or paragraphs of Part II of the Charter, on the terms specified in paragraph 1 of this Article, in respect of any territory to which the said Charter is applicable by virtue of a declaration made in accordance with Article 32, paragraph 2.

4. [Any Contracting Party which ceases to be a Member of the

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Council of Europe shall also cease to be a Party to this Charter. 1)

In witness whereof, the undersigned, being duly authorised thereto, have signed this Charter.

Done at .....

this .....day of .....19..., in English and French, both texts being equally authoritative, in a single copy which shall be deposited within the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the Signatories.

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1) The Social Committee postponed its decision on this paragraph, pending a decision of the Committee of Ministers on the question of enabling non-member States to accede to the Charter.

Appendix
to the draft European Social Charter

"Part I, Paragraph 17 : and Part II, Article 17, paragraph 1.

It is understood that the question of entry into the territories of Contracting Parties is settled in conformity with the obligations of the Contracting Parties under the provisions of the European Convention on Establishment and the Protocol thereto."

"Part II

Article 7, paragraph 6.

It is understood that a Member State may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under 18 years of age shall not be employed in night work, the exceptions being those persons not covered by law".

Article 12, paragraph 3

In the event of the adoption of a Protocol to the European Code of Social Security, the higher level of social security referred to in this paragraph shall be at least equal to that required for ratification of the protocol.

Article 12, paragraph 4

The words "and subject to the conditions laid down in such agreements" in the introduction to this paragraph are taken to imply inter alia that with regard to benefits, which are available independently of any insurance contribution, a Contracting Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Contracting Parties.

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Part V

Article 29:

The plenary decisions which the Norwegian Parliament, on the basis of constitutional provisions, takes in budgetary matters shall be considered to be covered by the term "legal provision" as employed in this Article.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

Strasbourg, 7th March, 1958

Confidential
CM (56) 27
Ar. Eng.

REPORT

of the

SOCIAL COMMITTEE

(Seventh Session)

1. The Social Committee held its Seventh Session at Strasbourg from February 17th to 21st 1958. The list of members and observers participating in the Session is contained in Appendix I. The Agenda adopted by the Committee is set out in Appendix II.

2. The meeting was opened by the Head of the Social Division of the Secretariat-General of the Council of Europe. He informed the Committee that the Committee of Ministers had given preliminary consideration to but not yet decided upon the two questions raised by the Social Committee in the Report by which it submitted the draft Social Charter, i.e. whether or not the Charter should be open to the accession of non-Member States and whether or not the right to education should be included in the Charter. A decision on these points would be taken by the Ministers' Deputies at their next Meeting.

3. The Committee was further informed that the Committee of Ministers had decided to request the Governing Body of the I.L.O. to convene, in accordance with Article 3 of the Agreement between the two Organisations, a European tripartite conference to examine the draft Charter. In view of this, the Ministers' Deputies had not considered it useful at present to enter into the question of the reservations made by some delegations to the Social

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Committee during the preparation of the draft Charter. That could be done at a later stage, when the tripartite conference would have given its Opinion on the draft.

4. The Head of the Social Division then drew the attention of the Committee to the fact that two new questions had been referred to it by the Committee of Ministers, namely Assembly Recommendation 154 (1958) relating to housing, and the application of the International Association for Social Progress for consultative status with the Council of Europe.

5. The Committee then re-elected Mr. G.C. VEYSEY, C.B. (United Kingdom) as Chairman and Dr. GELLER (Federal Republic of Germany) as Vice-Chairman.

Agenda Item 3: Adoption of the Agenda

6. At the proposal of the Delegation of Austria it was agreed to include a new item in the Agenda after Item 4 of CE/Soc (58) OJ 1, as follows:

> "Consideration of the desirability of adding to the European Social Charter a Protocol providing for the ratification by Parties of certain International Labour Conventions".

It was further agreed to delete Item 5 of CE/Soc (58) OJ 1, in view of the fact that the Committee of Ministers had already decided to request the convocation of a tripartite conference, and to deal under "other business" with the two questions mentioned in paragraph 4 above as well as with the adoption of the Report of the Sixth Session of the Committee (Doc. CM (58) 18).

Agenda Item 4: Revision of the text of the draft European Social Charter (1)

7. The Committee had before it the following documents: CM (57) 176, which sets out the text of the draft Charter as adopted at the Sixth Session; CE/Soc (57) 27, which contains proposals by the Legal Department of the Secretariat for amendments of form and style; CE/Soc (58) 1, which was a list of points to be checked, and CE/Soc (58) 4, which contained a proposal by the United Kingdom Government relating to the "colonial application clause".

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(1) The amended text is set out in Appendix IV, which for practical reasons, has been prepared as a separate paper.

8. The Chairman recalled that the purpose of the revision was a double one, as stated by the Committee in the Report submitting the draft text to the Committee of Ministers, namely: (a) to review form and style, and (b) to consider whether any slight modifications of the wording in some instances might make the draft more generally acceptable.

Preamble:

9. It was agreed that the opening words, as in several other European Conventions, should be: "The Governments signatory hereto, being Members of the Council of Europe". In this connection it was also decided, throughout the instrument, to replace the term "High Contracting Parties" by the term: "Contracting Parties".

10. In connection with the first "Considering", a proposal to replace the word "maintenance" by the word "protection" (i.e. of human rights etc.) was rejected.

11. It was decided, at the proposal of the Delegation of the Netherlands, to reproduce in the second "Considering" and in other places where they occur the full titles of European Conventions and to mention place and date of signature of these instruments.

PART I

12. At the proposal of the Delegation of the United Kingdom it was decided that the introductory paragraph should refer to "the following rights and principles" and that the words "Set forth hereafter in this First Part" should therefore be deleted. Moreover it should be made clear, by putting a colon after the last word of the introductory paragraph, that that paragraph applied only to the enumerated provisions belonging to Part I.

13. On the other hand, the Delegation of Austria made a proposal to the opposite effect, namely to place the introductory paragraph above the heading "Part I", so as to make the introductory paragraph apply to the whole text. This was rejected because other Parts contained more than mere aims of policy.

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14. Paragraph 1:

The Delegation of Austria proposed the following wording, as set out in the Addendum to Part D of Doc. CM (57) 176:

"Everyone shall have the opportunity to earn his living in a freely chosen and accepted occupation."

However, the Delegation did not insist on this proposal, since the present wording had been carefully discussed and represented a solution that all Delegations could agree to. It was stressed in this connection that because of the provisions contained in Part III of the draft, all the provisions of Part I must be acceptable to all Contracting Parties.

A proposal for a slight amendment of form made by the Legal Department was withdrawn, and the paragraph adopted without change.

15. Paragraph 2:

A proposal by the Legal Department to replace the word "just" by the word "fair" was not adopted, the Committee having been informed that the word "just" was used in the Universal Declaration of Human Rights.

16. Paragraphs 3 to 6, inclusive, were adopted without change, except that the word "negotiate" in paragraph 6 was replaced by the word "bargain".

17. Paragraph 7:

The Delegation of Ireland pointed out that whereas other paragraphs referred to "all" workers, the word "all" did not appear in paragraph 7. It might be desirable therefore to introduce it. This was rejected on the grounds, among others, that the hazards mentioned in the paragraph would not arise for all children and young persons.

18. The Delegation of Belgium suggested that this paragraph, like the previous one, should refer to workers, i.e. young workers. This was rejected, among others because young workers might mean persons older than those the protection of whom is envisaged. Paragraph 7 was then adopted without change.

19. Paragraph 8 was adopted without change.

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20. Paragraph 9:

It was agreed to replace the words "to help" by the words: "with a view to help". A proposal by the Legal Department to replace the word "aptitude" by "capacity" was, however, rejected. The former was deemed better, since it pointed to what might be developed.

21. The Delegation of Ireland pointed out that while each other paragraph of Part I corresponded to a chapter in Part II, there were two chapters in Part II corresponding to paragraph 9 of Part I. This was because the latter dealt both with vocational guidance and vocational training, and each of these matters was treated separately in Part II. This should be the case also in Part I.

After some discussion it was agreed to restrict paragraph 9 to vocational guidance, the only change being to delete the words "and training", and to insert a new paragraph reading as follows:

"Everyone has the right to appropriate facilities for vocational training."

22. Paragraph 10 was adopted, subject to the word "all" being replaced by the word "any".

23. Paragraph 11 was adopted, subject to the deletion of the word "shall".

24. Paragraph 12 was adopted, subject to the word "Everyone" being replaced by "Anyone", and the words "shall have" by the word "has".

25. Paragraphs 13, 14 and 15 were adopted without change.

26. Paragraph 16:

The Delegation of Ireland pointed out that the formulation of the clause which placed restrictions on the right dealt with here was not in harmony with the general clause used in Part V, Article (b). The Head of the Legal Department then suggested to use the same wording as in Article 10 of the European Establishment Convention, since both texts were meant to cover the same idea.

27. A considerable discussion arose, however, in connection with how paragraph 16 should really be understood. The Delegation of the United Kingdom stated that in its

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view the paragraph related only to questions of employment in a foreign country, and had nothing to do with the right of entry into a foreign country. This distinction did, however, not appear clearly from the text of the paragraph as presently worded. The Delegation therefore proposed the inclusion of words that would limit the right embodied in this paragraph to persons lawfully resident in the territory of the country where he wished to exercise the right. Otherwise there would be no control over the entry of aliens.

28. Other Delegations were afraid that the addition of the words proposed might unduly limit the purpose of the paragraph. A given country could render the right in question illusory simply by the way of maintaining a strict regulation of the entry of aliens or require an unduly prolonged period of sojourn as a condition for establishing "residence". The Delegation of Greece suggested to restrict the paragraph to persons "lawfully within" the territory in question. This term was used in Part II, Chapter XVIII in connection with the right of migrant workers to protection and assistance.

29. The Delegation of the United Kingdom stressed the difference between the terms "lawfully within the territory" and "lawfully resident in the territory". The Delegation referred to the Establishment Convention where the question of entry, residence and expulsion are dealt with in one chapter, while the question of gainful occupation is dealt with in another. In both cases certain restrictions may be imposed. The draft Social Charter did not deal with entry, but only with employment, and the restrictions provided for in paragraph 16 did not relate to the question of entry. One could, in the draft Charter, follow the same system as in the Establishment Convention.

30. The Delegation of Belgium recalled that the Protocol to the European Establishment Convention contained clauses that went to render the provisions of the Convention itself more favourable. Since the provisions of Part I of the draft Charter expressed aims of policy, paragraph 16 should not be less generous than the said Protocol.

31. The United Kingdom Delegation then proposed to leave the text of paragraph 16 unchanged and to insert in the Annex to the Charter a statement of interpretation to the effect that the paragraph did not deal with the question of entry.

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32. The Delegation of Italy suggested that the statement in the Annex should indicate that the question of entry should be settled in accordance with the Establishment Convention and the Protocol thereto.

33. At the request of the Committee, the Delegation of the United Kingdom prepared a draft text for inclusion in the Annex: Doc. CE/Soc/Misc (58) 1, which was adopted, subject to a slight change of wording. Paragraph 16 was then adopted without change, except that it was left open to be decided in connection with the discussion of Part V, Article (b) whether or to what extent the restrictions to the right contained in Paragraph 16 should be maintained as expressed in that paragraph in view of the fact that the said article contains a general saving clause.

34. The Delegation of Sweden wanted it recorded in the Report that the Annex should not contain something that amounted to a positive rule of how to settle entry questions. If such rule should be adopted, it ought to be included in the Charter itself.

35. The Delegation of Ireland, having expressed some apprehension that the statement in the Annex might involve an obligation for a State to settle entry questions in conformity with the Establishment Convention (which the Irish Government had not signed) accepted the decision of the Committee, subject to objections that might be raised for juridical reasons.

36. Paragraph 17:

The Delegation of Sweden raised the question as to whether the right to protection and assistance applied to all migrant workers or only to those who were nationals of the Contracting Parties. In the latter case one should say so in the text. After a discussion from which it emerged as the consensus of opinion that the rights defined in the Charter were not limited to the nationals of the Contracting Parties, paragraph 17 was adopted without change.

37. The Delegation of Italy drew attention to an error in Part D of Doc. CM (57) 176, where a reservation made by the Delegations of Greece and Italy in respect of paragraph 17 had been listed under paragraph 16. With this reservation, which was to the effect that migrants should be entitled to equal treatment with nationals in certain specified matters, the Italian Delegation could

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accept the decision of the Committee. The Delegation of Belgium stated that it could also agree to a wording mentioning expressly the right to equal treatment.

PART II

38. The Delegation of Turkey drew attention to the fact that in the amended draft text of the Charter prepared by the Legal Department (Doc. CE/Soc (57) 27) certain provisions that previously formed independent paragraphs, had been transformed into sub-paragraphs, and for this reason the total number of paragraphs among which the Governments according to Part III of the Charter could select those by which it would be bound had diminished. It was explained by the Head of the Legal Department that Doc. CE/Soc (57) 27 had been prepared before the Committee adopted its own draft. The document was based on a previous draft where the provisions in question also appeared as sub-paragraphs. The Chairman stated that in any case it would be necessary to see to it that the number of independent paragraphs would be kept unchanged.

39. Before entering into the details of Part II, the Committee then took the following decisions affecting the whole Part:

(a) At the suggestion of the Delegation of Belgium it was decided to insert the following introductory paragraph:

> "The Contracting Parties undertake to consider themselves bound by the obligations laid down in the following Articles and paragraphs as provided for in Part III."

(Doc. CE/Soc/Misc (58) 2, as amended).

(b) The word "Chapter" should be replaced by "Article", and the latter word, together with the appropriate figure, should appear as heading of each of the present Chapters.

(c) Within each article, the paragraph numbers should start with 1. Thus, the present enumeration which runs continuously through the whole Part should be changed.

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(d) In the introduction to each article, the words "this right" should be replaced by the complete indication of the right in question.

40. A proposal by the Delegation of the United Kingdom to replace the word "undertake" in the introduction to each article by the word "shall" and, consequently, to delete the first "to" in the various paragraphs was rejected on the grounds that it would render it less clear that real undertakings were implied.

The right to work

41. Paragraph 1:

Adopted without change.

42. Paragraph 2:

The Delegation of France recalled that it had made a reservation on this paragraph. An unemployed worker did not always have a free choice of employment, since he would lose the unemployment benefit if he did not accept work offered to him. The Delegation maintained this reservation.

43. In this connection a discussion arose concerning the understanding of this paragraph. Several Delegations explained that the situation in their countries was as in France in this respect, but they did not consider this incompatible with the provision of paragraph 2.

44. The Delegation of the Netherlands, although in agreement with the latter Delegations, stated that it had other reasons for maintaining its reservation in respect of paragraph 2, as stated in Part D of Doc. CM (57) 176.

45. Paragraph 2 was adopted, subject to the word "though" in the second line being replaced by the words "provided that".

46. In connection with the discussion of paragraph 2, the Delegation of Ireland raised the question of the nature of the reservations made to various paragraphs. If the idea simply was that a certain government could not accept a given paragraph, this situation would be sufficiently covered by the provisions of Part III according to which the governments had a choice, and they need not undertake

any provision that would be contrary to their legislation. A reservation might, however, also imply that a government was against the very principle embodied in given paragraphs and wanted to reserve its freedom to oppose such paragraphs.

47. It appeared from the ensuing exchange of views that many reservations had been made on the assumption that all provisions of the Charter would be binding and that, on the other hand some delegations had abstained from making reservations although the legislation of their countries did not cover all provisions of the Charter.

It was generally agreed that reservations should only be made in respect of what a government considered to be important points of principle. The Committee should, in accordance with the decision of the Committee of Ministers, come back to the question of such reservations after the tripartite conference. In other cases, observations could be made in the Minutes.

The Delegation of the Netherlands stated that in the light of the decision to the effect that reservations should only be made on important points of principle, it could withdraw its reservation on paragraph 2.

48. Paragraphs 3 and 4 were adopted without change.

The right to just conditions of work

49. Paragraph 5:

The Delegation of Ireland was of the opinion that this paragraph contained two quite different ideas that should be separated. The last part - dealing with the reduction of the working week should be embodied in an independent paragraph, and moreover the reduction should be related to something concrete.

50. Other Delegations felt that the two ideas could not be separated since they formed a whole and were interdependent. Thus the Delegation of Sweden considered that the last part of the paragraph could be understood as an explanation of the word "reasonable", and the Delegation of Belgium recalled that the last part of the paragraph had been inserted instead of the definite aim of 40 hours a week proposed by the Consultative Assembly. Paragraph 5 was adopted without change.

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51. Paragraph 6 was adopted without change in the English text, it being understood that the French text should be brought into harmony with the English. The Delegation of Greece withdrew its reservation on this paragraph.

52. Paragraph 7:

Adopted without change.

53. Paragraph 8:

The Delegation of Austria stated that the granting of additional paid holidays was not the only way of compensating those who worked in dangerous or unhealthy occupations. In Austria, shorter daily working hours were applied, and this was considered to be a better method. It was also used in certain International Labour Conventions, such as Nos. 43 and 61.

54. It was agreed to insert the words "or reduced working hours" at the appropriate place in paragraph 8. The Delegation of France would have preferred a more general wording such as "or other more appropriate means of protection", but it was pointed out by the Chairman that the idea of protection was embodied in the next Article.

55. The Delegation of Luxembourg wanted it recorded in the Report that in its view, the provisions of paragraph 8 should apply also to particularly arduous work.

56. At a question from the Delegation of the Federal Republic of Germany as to the understanding of the word "additional", which must be seen in relation to something, the Chairman, expressing the consensus of opinion, replied that it should be seen in relation to the provision in paragraph 7.

57. Paragraph 9:

This paragraph was adopted in the following form:

"to ensure a weekly rest period".

The right to safe and healthy working conditions

58. Paragraph 10 was adopted without change.

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The right to a fair wage

59. Paragraph 11 was adopted without change.

60. Paragraphs 12 and 13:

The Delegation of Belgium recalled that it had made a reservation to the effect that these paragraphs should be binding, and it would be all the more acceptable to do so now, inasmuch as the provisions of Part III permit of a choice among several paragraphs of Part II. The Delegations of France, Greece, Italy and Luxembourg agreed.

61. The Delegation of Ireland observed that all overtime could not give rise to a claim for additional wages. Thus, higher civil servants did not have any such claim.

62. The Delegation of Belgium proposed to delete the last phrase of this Chapter (Article) which relates to implementation through collective agreements, etc. in view of the fact that general provisions of this nature are included in Part V, Article (c). In that article reference should be made to paragraphs 12 and 13 of Part II. It was, however, pointed out by the Chairman that Article (c) was meant to apply only to undertakings on the part of the governments, and no such undertaking was involved in paragraphs 12 and 13. The two paragraphs were adopted without change.

The right to organise

63. Paragraph 14:

The Delegation of Turkey proposed to divide this paragraph in two. One would contain the general rule concerning the right to organise, and the other would deal with the special case of the members of the armed forces, the police and the administration of the State. If this were done, Turkey could accept the first of the two paragraphs, but it could not accept the entire paragraph 14, since this would implicitly amount to a recognition of the right to organise even for groups that did not have that right in Turkey.

64. In this connection a discussion arose concerning what was the real position with regard to the special groups referred to in the last phrase of the paragraph and how it could best be expressed in the text.

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65. The Delegation of Denmark considered that instead of "administration of the State" one could say "administrators of the State", so as to make it clear that the exception from the general rule did only apply to civil servants in responsible posts and not to ordinary office personnel.

66. The Delegation of the Federal Republic of Germany proposed to replace the word "shall" in the phrase referring to the special groups, by the word "may". The Delegation of Belgium protested against this. The text of paragraph 14 was already contrary to International Labour Convention No. 87 in that the former did not automatically recognise the right of civil servants to organise. If the word "shall" were replaced by "may", the difference between the two texts would be still greater. It was decided to maintain the word "shall".

67. The Delegation of Turkey then submitted to the Committee Doc. CE/Soc/Misc (58) 4, containing a formulation of its above mentioned proposal as well as a second alternative according to which the text of the paragraph would be left unchanged and the following statement of interpretation would be included in the Annex:

"Part II:

Article 5:

It is understood that Article 5 shall not be interpreted as carrying the obligation for the High Contracting Parties which have adopted this Article, to accord the right of association (trade union) to members of the armed forces, the police and the administration of the State".

68. The Chairman stated that if the first alternative were accepted, the special groups referred to in the second paragraph must be expressly excepted in the first, general, paragraph.

69. The Delegation of Luxembourg stated that there could be no question of excluding civil servants. However, if the second paragraph which would be added under the first Turkish alternative implied that in principle the right to organise was granted also to members of the armed forces, the police and civil servants, it was acceptable and even an improvement. The Delegation supported this alternative. The second alternative was, however, not acceptable since it did not grant this right even in principle.

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70. As there was a great majority against the first alternative proposed by the Turkish Delegation, the Committee decided to adopt the text of paragraph 14 without change, except that it was left open to decide in connection with the discussion of Part V, Article (b) to what extent the restrictions to the right should be maintained in view of the fact that this article contains a general saving clause. The Delegations of Belgium, France, Italy and Luxembourg maintained their reservation: they consider that the right of civil servants to organise should be recognised as in International Labour Convention No. 87.

71. The Committee then discussed the second alternative: inclusion of the above statement in the Annex. As this was not accepted by the Committee, the Delegation of Turkey made a reservation on this point.

72. A discussion arose as to the correct interpretation of the last phrase of paragraph 14. The Delegation of Norway, supported by the Head of the Legal Department of the Secretariat and the Chairman, stated that Governments were left free to decide to what extent the right to organise might be extended to members of the armed forces, the police and the civil servants. They were free to derogate from the rule of the right to organise in respect of these groups, but such derogations must be made through positive measures in the form of national laws or regulations. These derogations might be more or less extensive, and Governments were free to decide on their scope. They might even go so far as to deny this right completely to these groups. On the other hand, Governments were also free not to make any derogations, and in that case the right to organise would apply also to the groups in question. This was the general consensus of opinion.

73. A proposal was made to word the beginning of the second phrase of paragraph 14 as follows: "the extent to which the guarantees provided for in this article shall not apply to the armed forces ... etc.". The Delegation of Belgium pointed out, however, that this would imply to recognise in principle the right to organise even for members of the armed forces, which was not acceptable. Some Delegations found the proposal acceptable, but it was not adopted by the Committee.

The right to bargain collectively

74. Title

A proposal by the Legal Department to replace the word "bargain" by the word "negotiate" was rejected.

75. Paragraphs 15 and 16 were adopted without change.

76. Paragraph 17:

At the proposal of the Delegation of the United Kingdom it was decided to delete the words "encourage and" Otherwise the paragraph was adopted without change.

77. Paragraph 18 was adopted without change, with the same proviso as in regard of Part I, paragraph 16 and Part II, paragraph 14, concerning the relation to Part V, Article (b). The Delegation of Italy announced the withdrawal of the reservation which it had made on this paragraph.

The right of children and young persons to protection

78. Paragraph 19:

The Delegation of the United Kingdom stated that for legal reasons it would be difficult for the United Kingdom to accept this paragraph, although the school leaving age was 15 years. The Delegation suggested to place the emphasis on the school leaving age, the age of admission to employment being a function of that age. The Delegation of France pointed out that since the school leaving age in France was 14 years, it approved the British proposal. Other Delegations preferred the present text, among others because it would not be appropriate to fix the school leaving age in an instrument of the nature of the Social Charter. Paragraph 19 was then adopted without change.

79. Paragraph 20 was adopted without change.

80. Paragraph 21 was adopted, subject to the addition of the words "the full benefit of" before the words "their education".

81. Paragraph 22 was adopted, subject to the term "working day" being replaced by the term "working hours" which would be more flexible.

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82. Paragraph 23:

The Delegation of Greece pointed out that the right dealt with here should be dependent upon the completion of a certain minimum period of employment, such as e.g. one year. The paragraph was nevertheless adopted without change, on the understanding that it would be quite normal to require such a minimum period and it was not necessary to state it in the text.

83. Paragraph 24:

The Delegation of the United Kingdom pointed out that although the United Kingdom complied with the spirit of this paragraph, the precise terms could not be accepted, because instead of providing for a general prohibition of the night work of persons under 18 years of age, with certain exceptions, the British legislation prescribed the cases where such night work was prohibited. There was, however, a large number of such cases. The Delegation of France stated that in its country, the situation was somewhat similar.

84. On the other hand, the Delegation of the Netherlands objected that if the paragraph were changed in the way indicated by the United Kingdom Delegation, it would change the whole sense of the provision, since the rule should be that night work of young persons should be prohibited.

85. After some further discussion, it was decided, in order to overcome this difficulty, to leave the text unchanged but to include in the Annex to the Charter the following statement (1):

"Part II

Paragraph (24)

It is understood that a Member State may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under 18 years of age shall not be employed in night work, the exceptions being those persons not covered by law".

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86. Paragraph 25:

The Delegation of the United Kingdom stated that with regard to this provision the United Kingdom would be in much the same situation as concerning paragraph 24.

87. The Delegation of the Netherlands recalled that it had made a reservation on this point. There was no reason to oblige young workers whose work did not involve any special health risks to undergo regular medical control. A proposal which had been made to solve this question as in the case of paragraph 24 by leaving the text unchanged and including an appropriate statement in the Annex would not lead to the withdrawal of the Dutch reservation, which was one of principle.

88. Several other Delegations agreed that it was unnecessary to provide for regular medical control, and the Committee therefore adopted a proposal made by the Delegation of Ireland to draft the paragraph as follows:

> "to provide that persons under 18 years of age employed in such occupations as may be determined by national law or regulations shall be subject to regular medical control."

89. The Delegation of the Netherlands declared that in these circumstances it could withdraw its reservation on this paragraph.

The right of employed women to protection

90. Paragraph 26 was adopted without change.

91. Paragraph 27:

The Delegation of Sweden pointed out that in Sweden there was a waiting period of one year before the protection here provided for became operative. The Delegation proposed to add words to that effect to the paragraph. This was not adopted, partly because such a waiting period might be taken for granted as in the case of paragraph 23, partly because the case might be covered by the general saving clause in Part V, Article (b).

92. Paragraphs 27 and 28 were adopted without change, the Committee having rejected a proposal by the Delegation of Italy to the effect that the time off for nursing provided in paragraph 28 should be paid. The Delegation of Italy withdrew its reservation on paragraph 28.

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93. Paragraph 29 was adopted, subject to the deletion of the initial words: "to take action". Some discussion arose however as to whether the French word "pénible" corresponded to the English word "unsuitable". Proposals were made to replace the English word by another, such as "heavy", but the Committee decided to maintain the word "unsuitable".

94. The Delegations of Belgium and Norway maintained the reservation they had previously made on paragraph 29, and the Delegation of Denmark made the same reservation.

The right to vocational guidance

95. Paragraph 30 was adopted, subject to the opening words being replaced by the following: "to provide or promote assistance to individuals to enable them to solve problems ...."

96. Paragraph 31 was adopted without change.

97. The Delegations of Belgium and Luxembourg maintained their reservation to the effect that paragraphs 30 and 31 should be of a binding nature.

The right to vocational training

98. The Delegation of the United Kingdom pointed out that in the United Kingdom, arrangements for vocational training and apprenticeship were often left to private employers. Although the United Kingdom might accept the provisions of the Charter for vocational training on the strength of what was actually done by the Government, it would be preferable to take into account also the private efforts in this field. For that reason the Delegation proposed to make reference in Part V, Article (e) also to paragraphs 32 to 35, inclusive, so that implementation through collective agreements or other means could be recognised.

99. The Delegation of Denmark raised certain objections against this on the grounds, respectively, that the paragraphs to which reference was made in Article (e) had been selected very carefully so as to restrict the provisions to which undertaking may be given by collective agreements to some fundamental rights which could otherwise not be ratified. The majority of the Committee accepted, however, the British proposal which was thus adopted.

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100. Paragraphs 32, 33 and 34 were then adopted without change, and paragraph 35 was adopted, subject to the words "at the request of his employer" in sub-paragraph (c) being replaced by the words "with the consent of his employer".

The right to protection of health

101. Paragraphs 36, 37 and 38 were adopted without change. The Delegation of Sweden maintained its reservation to the effect that these provisions should not be binding, since their implementation could not be effectively controlled.

The right to social security

102. Paragraphs 39, 40 and 41 were adopted without change, subject to the deletion of the word "minimum" in paragraph 40. The Delegation of France maintained its reservation on paragraph 40, to the effect that ratification of the European Code of Social Security should be required.

103. Paragraph 42:

At the proposal of the United Kingdom Delegation it was decided to add the words "or by other means" after the word "agreements" in the second line. As an example of such other means was mentioned the action that a Government might take unilaterally by law.

104. As a matter of clarification, and at the proposal of the same Delegation, it was also agreed to replace the words: "equal treatment with all nationals of each of the Contracting Parties" by the words: "equal treatment with their own nationals of the nationals of other Contracting Parties". In addition it was agreed to present the substance of paragraph 42 in the form of two sub-paragraphs, (a) and (b), corresponding to the two main ideas embodied in the paragraph. Moreover, the words "be obliged to" towards the end of what would become sub-para. (a) were deleted.

105. The United Kingdom Delegation further drew attention to the statement regarding paragraph 42 in the Annex to the Charter and proposed for technical reasons concerning certain social security schemes in the United Kingdom to replace the words: "of a non-contributory character" by the words: "which are available independently of any insurance contributions". This was agreed.

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106. The Delegation of Italy maintained its reservation, not only on this paragraph in the text, but also on the statement in the Annex referring thereto. It would prefer a formulation corresponding to the formula of the European Covention concerning the Social Security of Migrant Workers.

The right to social and medical assistance

107. Paragraph 43 was adopted, subject to the words in the English text "every person" being replaced by the words "any person" and the words: "on his own or from other sources" being replaced by the words; as suggested by the Legal Department: "either by his own efforts or from other sources".

108. Paragraph 44:

The United Kingdom Delegation pointed out that if this paragraph were understood literally, it would lead very far. It should be expressly limited to persons who needed assistance. However, the Swedish Delegation stated that the idea was rather to prevent want. Help might be required before a person became "needy". The paragraph was then adopted without change.

109. Paragraph 45:

The Danish Delegation having proposed to use the term "social and medical assistance" instead of "public assistance" which was more restrictive, the Committee decided to avoid any difficulties of interpretation by saying "such assistance", meaning the assistance described in paragraph 43. In order to make this quite clear, paragraph 45 was moved up above the former paragraph 44.

110. Paragraph 46:

This paragraph was adopted, subject to the words: "the preceding paragraphs" being replaced by a reference to paragraphs 43, 44, and 45, and the words "legally present in" being replaced by "lawfully within". Moreover, it was decided to add a reference to the place and date of signature of the European Convention on Social and Medical Assistance.

111. Various proposals were made to clarify the implication of the reference to the said Convention. For countries that had ratified the Convention with or without reservations, the meaning would be clear enough, but what would

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be the situation of countries that had n o t ratified? The Delegation of the Netherlands suggested to use a wording similar to the reference in paragraph 40 to the European Code of Social Security. The Swedish Delegation considered that a State that had not ratified the Convention could not undertake the obligation of paragraph 46, and the Danish Delegation thought that the difficulty could be overcome by referring to "the provisions of" the Convention rather than to "their obligations under" it. The United Kingdom Delegation proposed to make the obligation to grant equal treatment the subject of a separate sentence, and to go on by stating that if a State had ratified the Convention, this obligation would be subject to its obligations under the Convention. This would, as pointed out by the Delegation of Norway, make it clear that the main obligation applied also to States that had not ratified the Convention. The same Delegation suggested to delete any reference to the Convention, since all Parties to the Charter should undertake the obligation to grant equal treatment. Several other proposals were made, including one to the effect that it should be made clear that the obligation in question depended upon reciprocity. Since no proposal could command a sufficient support, the Committee decided to leave the text unchanged, except for the above mentioned minor amendments of form.

The right of the disabled to rehabilitation and resettlement

112. Paragraphs 47 and 48 were adopted without change.

The right of the family to social and economic protection

113. Paragraph 49 was adopted without change.

The right of mothers and children to social and economic protection

114. Paragraph 50 was adopted, subject to the words: "or services" being added after the word "institutions" in the last line. This addition was made at the proposal of the United Kingdom Delegation because the term "institutions" had a rather narrow sense and could be taken to mean material institutions like special homes etc.

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The right to engage in a gainful occupation in other member countries

115. The above heading was adopted instead of the original, in order to conform with the wider scope of the corresponding paragraph in Part I.

116. Paragraph 51 was adopted without change, subject to the same proviso as in the case of certain previous paragraphs concerning the relation to the general saving clause in Part V, Article (b). It was recalled, however, that in a previous draft, the provision now contained in this paragraph had come at the end of the Chapter (Article). The fact that it now was at the beginning had caused a certain ambiguity since the provisions in the following paragraphs might be taken to refer only to the right to leave one's country and not to the right to engage in gainful occupations in other countries. In order to clarify this point, the Secretariat had proposed a new wording of the present paragraphs 52 - 54, contained in Doc. CE/Soc (58) 1, point 9.

117. The Delegation of Belgium pointed out, however, that this whole Chapter must apply not only to salaried workers but also to the self-employed. The draft proposed by the Secretariat was, therefore, not satisfactory, since it referred only to the "employment of foreign workers". For this reason, and to avoid any ambiguity, it was decided to revert to the previous order of the paragraphs, so that the present paragraph 51 would come at the end.

118. Paragraphs 52, 53 and 54 were adopted without change.

119. The Delegation of the Netherlands considered that it should be stated in these paragraphs that they applied only to nationals of the Contracting Parties, as in Part I, paragraph 16. The Chairman pointed out, however, that this was covered by the Article heading which spoke of "member countries". The Delegation of Italy stated that it preferred the version of paragraph 52 appearing in Doc. CE/Soc (58) 1, with an additional reference to entry and sojourn. In this connection the Chairman recalled the statement which had been included in the Annex relating to Part I, paragraph 16 concerning the settlement of questions regarding entry. It was agreed that the same statement should apply also to paragraph 52 of Part II.

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The right of migrant workers to protection and assistance

120. Paragraphs 55, 56 and 57 were adopted without change, subject to the little roman figures in paragraph 57 being replaced by letters. The Delegation of France would have preferred to replace paragraph 57 by a wording along the lines of Article 17 of the European Convention on Establishment. The Delegation of Belgium having remarked that the text used in the draft Charter had been borrowed from International Labour Convention No. 97, the majority of the Committee preferred to maintain the original text.

121. Paragraph 58:

The Delegation of France referred to a special due which in France applied only to foreigners and was intended to cover the cost of certain administrative formalities (issue of permits, authorisations, etc.) The Delegation wanted to cover this point by a clause similar to the one which appears in Article 21, paragraph 2 of the Establishment Convention. The proposal was, however, not maintained, since it was pointed out that in paragraph 53 such dues were recognised implicitly, since the obligation was only to "abolish or reduce" such dues. Paragraph 58 was then adopted without change.

122. Paragraph 59:

The French Delegation preferred a wording like the one employed in Article 7 of the Establishment Convention. The paragraph was, however, adopted without change. It was pointed out in this connection that the Committee had used the appropriate provision of I.L.O. Convention No. 97 as a model.

123. Paragraph 60 was adopted, subject to the word "residing" being added after the word "lawfully" in the first line.

124. Paragraphs 61 and 62 were adopted without change.

PART III

125. The provisions of Part III would become Article 19, under the heading "Undertakings". A proposal by the United Kingdom Delegation to add an introductory remark to the effect that each paragraph of Part II should be read in direct connection with the opening lines of the Article to which it belonged was rejected on the grounds that it would be superfluous.

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126. Paragraph 1 was adopted, subject to the following drafting changes:

(i) the words "first Part" in sub-para. (a) should be replaced by "Part I";

(ii) the words "second Part" in sub-para. (b) should be replaced by "Part II";

(iii) the words "not later than" in sub-para. (b) should be replaced by the word "at".

127. Paragraph 2 was adopted, subject to the following changes:

(i) the reference to "the preceding paragraph" was replaced by a reference to "paragraph (1) of this Part";

(ii) in order to bring the last phrase of paragraph 2 into harmony with other similar provisions of the Charter, the undertakings referred to in that phrase should take effect as from the thirtieth day after the date of notification.

128. The Committee did not think it desirable at this stage to enter into a discussion of the question as to whether or not ratification of the Charter should imply the undertaking by all Contracting Parties of certain specified obligations in Part II. The Delegations of Belgium, France, Italy and Luxembourg recalled that they were in favour of a common minimum and that for this reason they maintained their reservations on this point.

128. Paragraph 3 was adopted without change.

PART IV

129. It was pointed out that the Legal Department of the Secretariat had proposed to join the previous Parts III and IV in one single Part. It was decided to maintain the old division, since the contents of these Parts were of a different nature. It was, however, agreed to adopt the article headings as proposed by the Legal Department.

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130. Article A (20) was adopted without change, in the version appearing in Doc. CE/Soc (57) 27, it being understood at the suggestion of the German Delegation that in regard to matters settled by collective agreements it would not be necessary to report in detail on such agreements. It would be sufficient to indicate the general trends.

131. Articles B (21), C (22) and D (23) were adopted without change, except that in Article D, the word "under", which appears two times was replaced by the words "in accordance with".

132. Article E (24) was adopted without change, except that where appropriate, the word "terms" should be replaced by the words "terms of office".

133. Article F (25) was adopted without change.

134. Article G (26):

Paragraph (1):

The word "the" was added before the word "conclusions" in the first line. The last phrase of the paragraph was attached to paragraph 2 and became the beginning of that paragraph, since it dealt with the composition of the Sub-committee.

135. Paragraph 2:

This paragraph (English text) was reworded so as to make it clear that the invitations in question should be addressed to the interested organisations as such and not their representatives.

136. Paragraph 3 was adopted without change.

137. Article H (27) was adopted without change.

PART V

138. Article a (28):

Paragraph (1) was adopted as in Doc. CE/Soc (57) 27.

139. Paragraph 2 was adopted, subject to the deletion of the last phrase.

140. In order to make it clear that the phrase deleted from paragraph 2 applied to the whole of that paragraph, it was turned into a new paragraph 3 and worded as follows:

> "The Secretary-General shall in turn inform the other Contracting Parties of all communications received in accordance with paragraph 2 of this Article".

141. Article b (29):

This Article was adopted, subject to the following changes:

(i) the words "not specified in those Parts" were added after the word "limitations" in the fourth line, in order to avoid any ambiguity and difficulty of interpretation in case special limitations must be maintained in some provisions.

(ii) The word "law" in the fourth line was replaced by the wider term "legal provisions", followed by the words "or are imposed constitutionally". This was done in order to cover the constitutional situation in the different member countries, since the word "law" may be taken to imply only provisions that have been adopted in accordance with certain strict constitutional procedures and exclude other provisions which substantially are of the same nature. As a consequence of this change, the first statement in the Annex concerning this article became superfluous and was deleted. In the second statement, the word "law" was replaced by "legal provision". The Delegation of the Netherlands, however, maintained the view that all limitations should be imposed by law.

(iii) The word "and" in the penultimate line was replaced by the word "or".

142. It was moreover decided that the French text should be brought into harmony with the English text where the latter, in the last line, speaks of "national security".

143. The Committee then proceeded to an examination of the provisions of the Charter where limitations similar to those permitted under Article b appeared.

144. Part I, paragraph 16 (which becomes 17):

Some Delegations wanted to maintain the limitations in this paragraph, since they might have an independent importance and could not lead to difficulties of interpretation. Others were in favour of deleting them, particularly because Part I was intended to indicate aims of policy and need not contain details of this sort which might even make an unfortunate impression on the public. Moreover, similar restrictions did not appear in other paragraphs of Part I. It was pointed out, however, that in any case the limitations that were based on cogent economic or social reasons must remain, since this case was not covered by Part V, Article b. It was agreed to delete the reference to other restrictions than those based on cogent economic or social reasons. Moreover, the word "only" in the fourth line was also deleted.

145. The Delegation of Italy was strongly opposed to the maintenance of the reference to cogent economic or social reasons and made a reservation to that effect.

146. Part II, paragraph 14:

At the proposal of the German Delegation it was agreed to delete the reference to limitations in this paragraph. The case was considered to be completely covered by the general clause.

147. Part II, paragraph 18:

The Delegation of Sweden was of the opinion that in this case it might be desirable to maintain the limitations. There were certain conflicts of interest in industry which society could not tolerate, and yet it might be difficult to invoke the more cumbersome and solemn provisions of the general clause. The Delegation did not, however, insist on this, and it was agreed to delete the limitations.

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148. Part II, paragraph 51 (now 54):

It was agreed to delete the limitations also from this paragraph.

149. Part II, paragraph 60:

This was considered to be a special case where the limitations should be maintained.

150. Articles c (30) and d (31) were adopted without change.

151. Article e (32):

This article was adopted subject to the following changes:

(i) since collective agreements may be concluded between a single employer and the organisations of workers, it was agreed to refer to "employers or employers' organisations" in paragraph 1.

(ii) It was recalled that paragraphs 32 to 35, inclusive, of Part II had been added to the provisions to which this article should apply.

(iii) Since some of the provisions referred to in the article applied only to young workers, it was agreed to refer to "the workers concerned" instead of simply to "workers".

As this article had no heading, it was decided to use the following: "Implementation through collective Agreements".

152. Article f (33):

This article was adopted, subject to the insertion between the present paragraphs 3 and 4 a new paragraph proposed by the United Kingdom Delegation and set out in Doc. CE/Soc (58) 4.

153. Article g (34):

It was agreed to provide that amendments shall only come into force on the thirtieth day after all the Contracting Parties have informed the Secretary-General of their acceptance, and that the Secretary-General shall

inform all the Members of the Council of Europe of such amendments, whether they are Parties to the Charter or not, since such amendments may influence their position with regard to ratification.

It was moreover decided to place this article after the present article h.

154. Article h (35): Adopted without change.

155. Article i (36):

Paragraphs 1 - 3 were adopted, subject to the following changes:

(i) the initial word should be "Any" rather than "A".

(ii) since the Charter may enter into force at different dates in regard to different Parties, it was decided to add the words "for it" after the words "entered into force" in the third line. Although, as pointed out by the Chairman, the I.L.O. Conventions fix only one date from which to count the period after which the Convention may be denounced, the decision of the Committee was in harmony with several Conventions adopted in the framework of the Council of Europe.

156. The Delegations of Belgium and France maintained their reservation against partial denunciation.

157. Paragraph 4:

This paragraph was left open, pending a decision by the Committee of Ministers as to whether or not the Charter should be open to the accession of non-Member States.

Agenda Item 5: Consideration of the desirability of adding to the Social Charter a Protocol providing for the ratification by parties of certain International Labour Conventions.

158. The Delegation of Austria had submitted a draft Protocol to this effect, which is set out in Appendix III. After an introductory statement by that Delegation several Delegations expressed their interest in the proposal in principle. The Committee felt, however, that it could not enter into this question at the present stage. The matter needed further consideration, but the Committee took note of the proposal and decided to keep it on its Agenda for further study. In the meantime, the envisaged tripartite conference might express an opinion on it.

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Agenda Item 6: Future programme of work

159. The Committee had before it Doc. CE/Soc (55) 8, which contained some suggestions by the Secretariat regarding the future programme. However, in view of the fact that the next Session of the Committee would hardly take place until after the tripartite conference and would be entirely devoted to the Social Charter, the Committee felt that it would not be necessary to discuss this now. It was agreed, however, at the proposal of the Greek Delegation, that all Delegations should consider the matter before the next meeting and be ready to make suggestions for matters to be included in the working programme. A time limit might subsequently be fixed for the transmission of such suggestions to the Secretariat.

Agenda Item 7: Other business

160. Adoption of the Report of the proceedings of the Sixth Session:

The Report, Doc. CM (58) 18 was adopted.

161. Application of the International Association for Social Progress for consultative status with the Council of Europe

This question had been referred to the Committee by the Ministers' Deputies at their 56th Meeting. Although the Delegations of Belgium, Luxembourg and the Netherlands were able to support the application, the Committee as a whole was not sufficiently informed, and the matter was therefore postponed.

162. Recommendation 154 (1958) of the Consultative Assembly on certain aspects of the European housing problem

This Recommendation had also been referred to the Committee very recently, and no discussion of substance could therefore take place at this stage. It was decided to postpone the matter and to instruct the Secretariat in the meantime to prepare appropriate documentation.

163. Memorandum of the European Confederation of Agriculture concerning the Social Charter.

The Committee took note of this memorandum (Doc. CE/Soc (58) 2).

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Agenda Item 8: Date and place of next meeting.

164. It was decided to recommend that the Committee should hold its next session as soon as possible after the tripartite conference, the exact date to be settled by the Secretary-General in consultation with the Chairman.

A P P E N D I X I

List of members and observers participating in the session

SOCIAL COMMITTEE

AUSTRIA

M. Dr. Krenn	Conseiller de Section au Ministère des Affaires Sociales
Mme. Dr. Back	Fonctionaire au Ministère des Affaires Sociales

BELGIUM

M. A. Delpérée	Conseiller économique et social au Ministère du Travail et de la Prévoyance sociale
Mme. C. Gilon-Pichault	Service des Relations Internationales au Ministère du Travail et de la Prévoyance sociale

DENMARK

M. P. Juhl-Christensen	Chief of Division, Ministry of Social Affairs
M. J. Bonnesen	Chief of the International Relations Division, Ministry of Social Affairs

FRANCE

M. P. Bernusset	Secrétaire des Affaires Etrangères

FEDERAL REPUBLIC OF GERMANY

Dr. M. Geller	Directeur au Ministère du Travail
Dr. H. Ernst	Conseiller, Ministère du Travail

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GREECE

M. A. Triantafylou	Directeur au Ministère du Travail
Dr. M. Raphael	Chef de Section, Ministère de la Prévoyance sociale

IRELAND

Mr. W.H. Honohan	Assistant Secretary, Department of Social Welfare
Mr. W. Kelly	Assistant Principal Officer, Department of Industry and Commerce

ITALY

M. Purpura	Directeur Général au Ministère du Travail
M. F. Bellelli	Secrétaire au Bureau des Organismes internationaux Ministère des Affaires Etrangères
M. Marinelli	Conseiller au Ministère du Travail

LUXEMBOURG

M. G. van Werveke	Secrétaire Général du Ministère du Travail et de la Sécurité sociale
M. F. Grulms	Secrétaire Archiviste au même Ministère

NETHERLANDS

M. T.M. Pellinkhof	Chef du Service des Affaires Internationales du Ministère des Affaires sociales et de la Santé Publique
M. J.J.M. Geldens	Chef de Division au Bureau du Travail, (même Ministère)

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	M. H.B. Eldering	Attaché à la Division de la Protection des Travailleurs, (même Ministère)

NORWAY

M.M. Kringlebotten	Secretary General of the Ministry of Social Affairs

SWEDEN

M. W. Björck	Ancien Chef de la Direction Générale du Trésor
M. E. Bexelius	Chef de la Direction Générale de la Prévoyance sociale

TURKEY

M. Borovali	Représentant Permanent du Gouvernement turc auprès du Conseil de l'Europe

UNITED KINGDOM

Mr. G.C. Veysey, C.B.	Under-Secretary, Ministry of Labour and National Service
Mr. C.A. Larsen	Principal, Ministry of Labour and National Service

OBSERVERS

B.I.T.	M. P. Fano	Chef de la Division des Organisations Internationales
W.E.U.	Mr. Peter Fraser	Deputy Secretary-General of Western European Union
O.E.E.C.	M. L. Lambert	Chef de la Division de la Main d'Oeuvre.

APPENDIX II

AGENDA ADOPTED BY THE COMMITTEE

1. Opening of the meeting.
2. Election of the Chairman and Vice-Chairman.
3. Adoption of the Agenda.
4. Revision of the text of the draft European Social Charter.
5. Consideration of the desirability of adding to the European Social Charter a Protocol providing for the ratification by Parties of certain International Labour Conventions.
6. Future programme of work.
7. Other business:
   (a) Adoption of the Report of the Sixth Session.
   (b) Application of the International Association for Social Progress for consultative status with the Council of Europe.
   (c) Recommendation 154 (1958) of the Consultative Assembly (Preliminary consideration).
   (d) Memorandum of the European Confederation of Agriculture concerning the European Social Charter.
8. Date and place of next meeting.

APPENDIX III

Proposal by the Austrian Delegation to Item No. 5 of the Agenda

Draft of additional Protocol to the Social Charter.

The Contracting Parties of the European Social Charter:

Being convinced that this Charter reaches the highest level attainable at present;

Considering, however, that this Charter in many respects is restrained only to principles of which the execution is left to Member States;

Desirous of promoting social development in accordance with the standards of the International Labour Code, and;

Considering that this development, in the interest of the realisation of the aims of the Council of Europe in the social field, should be co-ordinated;

Are of the opinion that governments should make every effort to take into account the ILO conventions in framing their future social policy and to facilitate the ratification of ILO conventions which have not yet been ratified by them at the earliest possible date.

VII. *Social Charter*

(a) *Organisation of a Tripartite Conference (Docs. CM (58) 9 and 39)*

The Deputies were informed of the reply of the Director-General of I.L.O. to the letter from the Secretary-General of the Council of Europe stating that the Committee of Ministers had decided to propose the convening, under certain conditions, of a tripartite European regional conference to examine the draft European Social Charter (Doc. CM (58) 39).

The Deputies noted that the Governing Body of I.L.O. had agreed to some of the proposed conditions, and instructed the Secretary-General to pursue his negotiations with the Director-General of I.L.O. on the matters still to be settled, particularly the question of joint responsibility for the Secretariat of the Conference (paragraph 3 of the letter), which for certain delegations might constitute one of the decisive factors for their agreement to the holding of the Conference.

The Secretary-General was also instructed to submit as soon as possible a memorandum on the financial implications of organising a conference in Geneva or Strasbourg.

The Deputy Secretary-General gave details of the possible composition of delegations to the Conference and indicated that the latter might be held towards the end of November 1958.

Having heard the Secretary-General, the Deputies agreed that it was impossible to give the Assembly any definite information at the present stage but that, if the question were raised, the Chairman of the Committee of Ministers could make some reference in the Joint Committee to the negotiations now in progress.

In order to avoid any confusion with the European regional conferences held under the auspices of I.L.O., the United Kingdom Representative proposed that this particular Conference should be given the description "European Tripartite Meeting".

The Deputies will take the whole question up again at their 61st meeting.

1. See page 89.

(b) *Report of the Social Committee (Doc. CM (57) 176 and Addendum - CM (58) 1)*

The Deputies re-examined the following two questions, to which the Social Committee had drawn their attention in its report (Doc. CM (57) 176, Part D, and Addendum):

(1) *Should the Social Charter be open to accession by non-Member States, at the invitation of the Committee of Ministers?*

Pending the results of the work of the Tripartite Conference and on the understanding that the Committee of Ministers would re-examine the draft Charter after this Conference, the Deputies decided against making the Charter open to accession by non-Member States, the voting being as follows : 5 votes for an "open" agreement, 4 votes against and 5 abstentions. Consequently Article 35, paragraph 4, of the draft Charter remains unchanged pending a final decision.

The representative of the United Kingdom explained that he had voted against an "open" Charter because he felt that a decision should be left over for consideration after the Charter had been in operation.

The Italian representative expressed the view that the inclusion in the draft European Social Charter of a clause enabling non-member countries of the Council of Europe to accede thereto was fully justified and in keeping with the aims of the Charter itself, which was intended by its signatories to secure recognition of social principles that had the weight of norms capable of being applied in the greatest possible number of States, according to their present stage of social advancement. Moreover, the fact that guarantees and reservations could be expressed in each individual case at meetings of the Social Committee, and that Article 11 of the draft text referred to the possibility of subscribing to a limited number of the paragraphs and articles of the Charter, combined to give this document the character of an instrument which could be extended to the greatest possible number of States. The rights recognised in the Charter by the Contracting Parties were in accordance with the fundamental requirements of modern society. It followed that the more widely these principles were recognised, the greater would be the contribution of the Charter towards the protection and extension of the human rights

and fundamental freedoms embodied in the Rome Convention of 4th November 1950.

The Swedish representative said that in voting for the principle of making the Social Charter an open instrument his Government had been inspired by the conviction that it was desirable that the social standards prescribed by the Charter should be applied in as many States as possible. Furthermore, no hesitation as to such a course need arise because of the most-favoured-nation clause in Sweden's bilateral social treaties, since the Charter contained no obligation to accord concrete social benefits, but only provisions of a general character whereby the signatory Powers undertook to apply certain standards in the field of social policy.

The representative of France voted for a "closed" agreement. He said that the clause proposed by the Secretariat would open the way to many complications arising from the most-favoured-nation clause which appeared in bilateral treaties between France and third countries. Certain clauses, such as Article 17 of Part I of the Charter, reaffirmed such principles as "the right to engage in any gainful occupation on a footing of equality" which already appeared in the European Convention on Establishment — itself a "closed" convention. Finally, it would be difficult to apply the methods of control referred to in Part IV of the Charter to a third State, for such States could be represented only on the Social Sub-committee and not on the Social Committee itself or the Committeee of Ministers, which were composed solely of representatives of Member States.

The representative of Ireland said that his opposition was not to an "open" Charter as such, but to the present draft of the accession clause. He felt that conditions for accession should be more rigid, on the lines of the Cultural Convention (Article 9, paragraph 4).

The Austrian representative said that his Government considered it desirable on general grounds that the social standards laid down in the Charter should be applied on as broad a basis as possible. The accession of a large number of European States should therefore be welcomed.

(2) *Should the right to education be included in the Charter?*

The Deputies decided against including the right to education in the draft Social Charter (Doc. CM (58) 1). The voting was as follows: 8 votes for inclusion of the right, 5 against and 1 abstention.

(c) *Report of the 6th Session of the Social Committee (Letter D 2415 of 19. 2. 1958 and Doc. CM (58) 18)*

The Deputies noted the report of the 6th Session of the Social Committee (Doc. CM (58) 18), Appendix V of which contains the text on the right to education which had been examined at the 56th meeting of the Deputies (Doc. CM (58) 1) and was the subject of the decision recorded under (*b*) above.

(d) *Report of the 7th Session of the Social Committee (Letter D 3415 of 10. 3. 1958 and Doc. CM (58) 27)*

The Deputies noted the report of the 7th Session of the Social Committee (Doc. CM (58) 27) and agreed to take no decision on the draft Charter contained in Appendix IV until after the tripartite conference referred to under point (*a*) above.

The Luxembourg representative said that certain clauses of the text contained in Appendix IV to Doc. CM (58) 27, particularly Part II, Article 1, paragraph 2 and Part III, Article 19, paragraph 1 (*b*), would probably give rise to objections of a constitutional and legal nature from his Government.

VIII. *Cultural Fund of the Council of Europe*

(i) *Establishment of the Fund Recommendation 74 (Docs. CM (57) 147 rev., CM (58) 6, 7, 15, 16, 23, 31 and 38)*

The Belgian representative, who had acted as Chairman of the Working Party set up by the Deputies at their 56th meeting in order to examine the draft Statute of the Cultural Fund, explained the amendments made by the Working Party, at its meeting on 17th March 1958, to the text of the draft Statute previously drawn up by the Secretariat.

SECOND PART

DOCUMENTS OF THE CONSULTATIVE ASSEMBLY

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 17th September 1958.

Restricted
AS/Soc (10) PV 3 revised
Or.Fr.

CONSULTATIVE ASSEMBLY

SOCIAL COMMITTEE

Draft Minutes

of the meetings held on Friday, 12th September 1958
and Saturday, 13th September at
the Paris Office of the Council of Europe

Present:

MM.	STRASSER, Chairman	(Austria)
	SCHUIJT, Vice-Chairman	(Netherlands)
	COURANT, Vice-Chairman	(France)
	ANDERSSON	(Sweden)
	BENGTSSON	(Sweden)
	BIRKELBACH	(Fed.Rep. of Germany)
Mrs.	CULLEN	(United Kingdom)
MM.	ECEVIT	(Turkey)
	FINCH	(United Kingdom)
	LUGMAYER	(Austria)
	MONTINI	(Italy)
	MOUTET	(France)
	NACUCCHI	(Italy)
Mme.	WEBER	(Fed.Rep. of Germany)
MM.	HOEFLER (for M. SCHUTZ)	(Fed.Rep. of Germany)
	VOS (for Mme.STOFFELS-van HAAFTEN)	(Netherlands)

Apologised for absence:

MM.	BONDEVIK	(Norway)
	CANEVARI	(Italy)
	EGAN	(Ireland)
	HAEKKERUP	(Denmark)
	KALENZAGA	(France)
	van KAUVENBERGH	(Luxembourg)
Lord	LANSDOWNE	(United Kingdom)
MM.	LEFEVRE	(Belgium)
	MOLTER	(Belgium)
	SKARPHEDINSSON	(Iceland)
	TOKUS	(Turkey)

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A 42.262
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Observers

MM.	KULAKOWSKI	International Federation of Christian Trade Unions
	SCHEVENELS	International Confederation of Free Trade Unions
	FORD	
	ZUNIC	World Veterans Federation
Mlle.	SWAGEMAKERS	World Union of Catholic Women's Organisations

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M. Strasser took the Chair at 3.15 p.m.

1. AGENDA

The Agenda was adopted.

/AS/Soc (10) OJ 3/

2. MINUTES

The minutes of the meeting held on 2nd May 1958 were adopted.

/AS/Soc (10) PV 2/

M. Montini said that if he had been present he would have voted against the draft Resolution giving an opinion on the activities of W.E.U. in the social field (AS/Soc (10) 5).

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3. EUROPEAN SOCIAL CHARTER(1)

The Chairman said that the Social Charter had been prepared in a somewhat strange manner, at any rate so far as procedure was concerned. The government experts had prepared a draft which had not been submitted to the Assembly through the normal official channels. The President of the Assembly, however, had had a copy which he had forwarded to the Chairman of the Committee, who had sent copies to members. He, M. Strasser, took full responsibility for the discussion they were about to hold. Its purpose was not to draft amendments or propose changes, but to adopt an attitude on questions of principle.

The Tripartite Conference would be held at Strasbourg from 2nd to 13th December under the auspices of the Council of Europe and the I.L.O., and the Council of Europe would send a delegation to it.

At the last meeting of the Standing Committee, he had raised the question of the composition of the Council's or the Assembly's delegation. M. Benvenuti had told him that he would come to a meeting of the Social Committee to explain in detail the position of the Council of Europe and the I.L.O. with regard to the Social Charter and the Tripartite Conference.

The composition of the delegation was not determined as a result of the I.L.O.-Council of Europe negotiations. The Council of Europe would decide what it should be and delegations would be larger than was originally thought. M. Dehousse would be sending a letter on this subject to the Chairman of the Committee of Ministers. The Standing Committee hoped that the Social Committee would be able to send 5 members to the Conference, but as everything seemed somewhat vague, the Committee could not yet appoint these 5 members. This would be done in October. The Committee would be glad to hear M. Benvenuti, who would report to it on relations with the I.L.O. in the matter of the Conference, the procedure for its work etc. M. Strasser proposed that the Committee should not discuss the articles of the Charter in detail, but only the most important parts of it: Parts III and IV. He suggested that a rapporteur be appointed to introduce the text.

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(1) The passages underlined are those which it was specifically requested should be inserted in the minutes.

Mme. Weber proposed M. Schuijt.

M. Vos proposed M. Birkelbach.

In accordance with Rule 42, paragraph 4 of the Assembly's Rules of Procedure, a secret ballot was taken.

M. BIRKELBACH was appointed Rapporteur by 8 votes to 6 with one abstention.

Mme. Weber regretted that the Chairman and Rapporteur should belong to the same party.

M. Schuijt said he would like some information from the Secretariat-General. Since he was not conversant with the procedure of the Charter, he wished to know what was the text whereby the Committee of Ministers empowered the Conference to examine the Charter. What would happen to the Charter after the Conference and at what point would the Assembly take the matter up after the texts and amendments produced by the Tripartite Conference were available? The procedure should be known so that the discussion did not take place entirely in the air.

M. Huntzbuchler said the Secretary-General had asked him to apologise to the Committee on his behalf. He had promised to take part in this meeting but, to his keen regret, had been prevented from making the journey to Paris by unavoidable commitments. He expected to be able to attend the next meeting in October and explain to the Committee the position at that time. He wished to make it clear that the Tripartite Conference would only be giving a technical opinion on the Charter. Consequently his absence on 12th September could not have serious consequences since the Tripartite Conference would take place after the next meeting of the Committee, at which he would supply the information on procedure requested by the Committee.

M. Schuijt wished to know how the Conference would formulate opinions and make them known to the Committee. The Conference could not avoid differences of political and social outlook. What would be the rôle of the Conference?

M. Huntzbuchler supposed that the very fact that the Conference had been convened by the Council of Europe to give a technical opinion meant that its opinion would be transmitted to the Council. He referred to the affirmative reply of the Minister, M. Skaug, to M. Schuijt's

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written question asking whether the text of the Charter would be examined by the Assembly before its adoption.

M. Schuijt asked how this would be done.

M. Huntzbuchler said that there was nothing to prevent this procedure being followed. The Committee would be given full details by the Secretary-General at its next meeting. He supposed that it would receive the text of the Charter at the same time as the opinion of the Tripartite Conference, but here the Secretary-General could give the meeting definite information.

M. Schuijt expressed astonishment at the procedure with which the Assembly's Social Committee had been confronted in recent years. The Committee and the Assembly had worked strenuously for the adoption of the Social Charter, and now a Committee of Government Experts had prepared a draft at the request of the Committee of Ministers. Since the Committee of Experts received its instructions, the Assembly and the Committee had been kept in the dark; so much so that the Committee was at present uncertain exactly what task had been assigned to the Tripartite Conference.

It would seem that, so far as the Council of Europe was concerned, it would be logical to give the Committee precise information and brief its Chairman, so that he could in due course explain the situation to the Committee. M. Schuijt again expressed astonishment at the procedure followed.

The Chairman reminded M. Schuijt that he had expressed the same ideas at the Assembly's last Session and the whole Committee had been in agreement with him. But the Committee had been unable to secure this precious document. It might already be in the hands of the Russians, but it was inaccessible to the members of the Social Committee. At long last the Committee had procured it. M. Benvenuti ought to have been present to answer M. Schuijt's question, but he had been prevented for practical reasons. At its next meeting, the Committee would discuss the matter with the Secretary-General, who would inform it about the procedure relating to the Tripartite Conference and the relations between the Committee of Ministers and the Assembly in this matter.

M. Moutet thought that this Social Charter might well never see the light of day, as a result of being bandied about from one body to another. When the Common Market came into force this Charter, which should be a social factor in the operation of the Market, would not yet be ready. Moreover,

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what was meant by a "technical" opinion on a Social Charter? A Social Charter was a political and social matter. There was no reason to consider whether or not it was in conformity with a Constitution. M. Moutet could not see what technical opinion the Tripartite Conference could give. It was a method of procrastination. Or was the idea to introduce further amendments - there had been some already - of such a nature as to torpedo the whole project?

What was the point of the Charter if a Government could choose ten articles at will, even those which were of the least value, thus handicapping the socially advanced countries. That could not be accepted and it must be stated that the consequences could be serious. Such procrastination was not in the interests of the European cause; it compromised it seriously.

Mme. Weber thought that five members were not enough for the delegation to the Tripartite Conference. There should be eight or ten members of the Social Committee.

The Chairman said that five was indeed the number of Assembly delegates mentioned. M. Dehousse had discussed the matter with M. Benvenuti at the last meeting of the Standing Committee and had thought that the Social Committee would also be able to send five members to the Conference. However, they should hear the Secretary-General on that subject.

M. Moutet asked whether the representative of the Secretariat would explain the meaning of the word "technical".

The Chairman thought he should ask the opinion of members who attended I.L.O. meetings. M. Schevenels might perhaps be able to clear up that point.

M. Schevenels believed that it was the Council of Europe that had insisted on the term and not the I.L.O. The Council of Europe had informed the I.L.O. that it would like to put the Charter before a Tripartite Conference, but provided that it was not altered and no amendments were proposed. The I.L.O. had replied that that seemed an impossibility: the Conference must be given a chance to express its opinion and must be asked whether it had any counter-proposals to make. The opinion of the Conference - in which the workers group would take an active part - and its conclusions would be addressed to the Council of Europe - both Committee of Ministers

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and Assembly. The two bodies would be on an equal footing, but the Committee of Ministers would take the decision. There was still the possibility of trying to persuade a regional conference of the I.L.O., from which the Russians and their satellites would be excluded, to prepare an International Labour Convention containing what the Social Committee desired. M. Moutet was right: if in 1959 they began to create a new Europe by instituting the Common Market and Free Trade Area, it was necessary to have minimum social standards for Europe, since one of the aims in view was the harmonisation of social laws, which was also the purpose of the Charter.

The Chairman pointed out that the Conference was based on the Council of Europe-I.L.O. Agreement, of which he read out Article 5. Thus, when the views of the experts at the Tripartite Conference had been heard, it would be for the Council and the Assembly to pronounce judgment on the Charter.

M. Schuijt thought that the procedure had already been mapped out. After the work of the Tripartite Conference, the technical amendments would first be addressed to the Committee of Ministers, after which - probably but not certainly - the Ministers would seek the Assembly's opinion. If that information was correct, he was in favour of asking the Committee of Ministers to reverse the order of proceedings so that the Assembly could be consulted before the Committee of Ministers drew up a final text.

There was a further question: that of the status of the Committee's delegation to the Conference. He understood that the I.L.O. would examine mainly technical problems, but what interested the Committee were political and social questions. It was agreed that the representatives of the Assembly would not be full members of the Conference but would attend in an advisory capacity. M. Schuijt asked for clarification on that point. If the Committee had no more than an advisory status, that would call a halt to its work.

The Chairman thought that the term "Tripartite Conference" was clear: 1/4 workers' representatives; 1/4 employers' representatives and 2/4 governmental representatives. That left no room for members of the Council of Europe, except in an advisory capacity.

M. Schuijt had always understood that the Conference had been convened at the initiative of the Council of Europe and was a special conference.

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The Chairman said that he had asked the Secretary-General what formula would be used in the documents. One could not say "convened under the auspices of the Council of Europe and the I.L.O." Once a Tripartite Conference was convened, it had to be within the tripartite system of the I.L.O.

M. Schevenels said that it was the Governing Body of the I.L.O. that had decided last June to convene the Tripartite Conference. It would be held at the request of the Council of Europe but in accordance with I.L.O. rules. The wording ran: "European Regional Conference of the I.L.O., convened at the invitation of the Council of Europe."

The Chairman quoted Article 3 of the Agreement between the Council of Europe and the I.L.O., which dealt with "European regional meetings of a tripartite character."

M. Kulakowski said that there was no doubt about the tripartite nature of the conference. It was an ILO conference composed of national delegations, who would participate as full members. Some doubt remained with regard to the technical nature of the Conference. Article 5 of the Council of Europe-ILO Agreement covered other questions. It dealt with the case where ILO experts were consulted, studied a problem for the Council of Europe and then gave the Council an opinion (as was the case with the European Code of Social Security). Here the point at issue was a conference convened on the basis of Article 3, and it was disturbing to find that the Conference would have but nominal powers and could not alter the standards of the Charter. That seemed odd and he wanted to have clear explanations on this subject. He also wondered what would become of the Conference's opinions and of the Charter itself. Here there were 3 possibilities; the Charter might become a Council of Europe Agreement, it might become an ILO Convention, or it might be incorporated in a new European development, such as a social programme under the Free Trade Area.

M. Huntzbuchler said he had the impression that they were embarking once more on a discussion which had already produced many speeches. The negotiations between the Council of Europe and the I.L.O. on the Tripartite Conference had started a long time ago. They had resulted in a number of points of agreement which the Secretary-General would explain to the Committee. To re-open

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discussions on the basis of the texts would be to recommence negotiations which had already - very nearly- succeeded in establishing agreement between the two organisations. It would be better to await the Secretary-General's explanations.

M. Schuijt regretted that the Committee was still faced with the same problem and was still working all on its own. He recalled the words of the ICFTU representative and the address by Mr. Curtis, who had said that there would be no basic political discussion at the Conference. Why was the Committee wasting two days studying the Charter in order to be told that there would be no basic political discussion, but only a discussion on technical matters?

The Chairman thought that the Committee should discuss the Committee of Ministers' proposals and adopt a definite attitude. What the Committee did once it had adopted its attitude it would study at its next meeting. Nor did he understand how the Conference could discuss the Charter without examining it article by article. When Part II was discussed, the technical approach would be to find whether the standards were higher or lower than those of the I.L.O. He thought that it would be a good thing to proceed to examination of the draft and to leave all other questions open until the next meeting with M. Benvenuti.

M. Schuijt asked the Chairman in what manner the text of the Charter had been transmitted to him by the President of the Assembly.

The Chairman said that it had been merely by letter and that there was nothing official about it.

M. Birkelbach thought that the I.L.O. had acted strangely. If the Committee wished to hold an exchange of views, without committing itself by a vote - it should get to know from M. Benvenuti how he envisaged the procedure and what possibilities were open to the Assembly and the Social Committee. For the moment, the Committee noted that it was in a curious position.

The Chairman said that the Committee should regard the purpose of the present discussion as being to acquaint the delegates to the Conference with the views shared by all members. The Chairman then called on M. Birkelbach to introduce the text.

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Article 19

(a) No comment.

(b) Does the Committee think that there should be a common nucleus of clauses to which all Contracting Parties should compulsorily subscribe? If so, which?

The Chairman thought that there should be some articles which all signatory Governments ought to ratify.

Mme. Weber thought that they should select 10 articles.

The Chairman also thought that acceptance of a minimum number of articles should be compulsory for all Governments. Which articles should be included among these could be settled later.

M. Schuijt said that they should define a "nucleus of articles" which the Contracting Parties would be obliged to accept.

M. Schevenels thought that this principle should be completed by another. What would happen to articles which were not ratified? Countries which had ratified part of the Charter must undertake to ratify the rest later. At all events, it was essential that all should ratify the "nucleus" and be given a specific time to ratify the rest.

Mr. Finch thought that the Social Charter was an aim or a recommendation. Great caution would be needed in choosing the articles which were to form the nucleus, and the Governments should be allowed full discretion as to the others.

M. Schuijt recalled that a few members of the Committee wanted a time-limit to be set for ratification of the other articles, but the idea had not been accepted by the Government experts.

The Chairman noted that the Committee considered that a "nucleus of articles" should be compulsorily accepted by all signatory Governments; that they should also ratify a few other articles freely chosen by them and that the remaining articles should be ratified within a fixed period. It was now a question of determining which articles should form the nucleus.

Mme. Weber thought that it was necessary to fix the minimum number of compulsory articles.

M. Schuijt was anxious about the meaning of Article 29 which might make it possible to escape from all obligations under the Charter.

After explanations by M. Tennfjord and M. Schevenels, M. Schuijt accepted Article 29 as a saving clause designed to prevent abuse of the rights listed in the Charter.

PART IV

Article 20

The Chairman summed up the procedure: all reports to be addressed to the Secretary-General; the Committee of Experts to receive them for examination; the Committee of Experts to report to the Sub-committee which, in its turn, would report to the Committee of Ministers.

Nowhere, however, was there any reference to the rôle of the Assembly in this procedure. The Committee should have an opportunity of discussing the proposals before the Committee of Ministers had the last word.

Mme. Weber recalled that Article 27 contained the words: "after consultation with the Consultative Assembly."

M. Schuijt thought that under this system the same officials were both judges and parties to the case. That was quite contrary to law. These civil servants would prepare the report for the Ministers and, later on, would receive the same report in order to criticise it. Thus they would have to rely upon the goodwill of officials of the various national administrations. Where then was the rôle of the Council of Europe in this Charter which had been prepared at its initiative?

M. Schevenels thought that M. Schuijt was right and that the trade unions would want discussion of such reports to be in public, that is to say in the Consultative Assembly. However, the difficulties should not be exaggerated: the Committee of Experts would not be composed of government officials but of independent persons. The trade unions intended to seek a gentlemen's agreement - which they had secured elsewhere (in the E.C.S.C. for instance) - namely, that a candidate sponsored by the unions should sit on the Committee of Experts as an independent person. But participation in committees of this sort imposed secrecy and the trade unions insisted that the Consultative Assembly

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should take part from the outset in the discussion of these reports, so that they would be brought to the notice of the public.

M. Kulakowski said that though he did not intend to speak on the various points of detail which might arise during the discussion, his silence did not imply agreement with the items of the Charter that were to be discussed. On the contrary, he wished to make it clear from the outset that he had considerable general objections to the methods envisaged in the Charter. He raised an objection of principle to the procedure of implementation Articles 24 and 26. The workers should have an influence upon the choice of experts. This system, moreover, was in danger of being overtaken by events. The European Parliamentary Assembly had very wide powers of control over the whole policy of the community. Very soon the Free Trade Area would be set up, and there, too, there would be parliamentary control. There was also an Economic and Social Committee for the Six. M. Kulakowski thought that a committee of independent experts was a good thing in itself but might soon become out of date. He agreed with M. Schuijt that the Sub-committee of the Social Committee was an anomaly, since it would lead to a situation in which the same persons were both judges and parties in the same cause.

In reply to a question concerning the status of the observers from workers' and employers' organisations mentioned in Article 26, M. Tennfjord explained that the representatives would be there throughout the period of meetings and could give their opinion.

M. Birkelbach said that arrangements should be made for the implementation of the Charter to be debated during public sittings of the Assembly.

M. Vos agreed. In his view, a report from the Committee of Ministers and a report from the Experts should be debated in the Assembly.

The Chairman noted that the Committee was unanimous in believing that the governmental and national reports should be addressed to the Consultative Assembly. The Committee of Ministers would receive the national, governmental and experts' reports and then transmit all these reports to the Assembly with its comments. (See organigramme, Annex I)

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M. Schuijt asked why the Sub-committee had been set up.

M. Vos pointed out that this Sub-committee was an offshoot of the Social Committee which itself depended upon the Committee of Ministers. When the experts completed their work, the Ministers decided. Furthermore, this Committee was composed of representatives of all Member States, so that each country could render a report.

M. Tennfjord pointed out that the Sub-committee of the Social Committee was exclusively composed of representatives of the Contracting Parties and he explained that the reports of the government experts would be sent to the national organisations.

M. Birkelbach thought that all the reports without exception should be sent to the Assembly, which should be informed and be able to discuss them.

M. Schevenels asked whether M. Birkelbach would agree that it was preferable to make that clear in Article 23 on the examination of reports, by saying that a copy of all reports would be transmitted to the Consultative Assembly.

The Chairman formally noted that the Committee was unanimous in hoping that Article 23 would be expanded to say that a copy of all reports would be transmitted to the Consultative Assembly and at the same time to the Social Committee.

M. Birkelbach thought that in any case the Assembly should have the right to express an opinion and should be consulted. It should be stated that, after examination by the experts and the Social Committee, the Assembly would be consulted. The Assembly would give its opinion after the Social Committee had itself pronounced judgement.

The Chairman thought that the Committee of Ministers would take up the matter when the Assembly had expressed its opinion, so that the Assembly would receive all the reports of the experts, the Sub-committee, etc.

M. Birkelbach stressed that the Sub-committee was a committee of senior officials and would have no direct relations with the Assembly. There would be procedural objections on the part of the British, in view of their Constitution. M. Birkelbach thought that the method proposed by M. Schevenels would enable the Social Committee of the Assembly to deal with problems at the same time as the Sub-committee.

The Chairman stated that the Committee was unanimous in considering that the procedure should be as follows:

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1. Government reports should be sent to the Secretary-General and transmitted by him to the Committee of Experts.

2. The Committee of Experts would send its conclusions to the governmental Sub-committee and the Assembly. Both the Sub-committee and the Assembly would send a report to the Committee of Ministers, which would answer these reports.

M. Vos was in favour of a procedure which would enable the Assembly to express its opinion at two stages.

It would receive the conclusions of the experts and make observations on them in such a way that it could bring its influence to bear upon the Committee of Ministers.

It would also receive the decisions of the Ministers and subsequently put forward recommendations.

M. Schuijt supported the proposal that the Assembly should be consulted in the last instance. A further point was that the Committee was composed of national officials, whereas the Assembly should consider the text from a European standpoint.

M. Birkelbach pointed out that the Committee of Experts was an advisory committee working on behalf of the Committee of Ministers. It could be an international body, but only an advisory one.

After observations by M. Montini on the legal status of the various bodies brought into play for the implementation of the Charter, M. Birkelbach pointed out that the Assembly should be entitled to receive all copies for its information and in order to express an opinion. The Committee agreed on this point.

M. Kulakowski said that the Governments would make a report on the Charter for transmission to the experts and then to the Social Committee, where the very people who had drafted it would have to criticise it.

From the practical point of view, that seemed to him to destroy the whole logic of the system. Was it really necessary to create this legal confusion?

M. Schuijt took M. Schevenels to mean that the Sub-committee of the Social Committee should be eliminated, since one committee of experts would suffice.

M. Birkelbach thought that this could be a special committee of the Committee of Ministers composed of

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representatives of the Governments which had accepted the Charter, and not of experts. It would be for them to take responsibility. That might be one solution.

M. Schevenels summed up how the system would work: the Ministers would send the reports received from individual countries to the government experts; the report and the conclusions of the experts would be sent to the Assembly which would make comments and suggestions to the Ministers. But at what moment would suggestions be received from the Committee of Ministers or those acting on its behalf which they would agree to submit to the Governments and on which the Assembly Social Committee would be called upon to express an opinion?

Mme. Weber thought that they should not eliminate the Sub-committee of the Social Committee, which was the instrument of the Committee of Ministers.

The Chairman noted that the Assembly was in the same position as the Sub-committee. It would receive copies of the countries' reports and the reports of the committees of experts.

M. Birkelbach thought that a different title should be given to the Sub-committee of the Social Committee, as the present title was not satisfactory. He sympathised with the desire of the trade unions to play a more important part in the implementation of the Social Charter. The creation of the Common Market and progress towards a Free Trade Area might lead to appropriate bodies being set up but, in the prevailing circumstances, M. Birkelbach was prepared to accept Article 26.

The Chairman therefore concluded that it would be necessary to change "the aspect" of the Committee. As for the Committee of Experts, the Social Committee was agreed in asking that representatives of the organisations concerned should have an influence upon its composition.

M. Birkelbach pointed out that the Ministers would choose the members from a list of independent experts. The trade unions could submit a list which was acceptable to the Ministers.

PART V

Article 28

The Chairman thought that the I.L.O. had reached a decison on this subject during this year.

M. Schuijt wondered whether provisions should be made for a precise report or a report giving reasons, to be addressed to the Assembly or some other organ of the Council

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of Europe, so that there should be some kind of democratic control over the application of Article 28.

M. Vos proposed that the following be added to Article 28: "The Secretary-General shall inform the Contracting Parties and the Assembly...."

The Chairman stated, that the Committee was unanimous in requesting the addition of the words "and the Assembly" to Article 28.

Article 34

The Chairman noted that the Committee agreed to request the addition of the words "and the Assembly" after "any Signatory Government."

Article 35, para. 2

As in Article 19, it should be obligatory for every Contracting Party to recognise the common nucleus.

PART II

The Chairman proposed that the Committee consider the articles which were to form the "nucleus" binding upon the Contracting Parties.

M. Birkelbach recalled that after long discussion the principle had been accepted that the Charter should be divided into two main parts, the first containing a declaration of aims and principles and the other listing the articles which were to be binding upon the Contracting Parties.

Since they agreed with the principles adopted by the Committee of Experts (Part I), it remained to examine Part II article by article and pick out the articles which should form the nucleus.

Article 1

M. Schevenels recalled that the trade unions had made an energetic plea for introducing the term "full employment" which the Committee had included in the first draft of the Charter. They had used the expression "maintenance of a high and stable level of employment." Why did they refuse the term "full employment"? The trade unions were constantly at loggerheads with the communists, who accused them of not having secured full employment in the Western countries, whereas the communist régime claims to ensure

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it all the time as a first priority. They knew what the term "full employment" too often meant in the communist countries. They had only to think of the labour camps. He urged that the trade unions be given satisfaction on this point.

M. Montini agreed with M. Schevenels. "High level" did not mean the same thing and would in fact tend to create social difficulties.

Mr. Finch also thought that the term "full employment" was much better. The other term was too vague.

M. Birkelbach also wanted the term "full employment" to be used, otherwise there would be an impression that the level of employment would be higher than before but that there would be no guarantee of jobs for everybody.

Mme. Weber preferred the term now used and proposed that it be kept.

M. Schuijt thought that in the present state of society it was difficult not to speak of "full employment", but it had to be understood that the national economy must allow it. As soon as reference was made to the right to work, there was an implication that the State was obliged to provide work. Legally there was an obligation to ensure a high and stable level of employment for all nationals, but he thought that the words "if the national economy so permits" should be added.

The Chairman tried to convince Mme. Weber, in order to achieve unanimity in the Committee. They did not intend to speak of the maintenance of full employment, but they had to accept the need to achieve it. Full employment had been mentioned in the Heyman draft.

Mme. Weber adhered to her view.

The Chairman noted that the prevailing view of the Committee was that full employment should be an aim of the Contracting Parties.

The Chairman recalled certain measures designed to maintain full employment, mentioned in Article 1, paragraph 2 (b) of Doc. 488.

M. Schevenels pointed out that the I.C.F.T.U. wished to revert to this text at the Strasbourg Conference. It was the Economic Committee which had removed this clause; but it was included in the Common Market Treaty. It would be wise to leave the matter to those moving amendments at the Strasbourg Conference.

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M. Birkelbach proposed that they confine themselves to important questions, without entering into details concerning the other communities.

Article 2 (1)

M. Birkelbach thought that figures should be given and proposed a 40-hour week.

M. Schevenels was sure that at Strasbourg the trade unions would press for the 40-hour week, which was on the agenda of the International Labour Conference. It might be a distant objective but it was one of symbolic value.

M. Montini took the view that the Charter should not contain figures, since this might one day make it seem out of date.

M. Schuijt agreed with M. Montini. Figures could be mentioned at the Conference but should not be inserted in the text.

M. Birkelbach suggested saying that working hours should not exceed 40 per week.

The Chairman observed that there was a reference to two weeks annual holiday. This figure too might become out of date.

M. Tennfjord quoted Article 34 (amendments) which seemed to open the way to a progressive improvement of standards.

After discussion, the Chairman noted that the Committee was unanimous in considering that the 40-hour week was one of the objectives to be aimed at, but had not reached agreement on whether this figure should appear in the Charter.

M. Schevenels thought that some figures, for instance the length of maternity leave, should be mentioned in the Charter.

Article 2 (2)

M. Birkelbach thought it would be better to say that overtime should be avoided during public holidays.

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Article 2 (5)

M. Schevenels proposed 5 working days a week and a rest period of 48 hours. He referred to the I.L.O. Convention, which mentioned a weekly rest period: 2 nights and one day on end.

M. Schuijt proposed that a minimum of 36 hours be mentioned.

Mme. Weber thought that no figures should be mentioned.

The Chairman noted that the prevailing opinion in the Committee was that there should be a minimum weekly rest period of 36 hours on end.

Article 3

M. Schevenels said that the labour inspectorate should include trade-union representatives. The standards of the Charter should be higher than those of the ILO Convention, by however little. That was an aim in the improvement of social laws.

M. Schuijt understood that the ILO Convention was intended for countries in process of development, whereas the European Charter was intended for the European countries which had a higher standard of living. The speaker agreed with M. Schevenels that it would be absurd to prepare a Charter with lower standards than those of the I.L.O.

M. Birkelbach was of the same opinion. The question would be reconsidered at Strasbourg. The level of the ILO Convention must be improved upon. This did not necessarily mean that the standards of every article could be raised, but those which were higher should be given prominence.

The Chairman asked for M. Schevenel's remarks to be recorded in the Minutes.

Article 4

No comment.

Article 5

M. Schevenels thought that the right to strike should be included in "the right to organise."

M. Kulakowski mentioned Article 6 in which "the right to bargain collectively" could be interpreted as the right to strike.

M. Schevenels urged that the right to strike be mentioned in Article 5.

M. Kulakowski agreed with M. Schevenels.

M. Birkelbach said that he would agree to the inclusion of the right to strike, but was opposed to the idea of putting it into that part of the draft Social Charter which spoke of the need to regularise strikes by national laws and regulations.

The Chairman called attention to Article 6 of Doc. 403.

M. Birkelbach proposed the insertion of the words "recognises the right to strike."

Mme. Weber called attention to the end of Article 5 and said that it was impossible to give the right to strike to the police and the armed forces. There should only be reference to the right to organise.

M. Birkelbach thought that this phrase simply meant that the right to strike was recognised in general.

M. Kulakowski pointed out that the present text merely stipulated that it was for the national legislature to decide what trade union rights were to be given to the armed forces, the police and the civil service.

M. Schuijt thought that the right to strike was implicit in the spirit of the Charter. It might be more logical to place it in Article 6 which dealt with collective bargaining. The right to strike must be recognised, but only after the stage of bargaining. The point of departure should be that agreement was possible; if agreement could not be reached, then striking was the last resort.

M. Montini thought that the article was very clear, having regard to present labour conditions. It was necessary to produce a Charter in which the right to work had pride of place. The present Charter was designed for a capitalist society. In another type of society many of the clauses might be different. They should not enter into too much detail and should have an eye to future possibilities.

The Chairman noted that there was general agreement that the right to strike should be explicitly recognised but opinions differed as to whether it should be inserted in Article 5 or Article 6 of the Charter.

The Chairman asked for it to be recorded in the Minutes that the Committee was unanimous in recognising the right to strike and in wishing to insert it in the Charter.

Mme. Weber insisted that the right to strike should not be recognised for the police and the armed forces.

The Chairman requested that Mme. Weber's observation be included in the Minutes.

M. Montini thought that the right to strike could be acknowledged, but should not be used to bring political pressure to bear. It would be a mistake to enter into polemics against the East or against capitalism. If one social class could express the people's will by this means, where would be the end of it? It would be better to start from a principle of unity.

M. Schuijt agreed with M. Montini that the normal procedure was to bargain. If that was not successful, the right to strike was accepted. He thought it would be difficult to change Articles 5 and 6.

Mr. Finch suggested mentioning the right to strike in Article 6.

The Chairman asked for it to be recorded in the Minutes that the Committee agreed unanimously that the right to strike should be referred to in Article 5 or Article 6 of the Charter.

The Chairman thought that this discussion should enable the delegation to the Conference to convey the views of the Committee. When the text came before the Assembly, the latter could put forward amendments. For the time being, the Committee must be content to lay down the general lines to be followed in the Conference discussions.

Article 7

M. Birkelbach thought that the question of the rights of children and young persons might lead to a long discussion. It might be best to propose 16 as the minimum age for employment and to give a second age under which children could in no cases be employed, for example 14.

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Paragraph 5 fixed the minimum holidays at three weeks per year for workers under 18. Some figure should also be fixed for those between 18 and 21.

Paragraph 7 should make it clear that young persons under 18 should not work more than 40 hours a week or 8 hours a day.

Should some age be fixed under which a child could in no case be employed?

The Chairman asked that the Minutes should record the Committee's recommendation that a minimum age be fixed under which no young person could be employed, and that the maximum working hours per day and per week for children and young persons should be fixed.

Mme. Weber said that in Germany the minimum age was 14, but she would not insist if the Committee decided on 15.

M. Schevenels said that I.C.F.T.U. was proposing 16.

M. Ecevit observed that in Turkey education was less advanced than in other countries and children worked in small industries while continuing their studies; i.e., school and employment were combined. For such cases a clause should be inserted to ensure that they could work and study, and stipulating that they could be employed once they had reached the compulsory school leaving age.

Mrs. Cullen would like the age of 15 to be kept.

M. Birkelbach thought that it was pointless to discuss the question of 15 or 16 years, but that a minimum age of 14 should be fixed below which no child could be employed.

M. Ecevit said that in Turkey the age limits for starting and finishing school were variable; in needy families the children went out to work early.

M. Schuijt considered that if some age such as 14 were fixed, no departure from it should be allowed.

M. Courant thought that regard should also be paid to geographic conditions, otherwise one would be flying in the face of nature. In Eastern and Southern countries children were more precocious than in Northern countries and began to work much earlier.

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M. Montini thought that the notion of employment and output, or work and wages, should be linked.

M. Birkelbach emphasised that the point at issue was whether the minimum age should be 14, 15 or 16. Wages were an entirely different matter.

M. Kulakowski also thought that it was a question of employment and not of apprenticeship. He was in favour of the proposal to set the minimum age at 14 with no exceptions.

M. Montini said that account must also be taken of children working with their parents, for example on a farm, who might suffer accidents.

M. Kulakowski observed that parents were responsible if they employed children who were too young to work.

M. Montini asked whether any question of insurance was involved. Was the child the parents' responsibility, or could insurance be brought in?

Mr. Finch said that a labour contract was always covered by social insurance.

M. Birkelbach said that insurance difficulties varied from one country to another. He strongly favoured a minimum age of 14, without exceptions.

The Chairman thought that it would be profitless to carry on the discussion, which would be continued by the Conference and the Assembly.

M. Montini quoted the example of children working on their parents' farm. A child might be looking after cattle and suffer a fall, for example, from a rock. Would he then be covered by social insurance?

M. Schevenels said that no insurance covered children who had no contract of employment.

Mr. Finch said that the question was one of a labour contract between employers and workers.

M. Birkelbach thought that in paragraph 4, 18 and not 16 might be the age at which young persons could not work more than 40 hours a week and 8 hours a day.

M. Schuijt said that he wished to make an observation of a general nature. Article 12 was supplemented by Article 13, which entailed a derogation from the entire Charter.

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The concept of medical assistance had been introduced, which was totally unconnected with relations between employers and workers. Why had not the same procedure been adopted in Article 7, by the addition of a paragraph recognising the right of neglected juveniles to social insurance?

The Chairman asked that M. Schuijt's remarks be recorded in the Minutes.

M. Schuijt proposed to return to that problem during the discussion of the preamble, which dealt with the general character of the Charter. But it was not only a question of relations between employers and employees. Alongside the Ministry of Labour there was always a Ministry of Social Insurance...

M. Kulakowski, referring to paragraph 6, thought that no night work should be allowed for young persons.

M. Schevenels observed that there were some children who were obliged to work at night, if only in theatres or music halls, for example. Conditions should be laid down governing night work by persons under 18.

Article 8

M. Birkelbach observed that there was always some confusion about the length of maternity leave before and after confinement. 12 weeks had been requested. He thought the opinion of Mlle. Swagemakers should be sought.

Mlle. Swagemakers agreed with 12 weeks.

Mme. Weber added that all the women's organisations were opposed to night work for women.

Mlle. Swagemakers thought it was impossible to generalise. The women's organisations were in any case opposed to work in mines.

M. Kulakowski said that in paragraph 4 mention should be made not only of mining but also of quarries. The last phrase, beginning "or as appropriate," might lead to confusion: it should be deleted and the word "quarries" substituted.

Mrs. Cullen thought that 12 weeks were quite adequate but that the figure should be specified as 8 weeks before and 4 weeks after confinement.

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The Chairman requested that the Minutes record the Committee's opinion that total maternity leave should be at least 12 weeks.

Articles 9 and 10

No observations.

Article 11

The Article was approved, after M. Tennfjord had explained that it had been drafted with the agreement of the Committee of Experts on Public Health.

Article 12

M. Birkelbach noted that mention was made of the European Code of Social Security. But the Assembly was not acquainted with the Code, and he thought the Committee should recommend that the Code be completed as early as possible, so that they could see the results it gave.

M. Tennfjord, at the Chairman's request, explained the present position regarding the Code and Protocol.

M. Schuijt wondered whether the Chairman might not with advantage write a letter on that subject to the President of the Assembly, expressing the Committee's anxiety over the fate of the European Code and its Protocol, which still appeared to be "on ice", and requesting that they be communicated to the Committee before the October Session.

Article 13

M. Schuijt proposed that in paragraph 3 the words "by appropriate services" be amended to read "from appropriate services of a public or private nature."

Article 14

M. Schuijt thought that in this Article man was considered merely as an instrument for earning a living. Some mention should be made of "human rehabilitation and resettlement", but that could be taken care of in the Preamble.

Article 15

Repetition of the Preamble.

Article 16

M. Schuijt proposed that neglected juveniles should be mentioned in this Article and not in Article 7.

The Chairman, expressing his agreement, said that M. Schuijt's remark should be recorded in the Minutes.

Article 17

The Chairman pointed out that in paragraph 3 there appeared to be a slight difference between the French and English texts: the French version said "assouplir" and the English text said "liberalise."

M. Schuijt suggested that the question be taken up with the linguistic experts.

M. Courant thought that was not a vital question. The important thing was to explain the different terms employed: the text began by speaking of a liberal spirit, then of simplifying and finally of "assouplissement"; which was going backwards.

M. Kulakowski thought that mention should perhaps be made of political refugees living in countries which were signatories of the Charter, apart from special conventions for refugees.

Article 18

Mlle. Swagemakers regretted that this Article made no reference to the separation of migrant workers from their families. Governments should make an effort to solve that problem, since Article 15 spoke of the protection of families.

THE NUCLEUS

M. Birkelbach drew attention to Articles 1, 2, 5, 6, 12 and 18. Those were, in his view, the most important and they should in any case be ratified by the signatory

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Governments. It was not a question for the moment ... ing their content, but of deciding whether they were sufficient in number or should be supplemented by others.

The Chairman repeated the Articles concerned, specifying that the right to strike should be included in Article 5 or 6 and that they were a strict minimum.

Mme. Weber proposed that Articles 7 and 16 be added.

M. Schuijt agreed with Mme. Weber, but made it clear that the 6 Articles proposed by the Rapporteur were those dealing with relations between employers and workers, which were the essential feature of the Social Charter.

M. Ecevit accepted these articles as a nucleus only on condition that they recognised the right to strike, otherwise further articles must be added.

Mme. Weber did not agree with M. Birkelbach. Articles 7 and 16 were the very foundation of modern community life. Any nation could accept them.

The Chairman noted that the Committee had no objection to the strict minimum proposed by the Rapporteur as a nucleus for ratification by the Contracting Parties. He asked for the inclusion of that statement in the Minutes, as well as of Mme. Weber's desire that Articles 7 and 16 be added. That proposal was upheld by the Committee, to the extent that it could be implemented.

The ratification of the 6 Articles mentioned would be obligatory; four others would be left to the choice of Governments. In fact there must be ten to begin with.

A time-limit must also be fixed for ratifying the remaining Articles in Part II of the Charter.

M. Birkelbach thought that a definite period should be fixed.

The Chairman felt that the Committee should, in this connection, hold a general discussion on the Preamble, and at the next meeting, following the Secretary-General's report, a discussion on procedure.

M. Huntzbuchler asked whether he interpreted the Committee's wishes correctly in assuming that the Minutes were to contain instructions to members who would be delegates to the Tripartite Conference. If so, would the Committee not consider it useful that the draft Minutes be sent to all who had participated in the discussion ./.

so that they could make any amendments or corrections they might think necessary?

The Chairman said he entirely agreed. His only comment was that all observations should reach the Secretariat before 1st October, so that the Minutes could be distributed before the Session.

The draft Minutes would also be sent to the observers, in response to their request, on the understanding that the document would remain confidential.

Decisions taken by the Committee

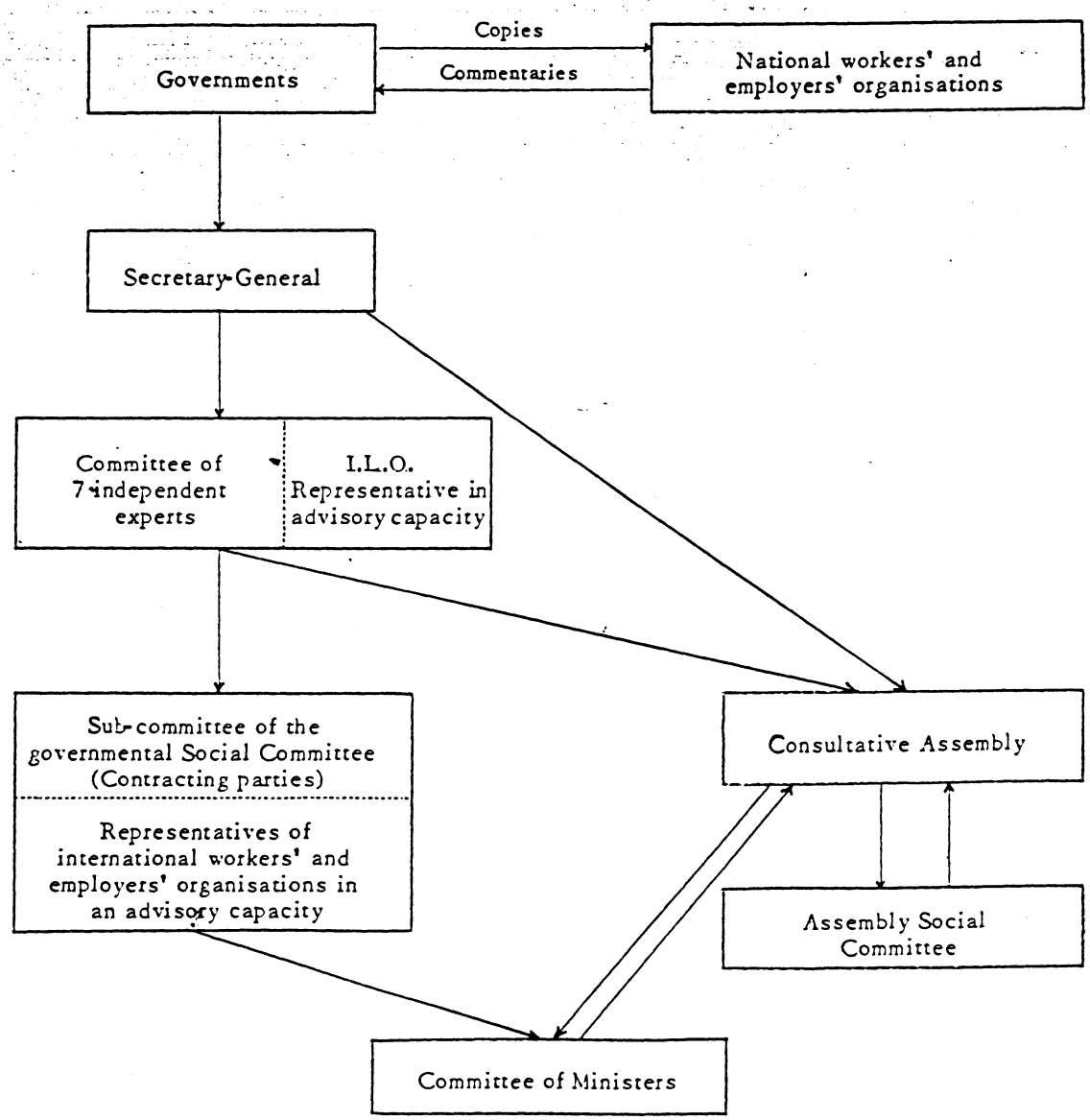
1. The Chairman will send to the President of the Assembly, in his capacity as Chairman of the Joint Committee, a letter requesting him to ask the Ministers attending the next meeting of the Joint Committee what action had been taken on Opinion No. 27 of 28th October 1957, concerning the draft European Code of Social Security and draft Protocol submitted to it by the Committee of Ministers on 18th March 1957.

2. The draft Minutes will be sent to all members of the Committee and observers present at the meeting, who should send their comments to the Secretariat before 26th September.

3. The present Minutes will be considered as containing instructions for members of the Committee's delegation to the Tripartite Conference, to be held at Strasbourg from 2nd to 13th December.

ORGANISATION CHART

proposed by the Assembly Social Committee for the implementation of the Social Charter



THIRD PART

TRIPARTITE CONFERENCE CONVENED BY THE INTERNATIONAL LABOUR ORGANISATION AT THE REQUEST OF THE COUNCIL OF EUROPE

(March/December 1958)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

Strasbourg, 24th March 1958

Confidential
CM(58) 39

EUROPEAN SOCIAL CHARTER

European Tripartite Conference

At their 56th meeting, in February 1958, the deputies instructed the Secretary-General to send a letter to the Director-General of I.L.O. concerning arrangements for convening a European tripartite conference to examine the draft Social Charter and mentioning points which needed clarification prior to the conference.

The Secretary-General has received from the Director of I.L.O. the following reply, accompanied by the attached copy of a letter addressed by M. Morse to the Secretary-General of O.E.E.C.

A 39.530
T 4464 a/HRG

INTERNATIONAL LABOUR OFFICE BUREAU INTERNATIONAL DU TRAVAIL

GENEVA

14. III. 1958.

Sir,

I have the honour to refer to your letter of 10 February 1958 and to my reply of 28 February concerning the decision of the Committee of Ministers of the Council of Europe to propose to the Governing Body of the I.L.O., in accordance with Article 3 of the Agreement between our two organisations, that it convene a European regional conference of a tripartite character to examine the draft European Social Charter elaborated by the Social Committee of the Committee of Ministers.

The proposals of the Committee of Ministers have now been considered by the Governing Body, in the course of its 138th Session, and I have pleasure in informing you that the Governing Body has agreed

(a) to convene, in accordance with Article 3 of the Agreement between the I.L.O. and the Council of Europe, a European conference of a tripartite character composed of two Government representatives, one Employers' representative and one Workers' representative from each country which is a member of both the I.L.O. and the Council of Europe to examine the draft European Social Charter elaborated by the Social Committee of the Committee of Ministers;

(b) that in the letter of convocation mention should be made of the fact that the conference is held at the request of the Committee of Ministers and also of the fact that the draft European Social Charter to be submitted to the conference has its origin in a proposal made by the Consultative Assembly in its Recommendation 104;

(c) to extend an invitation to the Organisation for European Economic Co-operation to participate in the proposed conference;

The Secretary-General,
The Council of Europe,
STRASBOURG.

(d) that the conclusions of the conference would be simultaneously transmitted to the Governing Body and to the Committee of Ministers of the Council of Europe (and to the Council of O.E.E.C. if that organisation were to participate);

(e) that the agenda of the conference should consist of the examination of the draft European Social Charter.

The Governing Body has, in addition, requested me to consult further with you concerning the other arrangements for the conference and to report to it on the result of these consultations.

I am therefore looking forward to further close co-operation between our two organisations on the various matters which remain to be discussed in connection with the conference and with regard to which, I am sure, mutually satisfactory conclusions will be reached.

I have the honour to be,

Sir,

Your obedient Servant:

David A. Morse,
Director-General.

A P P E N D I X

BUREAU INTERNATIONAL DU TRAVAIL, GENEVE

INTERNATIONAL LABOUR OFFICE, GENEVE

14th March, 1958.

Sir,

I have the honour to inform you that the Governing Body of the International Labour Office was recently requested by the Committee of Ministers of the Council of Europe to convene, in accordance with Article 3 of the Agreement between the I.L.O. and the Council of Europe, a European regional conference of a tripartite character to examine the draft European Social Charter elaborated by the Social Committee of the Committee of Ministers. At the same time the Committee of Ministers made certain proposals for consideration by the Governing Body concerning the organisation of the conference.

The Governing Body has considered the request and the proposals of the Committee of Ministers at its 138th Session, and has agreed:

(a) to convene, in accordance with Article 3 of the Agreement between the I.L.O. and the Council of Europe, a European conference of a tripartite character composed of two Government representatives, one Employers' representative and one Workers' representative from each country which is a member of both the I.L.O. and the Council of Europe, to examine the draft European Social Charter elaborated by the Social Committee of the Committee of Ministers;

(b) that in the letter of convocation mention should be made of the fact that the conference is held at the request of the Committee of Ministers and also of the fact that the draft European Social Charter to be submitted to the conference has its origin in a proposal made by the Consultative Assembly in its Recommendation 104;

The Secretary-General,
Organisation for European
Economic Co-operation,
2 Rue André Pascal,
PARIS 16e.

./.

(c) to extend an invitation to the Organisation for European Economic Co-operation to participate in the proposed conference;

(d) that the conclusions of the conference would be simultaneously transmitted to the Governing Body and to the Committee of Ministers of the Council of Europe (and to the Council of O.E.E.C. if that organisation were to participate);

(e) that the agenda of the conference should consist of the examination of the draft European Social Charter.

I have the honour to draw your attention to paragraph (c) above and to request you to be good enough to inform me whether your organisation would wish to participate in the proposed conference. Should you require any additional information before taking a decision, I am at your disposal to consult with you further in this matter.

I have the honour to be,

Sir,

Your obedient Servant:

David A. Morse,
Director-General.

C. S. E. 1958/I
(C.N. 3. 1958)

TRIPARTITE CONFERENCE CONVENED BY
THE INTERNATIONAL LABOUR ORGANISATION AT THE
REQUEST OF THE COUNCIL OF EUROPE

Strasbourg, 1958

COMPARISON BETWEEN THE PROVISIONS OF THE DRAFT EUROPEAN SOCIAL CHARTER AND THE CORRESPONDING I.L.O. STANDARDS

Geneva,
International Labour Office
1958

C.S.E.1958/I
(CN.3.1958)

Tripartite Conference Convened by the
International Labour Organisation
at the Request of the Council of Europe

Strasbourg, 1958

COMPARISON OF THE PROVISIONS OF THE DRAFT EUROPEAN SOCIAL CHARTER WITH THE CORRESPONDING I.L.O. STANDARDS

Geneva
International Labour Office
1958

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INTRODUCTION

Convocation of a European Tripartite Regional Conference

By a letter of 10 February 1958, the Director-General of the I.L.O. was requested by the Secretary-General of the Council of Europe to inform the Governing Body of the I.L.O. that the Committee of Ministers of the Council had decided to propose to the Governing Body, in accordance with Article 3 of the Agreement between the two organisations, to convene a European regional conference of a tripartite character, to examine the draft European Social Charter elaborated by its Social Committee.

The Governing Body of the I.L.O. considered the proposal of the Committee of Ministers at its 138th Session (March 1958), and agreed to convene, in accordance with Article 3 of the Agreement between the I.L.O. and the Council of Europe, a European conference of a tripartite character, composed of two Government representatives, one Employers' representative and one Workers' representative from each country which is a Member of both the I.L.O. and the Council of Europe, to examine the draft European Social Charter elaborated by the Social Committee of the Committee of Ministers of the Council of Europe.

Arrangements concerning the Organisation of the Conference

Subsequent to this decision of the Governing Body of the I.L.O., it was agreed between the I.L.O. and the Council of Europe that the Conference, to be entitled "Tripartite Conference Convened by the I.L.O. at the Request of the Council of Europe", would be held in Strasbourg from 1 to 13 December 1958. At the same time, the following arrangements concerning the organisation of the Conference were concluded between the I.L.O. and the Council of Europe:

Composition of the Conference

1. The Conference shall be composed of two Government delegates, one Employers' delegate and one Workers' delegate for each State which is a Member both of the International Labour Organisation and of the Council of Europe.

2. (1) Delegates may be accompanied by advisers. Any delegate may, by notice in writing addressed to the President, appoint one of his advisers to act as his substitute.

(2) An adviser who is acting as substitute for his delegate may speak and vote under the same conditions as the delegate whom he is replacing.

3. Employers' and Workers' delegates and advisers shall be chosen in agreement with the industrial organisations which are most representative of employers or workpeople as the case may be in the State concerned.

4. The following may also participate in the work of the Conference, but without the right to vote:

(a) the members of a tripartite delegation of the Governing Body of the International Labour Office;

(b) the members of a delegation of the Council of Europe;

(c) the members of a delegation of the Organisation for European Economic Co-operation.

5. The United Nations, the European Coal and Steel Community, the Western European Union, the European Economic Community, the European Atomic Energy Community and the Intergovernmental Committee for European Migration may be represented at the Conference by observers.

6. International non-governmental organisations invited by agreement between the International Labour Organisation and the Council of Europe may also be represented at the Conference by observers.

Agenda of the Conference

7. The sole item on the agenda is the examination of the draft European Social Charter drawn up by the Social Committee of the Committee of Ministers of the Council of Europe.

Form of Decisions of the Conference

8. (1) The decisions of the Conference shall be expressed in the form of a report addressed to the Committee of Ministers of the Council of Europe. This report is to be considered as a technical contribution of the I.L.O. to the drafting of the final version of the Charter, which the Council of Europe itself will carry out. The report shall also be brought to the attention of the Governing Body of the International Labour Office.

(2) In the report will be recorded the views of participants or groups of participants regarding the provisions contained in the draft European Social Charter. It might be necessary in certain cases, in order to bring out clearly the view of the Conference, for the Conference to formulate its

opinion by suggesting texts which could be presented in the form of provisions of the draft Charter.

Documents of the Conference

9. (1) The Conference shall take as the basis of its discussions the document prepared by the International Labour Office in consultation with the Secretariat-General of the Council of Europe, containing the text of the draft Social Charter and a comparison of its provisions with the corresponding provisions of international labour Conventions and Recommendations.

(2) The participants in the Conference may submit papers to it.

Standing Orders of the Conference

10. (1) The International Labour Office will prepare, in consultation with the Council of Europe, draft ad hoc standing orders as simple as possible to govern Conference procedure.

(2) These draft standing orders shall be submitted to the Conference for its approval.

Origin and Development of the European Social Charter

A few remarks on the aim, structure and general functioning of the Council of Europe may make it easier to understand the development of the draft Charter now before the Conference:

According to Article 1 of its Statute, the aim of the Council is to "achieve a greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress".

"This aim shall be pursued through the organs of the Council by discussions of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms".

The main organs of the Council are the Committee of Ministers and the Consultative Assembly. The Committee of Ministers, which is composed, in principle, of the Ministers for Foreign Affairs of the member States, is the executive organ. It has attached to it committees of governmental experts in various fields. These committees may be set up on an ad hoc basis, or they may be of a more permanent nature. Among the latter type is the governmental Social Committee, composed of senior officials in the appropriate Ministries.

The Consultative Assembly, which is composed of members of the national parliaments of the member States, is - as indicated by its name - a deliberative and consultative organ. It has established a political committee (the Committee on General Affairs) and a number of other committees corresponding to the broad fields of competence of the Council of Europe, including a Social Committee and an Economic Committee. These committees, like the Assembly itself, are composed of parliamentarians, and their membership may be said also to reflect the main political trends prevailing in the Assembly.

Both of the main organs may take initiatives in any field within the competence of the Council, but only the Committee of Ministers may act on behalf of the Council as such.

* * *

In November 1950, the Council of Europe adopted the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Convention was based on the Universal Declaration of Human Rights but is limited to civil and political rights. It is a legally binding instrument providing for implementation machinery.

When the Committee of Ministers decided, in May 1954, to endeavour to elaborate a European Social Charter which would define the social objectives aimed at by member States of the Council of Europe and guide the policy of the Council in the social field, the Committee added, in agreement with Opinion 5 adopted by the Assembly on 23 September 1953, that in the social field the Charter would be complementary to the European Convention for the Protection of Human Rights and Fundamental Freedoms. In this way the Council of Europe would have two separate instruments - the Convention on Human Rights and the Social Charter - which would correspond broadly, at the European level, to the two proposed Covenants of the United Nations: the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights.

The preparation of the Charter was entrusted by the Committee of Ministers to its governmental Social Committee which was to make proposals as to its form and content and to consider in particular whether, in addition to general principles, it should contain more definite provisions binding upon the signatories.

The undertaking by the Committee of Ministers to elaborate the Social Charter formed part of a general social programme which took account of two main principles, namely, the progressive harmonisation within practical limits of social legislation and practice in the member States and the abolition of discrimination in the social field on grounds of nationality.[1]

In this connection it may be mentioned that another principle embodied in the social programme of the Council of Europe is the conclusion within the framework of the Council of special Conventions with a view to establishing European standards higher than those reached on the general international plane.

The whole of the social programme was transmitted by the Committee of Ministers to the Consultative Assembly for an opinion, and the Assembly approved and welcomed the programme in its Opinion 9 adopted on 28 May 1954. Subsequently, the Assembly instructed its own Social Committee to begin the preparation of a draft Social Charter - a task which was carried out independently of the governmental Social Committee.

Action by the Consultative Assembly

The Social Committee of the Assembly drew up a complete draft text which was embodied in Document 403 of 26 October 1955 and was submitted to the Assembly at its Seventh Session. This draft contained, in a first part, a number of general principles which, without corresponding to any individual rights, were, in the view of the Committee, to be at the basis of social policy in the member States of the Council of Europe. The remaining text of the draft Charter was conceived as a Convention involving legal obligations for the governments. The implementation of the Charter was to be entrusted to a European Economic and Social Council representing employers, workers and the interests of the general public. This Council was to be a consultative body only, but with considerable rights of initiative.

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[1] Realising that these two principles, both of which are implicit in the draft Social Charter, have come to play an increasingly important role with the creation of the European Economic Community and the deliberations concerning the Free Trade Area, the Consultative Assembly has, in Resolution 126 (1957) concerning the European Economic Community and in Recommendation 160 (1958) relating to the Free Trade Area, proposed that due account be taken of the European Social Charter and has urged its speedy completion.

Document 403 was also submitted to the Governing Body of the I.L.O., which considered it at its 130th Session (November 1955). The Governing Body, having been informed that the draft was a preliminary one, expressed its intention of making a detailed examination of the question as a whole in due course. It stated its willingness to give all possible assistance to the Council of Europe in the examination of social questions of common concern and noted with interest a suggestion which the Consultative Assembly had made in its reply to the Fourth Report submitted to it by the I.L.O.[1] In that reply the Consultative Assembly had stated that: "It is this framework (i.e. of the Western European nations) which the Committee on Social Questions of the Assembly would like to see applied to the composition of the Tripartite Regional Conference, and, in accordance with Article 3 (2) of the Agreement between the Council of Europe and I.L.O., the Assembly suggests submitting to the Tripartite Conference, for its opinion, the draft European Social Charter which is shortly to be drawn up by the Council."[2]

The Committee on Economic Questions of the Consultative Assembly raised a number of important objections to the draft contained in Document 403, and as a result of the debate in the Assembly, that Committee and the Committee on Social Questions were requested by the Assembly to collaborate in the preparation of a new draft.

This new draft, embodied in Document 488 of 14 April 1956, was submitted to the Assembly at its Eighth Session. It contained changes in the determination of the various rights as well as certain substantive changes based on economic considerations. In addition Document 488 departed radically from Document 403 with regard to the provisions for the implementation of

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[1] Resolution 69 (1955) adopted on 7 July 1955.

[2] The Governing Body had already been able, at its 122nd and 123rd Sessions, to examine in a preliminary way a memorandum by the Secretariat-General of the Council of Europe and Opinion 5 of the Assembly concerning the role of the Council of Europe in the social field, including the project of the Social Charter. The Governing Body had emphasised the importance of the principle that labour problems should, as far as practicable, be solved in collaboration by the governments, employers and workers concerned. It had reaffirmed the importance of avoiding duplication between international and regional action and stressed the willingness of the I.L.O. to apply in a spirit of collaboration the Agreement between the I.L.O. and the Council of Europe, which provided, inter alia, for the convocation of regional tripartite meetings concerning matters of interest to the Council, which were within the sphere of action of the I.L.O.

the Charter. Implementation was left to the existing organs of the Council of Europe, including the governmental Social Committee.

The Assembly discussed the document but did not take a vote on the draft Charter. Instead, it charged its Committee on General Affairs, in collaboration with the Social Committee and the Economic Committee, to review the draft, paying particular attention to the problems of implementation.

Thus a third draft established by the three Committees - Document 536 - was submitted to the Assembly in October 1956. The text, which referred to a European Convention on Social and Economic Rights rather than a Charter, differed very little from Document 488 in substance, but the system of implementation was again a new one, involving the appointment of a European Commissioner for Social Affairs and a European Social Chamber, much on the lines of the above-mentioned Economic and Social Council, but with a narrower field of competence.

At the issue of the debate on this draft, the Assembly adopted Recommendation 104 (1956) concerning a European Convention on Social and Economic Rights. It called for:

(1) the establishment of a European Convention on Social and Economic Rights, taking into account "the present draft"[1] and the observations and suggestions made during the Assembly debates; and

(2) the appointment without delay of a special representative who should work in close co-operation with the I.L.O. and other competent intergovernmental organisations, international employers' and trade union organisations and all other competent organisations enjoying consultative status with the Council of Europe.

Action by the Governmental Social Committee and by the Committee of Ministers

At that time, the governmental Social Committee had already been working independently for a considerable time on a Social Charter.

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[1] i.e. the third draft. It should be noted that the draft as such was not adopted by the Assembly.

This had involved a careful examination, stage by stage, of national social legislation and practice within the fields to be covered by the draft Charter on the basis of detailed replies to questionnaires addressed to the member governments of the Council of Europe.

The Council of Europe's Committee of Experts on Public Health and a group of experts on social security who were members of the governmental Social Committee assisted the Committee in the drafting of provisions concerning their respective fields.

The Social Committee, while still in the preliminary stages of its work, submitted, at its Third Session (April 1956), a number of draft provisions to the Committee of Ministers. These provisions showed that the Committee conceived the Charter as a declaratory instrument based on the formulation of general principles rather than as a binding Convention.

The Committee of Ministers subsequently transmitted Assembly Recommendation 104 to the governmental Social Committee along with its Resolution (56)25 of 15 December 1956. This Resolution of the Committee of Ministers instructed the Social Committee, inter alia, to:

> direct its work in this field, in consultation with European employers' and trade union organisations, towards the establishment of a European Social Charter, taking into account the draft appended to Recommendation 104 of the Assembly, and the deliberations of the Assembly;
>
> determine whether and, if so, how far, definite and detailed provisions binding upon the signatory States could be incorporated in the Charter, by providing for its implementation by stages and by recognising that this may be effected by means of collective agreements or other appropriate measures as well as by legislation;
>
> consider measures for the implementation of the Social Charter such as will enable employers' and trade union organisations to assist in supervising its implementation.

The Social Committee continued its work on the basis of these directives. On three occasions it organised, in connection with its ordinary sessions, ad hoc meetings to hear the views of representatives of the International Federation of Christian Trade Unions, the International Confederation of Free Trade Unions and the International Organisation of

Employers.[1] Notes and resolutions submitted by other non-governmental organisations, including the European Confederation of Agriculture, were taken into consideration.

Moreover, a group of members representing the Committee on two occasions had joint meetings with a group representing the Assembly.

A draft Social Charter was completed in February 1958. While the draft, in its present form, appears solely as the result of the deliberations of the governmental Social Committee, some idea of the role played in its establishment by the Consultative Assembly, as well as by employers' and workers' organisations and other non-governmental organisations, may be obtained from the above account of its development.

In addition to the Universal Declaration of Human Rights, upon which the draft Charter may be said to be based, other international instruments, including appropriate international labour Conventions, have been consulted, and the International Labour Office prepared in 1956 for the Council of Europe a preliminary comparative analysis of the draft Social Charter as established by the Social Committee of the Assembly (Document 403) in the light of the instruments of the I.L.O.

Brief Summary of the Draft Charter Prepared by the Governmental Social Committee

The present text of the Charter consists of five parts. The first part sets forth a series of rights and principles to be accepted as an aim of policy of the Contracting Parties. In the second part these rights are laid down in 18 Articles (consisting, in some cases, of several paragraphs)[2], in the

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[1] The International Federation of Christian Trade Unions took part in all these meetings. The International Confederation of Free Trade Unions and the International Organisation of Employers took part in one of them. The two trade union organisations were also represented at numerous meetings of the Social Committee and the Economic Committee of the Assembly.

[2] The right to work, the right to just conditions of work, the right to safe and healthy working conditions, the right to a fair wage, the right to organise, the right to bargain collectively, the right of children and young persons to protection, the right of employed women to protection, the right

(footnote continued on p. ix)

form of obligations to be undertaken by the Contracting Parties in accordance with the provisions of Part III.

Part III, relating to the obligations deriving from acceptance of the Charter, specifies that the Contracting Parties undertake (a) to consider Part I as a declaration of the aims to be pursued by all appropriate means and (b) to consider themselves bound by not less than ten of the Articles or by not less than 45 of the numbered paragraphs and Articles containing only one paragraph of Part II. (The total number of such paragraphs and Articles is 62.)

Part IV provides for the submission to the Secretary-General of the Council of Europe by the Contracting Parties of two-yearly reports concerning the application of such provisions of Part II of the Charter as they have accepted, and also of periodic reports relating to provisions not accepted, it being for the Committee of Ministers to determine from time to time in respect of which provisions the latter reports shall be requested. Copies of these reports will be communicated by the governments to such of their national organisations as are members of the international organisations of employers and trade unions in consultative status with the Council of Europe. These organisations may comment on the reports. The reports will be examined by a Committee of Experts consisting of not more than seven members appointed by the Committee of Ministers from a list of independent experts of the highest integrity and of recognised competence in social and international questions, nominated by the Contracting Parties. The I.L.O. will be invited to nominate a representative to participate in a consultative capacity in the deliberations of the Committee of Experts. The reports of the Contracting Parties and the conclusions of the Committee of Experts will, in turn, be submitted to a subcommittee

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[2] (footnote continued from p. viii)

to vocational guidance, the right to vocational training, the right to protection of health, the right to social security, the right to social and medical assistance, the right of the disabled to rehabilitation and resettlement, the right of the family to social and economic protection, the right of mothers and children to social and economic protection, the right to engage in a gainful occupation in other member countries and the right of migrant workers to protection and assistance.

of the Social Committee of the Committee of Ministers representing the Contracting Parties (at which the international employers' and trade union organisations in consultative status with the Council of Europe will be invited to be represented by observers) and the Committee of Ministers may, on the basis of the report submitted to it by the subcommittee, and after consultation with the Consultative Assembly, make to each Contracting Party any necessary recommendations.

The fifth part of the draft Charter contains the final provisions and lays down, inter alia, that where the provisions of Article 2 (the right to just conditions of work), of certain paragraphs of Article 7 (the right of children and young persons to protection) and Article 10 (the right to vocational training) are normally applied through collective agreements, the undertakings of these paragraphs may be given and compliance with them will be treated as effective if the provisions are so applied to the great majority of the workers concerned.

Explanatory Note

1. The purpose of this report is to facilitate comparison between the provisions contained in the draft European Social Charter and the international labour standards of the I.L.O.

2. As regards Part I of the draft European Social Charter it has been thought desirable to set out in the adjoining column the provisions of -

(a) the preamble to the Constitution of the International Labour Organisation;

(b) the text of the Declaration of Philadelphia which, under the terms of Article 1, paragraph 1, of the Constitution, is annexed thereto.

3. As regards Part II, each of the provisions of the draft European Social Charter is accompanied by a brief summary of the corresponding standards contained in international labour Conventions and Recommendations. In addition a point has been made of indicating for each Convention the geographical sphere of application of the international obligations assumed thereunder, and to this end the footnotes indicate -

(a) whether or not the Convention has come into force (with the date of its coming into force);

(b) the total number of ratifications registered for the Convention in question;

(c) the States Members of the Council of Europe that have ratified it;

(d) the non-metropolitan territories for whose international relations States Members of the Council of Europe are responsible and to which -

(i) the Convention in question is applicable without modifications;

(ii) the Convention in question is applicable subject to modifications.

The information given is correct as of 25 September 1958.

4. In view of the fact that the provisions contained in the European Social Charter have been taken as the basis for this comparative study, it has not been possible to include all

the international labour standards adopted by the I.L.O. since 1919. As some of these matters are closely related, however, general information has been given on the standards laid down in certain Conventions, even if there are no strictly comparable provisions in the draft European Social Charter. In addition, although there are no stipulations in the draft Social Charter in this behalf, it has been thought desirable to include, opposite those articles in Part IV which relate to supervision of the application of the provisions of the Charter, a reference to the international labour Conventions and Recommendations dealing with labour inspection. Apart from the fact that the more important of these instruments were adopted by the Conference in deference to repeated suggestions, mainly from the bodies responsible for examining annual reports on ratified Conventions, and more particularly from the Committee of Experts on the Application of Conventions and Recommendations, experience has shown that in practice, as the Conference Committee on the Application of Conventions and Recommendations and the Conference itself have frequently pointed out, national legislation to protect the worker may often remain a dead letter in the absence of well-organised labour inspection services equipped with all the necessary facilities to ensure the effective application of such legislation.

5. Lastly, as regards Parts III, IV and V, an effort has been made to show opposite each of the rules formulated therein the corresponding procedures applicable to I.L.O. standards. In some cases these procedures are laid down in the Organisation's Constitution itself; in others they are specified in various forms in the texts of international labour Conventions, and in yet other cases they derive from resolutions of the Conference and the Governing Body and from established practice over the years.

6. In order to give an over-all picture of the geographical coverage of the various international labour Conventions adopted since 1919 as it affects the States Members of the Council of Europe, a table of ratifications of Conventions by these States will be made available to the Conference.

TEXT OF THE EUROPEAN SOCIAL CHARTER as amended by the Social Committee

Preamble

The Governments signatory hereto, being Members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms,

Considering that in the European Convention for the protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950, and the Protocol thereto signed at Paris on 20 March 1952, the Member States of the Council of Europe agreed to secure to their peoples the civil and political rights and freedoms therein specified,

Being resolved to make every effort in common to improve the standard of living and to promote the social well-being of their peoples,

Have agreed as follows:

CONSTITUTION OF THE INTERNATIONAL LABOUR ORGANISATION

Preamble

Whereas universal and lasting peace can be established only if it is based upon social justice;

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the the world are imperilled; and an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organisation of vocational and technical education and other measures;

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;

The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, and with a view to attaining

Draft Social Charter

PART I

The Contracting Parties accept as an aim of policy to be pursued by all appropriate means both national and international in character the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in a freely accepted occupation.

2. All workers have the right to just conditions of work.

3. All workers have the right to safe and healthy working conditions.

4. All workers have the right to a fair wage sufficient for a decent standard of living for themselves and their families.

5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.

6. All workers and employers have the right to bargain collectively.

7. Children and young persons have the right to a special protection against physical and moral hazards arising in their work.

I.L.O. Constitution

the objectives set forth in this Preamble, agree to the following Constitution of the International Labour Organisation:

CHAPTER I - ORGANISATION

Article 1

1. A permanent organisation is hereby established for the promotion of the objects set forth in the Preamble to this Constitution and in the Declaration concerning the aims and purposes of the International Labour Organisation adopted at Philadelphia on 10 May 1944 the text of which is annexed to this Constitution.

ANNEX

Declaration concerning the Aims and Purposes of the International Labour Organisation

The General Conference of the International Labour Organisation, meeting in its Twenty-sixth Session in Philadelphia, hereby adopts, this tenth day of May in the year nineteen hundred and forty-four, the present Declaration of the aims and purposes of the International Labour Organisation and of the principles which should inspire the policy of its Members.

I

The Conference reaffirms the fundamental principles on which the Organisation is based and, in particular, that -

(a) labour is not a commodity;

(b) freedom of expression and of association are essential to sustained progress;

Draft Social Charter

8. Expectant or nursing mothers in employment and other employed women as appropriate have the right to a special protection in their work.

9. Everyone has the right to appropriate facilities for vocational guidance with a view to helping him to choose an occupation suited to his personal aptitude and to his interests.

10. Everyone has the right to appropriate facilities for vocational training.

11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.

12. All workers and their dependants have the right to social security.

13. Anyone without adequate resources has the right to social and medical assistance.

14. Disabled persons have the right to rehabilitation and resettlement, whatever the origin and nature of their disability.

15. The family as a fundamental unit of society has the right to appropriate social and economic protection.

16. Mothers and children, irrespective of marital status and family relations, have the right to appropriate social and economic protection.

I.L.O. Constitution

(c) poverty anywhere constitutes a danger to prosperity everywhere;

(d) the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

II

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organisation that lasting peace can be established only if it is based on social justice, the Conference affirms that -

(a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;

(b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;

(c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;

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17. The nationals of any of the Contracting Parties have the right to engage in any gainful occupation in the territory of any of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.

18. Migrant workers have the right to protection and assistance.

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(d) it is a responsibility of the International Labour Organisation to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;

(e) in discharging the tasks entrusted to it the International Labour Organisation, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

III

The Conference recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

(a) full employment and the raising of standards of living;

(b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;

(c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;

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(d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;

(e) the effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;

(f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;

(g) adequate protection for the life and health of workers in all occupations;

(h) provision for child welfare and maternity protection;

(i) the provision of adequate nutrition, housing and facilities for recreation and culture;

(j) the assurance of equality of educational and vocational opportunity.

IV

Confident that the fuller and broader utilisation of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be

secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations, to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full co-operation of the International Labour Organisation with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

V

The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilised world.

Draft Social Charter	I.L.O. Constitution
PART II	
The Contracting Parties undertake to consider themselves bound by the obligations laid down in the following Articles and paragraphs as provided for in Part III.	See below, comments concerning Part III of the draft Social Charter (Article 19).
Article 1 The right to work	
With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:	I.L.O. Standards
1. to accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of employment;	The Employment Service Convention, 1948 (No. 88)[1] states in Article 1, paragraph 2, that "the essential duties of the employment service shall be to ensure ... the best possible organisation of the employment market as an integral part of the national programme for the achievement and maintenance of full employment". Under Article 10 of the Employment Service Convention, 1948 (No. 88), the use of employment service facilities by employers and workers "on a voluntary basis" shall be encouraged.

[1] Convention No. 88 came into force on 10 August 1950. It has been ratified by 27 States including the following 11

(footnote continued on p.10)

Draft Social Charter	I.L.O. Standards
(Article 1)	
2. to protect effectively the right of the worker freely to choose any available occupation, provided that this provision shall not be interpreted as prohibiting or authorising any union security clause or practice;	With reference to union security clauses or practices, the Committee of Experts on the Application of Conventions and Recommendations[1] has not considered that the systems in which such clauses and practices are prohibited and those in which they are authorised or regulated[2] are incompatible with the standards laid down in both the Freedom of Association Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). In addition, under Article 1 of the Forced Labour Convention, 1930 (No. 29)[3] the States undertake to "suppress the use of force or compulsory labour in all its forms within the shortest possible period".

(footnote continued from p. 9)
Members of the Council of Europe: Belgium, France, Federal Republic of Germany, Greece, Italy, Luxembourg, Netherlands, Norway, Sweden, Turkey and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Netherlands: Surinam; United Kingdom: Cyprus, Gibraltar, Guernsey, Jersey, Kenya, Malta, Isle of Man, Sierra Leone, Singapore and Tanganyika. The Convention is applicable with modifications to the following territories: Netherlands: Netherlands Antilles; United Kingdom: British Guiana, Mauritius and Uganda.

[1] See below the comparison with Article 24 of the draft Social Charter.

[2] See International Labour Conference, 39th Session; Geneva, 1956: Report III (Part IV), p. 143; 40th Session, Geneva, 1957: Report III (Part IV), p. 167, para. 35; 39th Session, Geneva, 1956: Record of Proceedings, p. 647.

[3] Convention No. 29 came into force on 1 May 1932. It has been ratified by 54 States, including all the Members of the Council of Europe with the exception of Austria, Luxembourg and Turkey. It is applicable without modification to the following non-metropolitan territories: Denmark: all territories; France: all territories; Italy: all territories; Netherlands: all territories; United Kingdom: all territories. It is applicable with modification to the following territories: Belgium: all territories.

Draft Social Charter	I.L.O. Standards
(Article 1)	The definition of forced labour which, under Article 2 of the Convention, means "all work of service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily", does not include (a) work or service exacted in virtue of compulsory military service laws; (b) work or service which forms part of the normal civic obligations of citizens; (c) prison labour; (d) work in cases of emergency, and (e) minor communal services. In addition, the Abolition of Forced Labour Convention, 1957 (No. 105)[1] provides for the suppression of certain special types of forced labour. The Right to Organise and Collective Bargaining Convention, 1949 (No. 98)[2] provides that workers

[1] Convention No. 105 will come into force on 17 January 1959. It has been ratified by 14 States including the following six Members of the Council of Europe: Austria, Denmark, Ireland, Norway, Sweden and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands and Greenland; United Kingdom: Aden, Antigua, Bahamas, Barbados, Bermuda, British Guiana, British Somaliland, British Virgin Islands, Brunei, Dominica, Falkland Islands, Gibraltar, Gilbert and Ellice Islands, Grenada, Jamaica, Malta, Mauritius, Montserrat, North Borneo, St. Kitts-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Singapore, Trinidad.

[2] Convention No. 98 came into force on 18 July 1951. It has been ratified by 39 States including all the Members of the Council of Europe with the exception of Greece and the Netherlands. It is applicable without modification to the following territories: France: Guadeloupe, Guiana, Martinique, Réunion; United Kingdom: Aden, British Guiana, Gibraltar, Guernsey, Jersey, Isle of Man, Nigeria, Sierra Leone and Trinidad. It is applicable with modifications to the following territory: United Kingdom: Northern Rhodesia.

Draft Social Charter	I.L.O. Standards
(Article 1)	shall enjoy adequate protection against acts calculated to make their employment subject to the condition that they shall not join a union or shall relinquish trade union membership; and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)[1] provides for the elimination of all discrimination in respect of employment and occupation.
3. to establish or maintain free employment services;	The Unemployment Convention, 1919 (No. 2)[2] provides for the establishment of a system of free employment agencies under the control of a central authority and for the appointment of committees including representatives of employers and workers to advise on the operation of these agencies. The Employment Service Convention, 1948 (No. 88)[3] provides for the maintenance of a free public employment

1 There have as yet been no ratifications of Convention No. 111 and it has not yet come into force.

2 Convention No. 2 came into force on 14 July 1921. It has been ratified by 36 States, including all the Members of the Council of Europe. It is applicable without modification to the following non-metropolitan territories of the United Kingdom: Guernsey, Jersey, Isle of Man. It is applicable with modifications to the following non-metropolitan territories of the Netherlands: Netherlands Antilles and Surinam.

3 Convention No. 88 came into force on 10 August 1950. It has been ratified by 27 States, including the following 11 Members of the Council of Europe: Belgium, France, Federal Republic of Germany, Greece, Italy, Luxembourg, Netherlands, Norway, Sweden, Turkey and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Netherlands: Surinam; United Kingdom: Cyprus, Gibraltar, Guernsey, Jersey, Kenya, Malta, Isle of Man, Sierra Leone, Singapore, Tanganyika. The Convention is applicable with modifications to the following territories: Netherlands: Netherlands Antilles; United Kingdom: British Guiana, Mauritius, Uganda.

Draft Social Charter	I.L.O. Standards
(Article 1)	service consisting of a national system of employment offices under the direction of a national authority. The Convention contains detailed rules as to the organisation and functions of the employment service, which are further supplemented by the Employment Service Recommendation, 1948 (No.83). The Fee-Charging Employment Agencies Convention, 1933 (No. 34)[1] provides for the abolition of fee-charging employment agencies conducted with a view to profit (except certain existing agencies catering for special classes of workers) and the regulation and supervision of agencies not conducted with a view to profit. The Fee-Charging Agencies Convention (Revised), 1949 (No. 96)[2] contains alternative provisions for (a) progressive abolition, subject to the establishment of a public employment service, of fee-charging employment agencies conducted with a view to profit and the supervision and regulation of other agencies (Part II of the Convention) or (b) the supervision and regulation of fee-charging employment agencies (Part III). Conventions Nos. 34 and 96 do not apply to seamen.

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[1] Convention No. 34 came into force on 18 October 1936. It is in force for six States, not including any Member of the Council of Europe.

[2] Convention No. 96 came into force on 18 July 1951. It has been ratified by 18 States, including the following eight Members of the Council of Europe: Belgium, France, Federal Republic of Germany, Italy, Netherlands, Norway, Sweden and Turkey. Apart from Turkey, which has accepted Part III of the Convention, all these States have accepted Part II. The Convention (Part II) is applicable without modification to the following non-metropolitan territory of the Netherlands: Surinam.

Draft Social Charter	I.L.O. Standards
(Article 1)	The Placing of Seamen Convention, 1920 (No. 9)[1] provides that the finding of employment for seamen shall not be carried on for gain or fees, and requires the maintenance of a system of free public employment offices for seamen either by representative associations of shipowners and seamen under the control of a central authority, or by the State itself. Provisions concerning employment services are also contained in the following instruments: Employment Agencies Recommendation, 1933 (No. 42); Unemployment (Young Persons) Recommendation, 1935 (No. 45); Vocational Guidance Recommendation, 1949 (No. 87); Migration for Employment Convention, 1939 (No. 66);[2] Migration for Employment Convention (Revised), 1949 (No. 97)[3] and Recommendation (No. 86); Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945 (No. 74).

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[1] Convention No. 9 came into force on 23 November 1921. It has been ratified by 26 States, including the following ten Members of the Council of Europe: Belgium, Denmark, France, Federal Republic of Germany, Greece, Italy, Luxembourg, Netherlands, Norway and Sweden. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands; Netherlands: Netherlands Antilles.

[2] Convention No. 66 has received no ratification, and is not in force.

[3] Convention No. 97 came into force on 22 January 1952. It has been ratified by 11 States, including the following six Members of the Council of Europe: Belgium, France, Italy, Netherlands, Norway and the United Kingdom. It is applicable without modification to the following non-metropolitan territories of the United Kingdom: Guernsey, Jersey, Isle of Man.

Draft Social Charter	I.L.O. Standards
(Article 1)	For the sake of completeness, reference may also be made to the Employment Service Recommendation, 1944, (No. 72) which complements the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71).
4. to promote appropriate vocational guidance, training and rehabilitation.	See under Articles 9 and 10 of the draft Social Charter.

Draft Social Charter	I.L.O. Standards
Article 2	
The right to just conditions of work	
With a view to ensuring the effective exercise of the right to just conditions of work, the Contracting Parties undertake:	
1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and the other relevant factors permit;	A maximum working day of eight hours and a maximum working week of 48 hours are fixed for workers in industry by the Hours of Work (Industry) Convention, 1919 (No. 1)[1] and for workers in commerce by the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)[2]; both these Conventions are applicable to all workers in the branches concerned and longer hours are authorised only in the cases specifically prescribed in the Conventions and subject to the restrictions and conditions set out therein. As regards seafarers, an eight-hour day is fixed for officers and ratings in distant trade ships under the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)[3] and in the Conventions which it revises.

[1] Convention No. 1 came into force on 13 June 1921. It has been ratified by 27 States including the following six Members of the Council of Europe: Austria, Belgium, France, Greece, Italy and Luxembourg; the ratifications of Austria, France and Italy are conditional.

[2] Convention No. 30 came into force on 29 August 1933. It has been ratified by 15 States, including the following three Members of the Council of Europe: Austria, Luxembourg and Norway.

[3] This Convention has not yet come into force.

Draft Social Charter	I.L.O. Standards
(Article 2)	The principle of a reduced working week of 40 hours is laid down in the Forty-Hour Week Convention, 1935 (No. 47)[1]; more detailed provisions respecting the forty-hour week are prescribed for public works and textile workers in the Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)[2] and the Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61).[2] Provisions regarding hours of work are also included in the Hours of Work (Coal Mines) Convention, 1931 (No. 31)[2], the Sheet Glass Works Convention, 1934 (No. 43)[3], the Hours of Work (Coal Mines) Convention (Revised) 1935 (No. 46)[2], the Reduction of Hours of Work (Glass Bottle Works) Convention, 1935 (No. 49)[4], the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)[5], the Labour Clauses (Public Contracts)

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[1] Convention No. 47 came into force on 23 June 1957. It has been ratified by four States, none of which are Members of the Council of Europe.

[2] This Convention has not yet come into force.

[3] Convention No. 43 came into force on 13 January 1938. It has been ratified by nine States, including the following five Members of the Council of Europe: Belgium, France, Ireland, Norway and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

[4] Convention No. 49 came into force on 10 June 1938. It has been ratified by seven States including the following three Members of the Council of Europe: France, Ireland and Norway.

[5] Convention No. 67 came into force on 18 March 1955. It has been ratified by two States, neither of which is a Member of the Council of Europe.

Draft Social Charter	I.L.O. Standards
(Article 2)	Convention 1949 (No. 94)[1], the Migration for Employment Convention (Revised), 1949 (No. 97)[2], and in the following Recommendations: the Hours of Work (Fishing) Recommendation, 1920 (No. 7), the Hours of Work (Inland Navigation) Recommendation, 1920 (No. 8), the Hours of Work (Hotels, etc.) Recommendation, 1930 (No. 37), the Hours of Work (Theatres, etc.) Recommendation, 1930 (No. 38), the Hours of Work (Hospitals, etc.) Recommendation, 1930 (No. 39), the Unemployment (Young Persons) Recommendation, 1935 (No. 45), the Hours of Work and Manning (Sea) Recommendation, 1936 (No. 49), the Rest Periods (Private Chauffeurs) Recommendation, 1939 (No. 66), the Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945 (No. 74), the Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84), the Wages, Hours of Work and Manning (Sea) Recommendation, 1958 (No. 109) and the Plantations Recommendation, 1958 (No. 110).

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[1] Convention No. 94 came into force on 20 September 1952. It has been ratified by 16 States, including the following seven Members of the Council of Europe: Austria, Belgium, Denmark, France, Italy, Netherlands, United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda Urundi; France: Overseas Departments; Netherlands: Netherlands Antilles, Surinam; United Kingdom: Aden, Bahamas, Bermuda, British Guiana, British Solomon Islands, British Somaliland, British Virgin Islands, Brunei, Cyprus, Gibraltar, Gilbert and Ellice Islands, Guernsey, Jersey, Kenya, Isle of Man, Mauritius, Nigeria, North Borneo, Sarawak, Singapore, Tanganyika, Uganda, Federation of the West Indies (Antigua, Barbados, Dominica, Grenada, Jamaica, St. Lucia, St. Vincent); it is applicable with modifications to the following non-metropolitan territories: United Kingdom: British Honduras, Malta, Federation of the West Indies (Trinidad), Zanzibar.

[2] Convention No. 97 came into force on 22 January 1952. It has been ratified by 11 States, including the following six Members of the Council of Europe: Belgium, France, Italy, Netherlands, Norway and the United Kingdom; it is applicable without modifications to the following non-metropolitan territories: United

Draft Social Charter	I.L.O. Standards
(Article 2)	
2. to provide for recognised public holidays with pay;	The Holidays with Pay Convention, 1936 (No. 52)[1] provides that public holidays may not be included in the annual holiday with pay; it applies to all workers in industry and commerce. A similar provision is included in the Paid Vacations (Seafarers) (Revised) Convention 1949 (No. 91)[2] and in the Conventions which it revises. Finally work on legal public holidays is prohibited under the Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46).[3]
3. to provide for a minimum of two weeks' annual holiday with pay;	The Holidays with Pay Convention, 1936 (No. 52)[1] provides that all workers in industry and commerce should receive an uninterrupted annual holiday with pay of at least six working days, to be increased with the length of service and from which public and customary holidays and interruptions of attendance at work due to sickness may not be deducted; the Convention, which permits no exceptions, contains detailed provisions to ensure the worker's right to holidays.

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[1] Convention No. 52 came into force on 22 September 1939. It has been ratified by 26 States, including the following four Members of the Council of Europe: Denmark, France, Greece, Italy.

[2] Convention No. 91 has not yet come into force. It has, however, been ratified by eight States, including the following three Members of the Council of Europe: France, Iceland and Norway. It is applicable without modification to the following non-metropolitan territories: France: French Guiana, Guadeloupe, Martinique, Réunion.

[3] Convention No. 46 has not yet come into force.

Draft Social Charter	I.L.O. Standards
(Article 2)	A holiday with pay of two weeks or more is prescribed for persons other than agricultural workers or seafarers in the Holidays with Pay Recommendation, 1954 (No. 98), and for seafarers in the Paid Vacations (Seafarers) Convention (Revised) 1949 (No. 91)[1] which also contain detailed provisions regarding the methods of calculating holidays and ensuring that they are granted. Moreover, provision for annual holidays with pay is made in the Holidays with Pay (Agriculture) Convention, 1952 (No. 101)[2] and Recommendation, 1952 (No. 93), the Plantations Convention, 1958 (No. 110)[3], and in the following Recommendations: the Holidays with Pay Recommendation, 1936 (No. 47), the Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945 (No. 74), and the Labour Clause (Public Contracts) Recommendation, 1949 (No. 84).

[1] Convention No. 91 has not yet come into force. It has, however, been ratified by eight States, including the following three Members of the Council of Europe: France, Iceland and Norway. It is applicable without modification to the following non-metropolitan territories: France: French Guiana, Guadeloupe, Martinique, Réunion.

[2] Convention No. 101 came into force on 24 July 1954. It has been ratified by 17 States, including the following eight Members of the Council of Europe: Austria, Belgium, France, the Federal Republic of Germany, Italy, Norway, Sweden and the United Kingdom. It is applicable without modifications to the following non-metropolitan territories: France: Overseas Departments.

[3] Convention No. 110 has not yet come into force.

Draft Social Charter	I.L.O. Standards
(Article 2)	
4. to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed;	Reduced working hours are prescribed for certain categories of workers, such as miners, for whom a maximum working day of seven hours and 15 minutes is prescribed, in virtue of the Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)[1], and shift workers in the glass industry, for whom a maximum working week of 42 hours is prescribed under the Sheet-Glass Works Convention, 1934 (No. 43)[2] and the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49).[3]
5. to ensure a weekly rest period.	A weekly rest period of not less than 24 hours is prescribed for all industrial workers in public or private undertakings in virtue of the Weekly

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[1] Convention No. 46 has not yet come into force.

[2] Convention No. 43 came into force on 13 January 1938. It has been ratified by nine States, including the following five Members of the Council of Europe: Belgium, France, Ireland, Norway and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

[3] Convention No. 49 came into force on 10 June 1938. It has been ratified by seven States, including the following three Members of the Council of Europe: France, Ireland and Norway.

Draft Social Charter	I.L.O. Standards
(Article 2)	Rest (Industry) Convention, 1921 (No. 14)[1] and for all workers in commerce and offices, whether public or private, in virtue of the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).[2] These two Conventions lay down detailed prescriptions on the subject, including provisions for compensatory rest periods where work must necessarily be carried out on the day of weekly rest. A weekly rest of 36 hours is advocated in the Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103). Other provisions regarding weekly rest are set out in the Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)[3], and the Plantations Convention 1958 (No. 110)[3], and in the following Recommendations: the

[1] Convention No. 14 came into force on 19 June 1923. It has been ratified by 43 States, including the following ten Members of the Council of Europe: Belgium, Denmark, France, Greece, Ireland, Italy, Luxembourg, Norway, Sweden and Turkey. It is applicable without modifications to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; Denmark: Faroe Islands and Greenland; France: all Overseas and Associated Territories; United Kingdom: Bahamas, Basutoland, Bechuanaland, Falkland Islands, Gambia, Kenya, Malta, Mauritius, Federation of Rhodesia and Nyasaland (Southern Rhodesia), St. Helena, Sarawak, Solomon Islands, Swaziland, Uganda, Federation of the West Indies (Antigua, Dominica, Grenada, Montserrat, St. Kitts, St. Lucia, St. Vincent). (These declarations of application were made by the United Kingdom under the Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83) which has not yet come into force.)

[2] Convention No. 106 will come into force on 4 March 1959. It has been ratified by five States, including the following Member of the Council of Europe: Denmark.

[3] This Convention has not yet come into force.

Draft Social Charter	I.L.O. Standards
(Article 2)	Utilisation of Spare Time Recommendation 1924 (No. 21), the Rest Periods (Private Chauffeurs) Recommendation, 1939 (No. 66), the Wages, Hours of Work and Manning (Sea) Recommendation, 1958 (No. 109) and the Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945 (No. 74).
Article 3 The right to safe and healthy working conditions	
With a view to ensuring the effective exercise of the right to safe and healthy working conditions the Contracting Parties undertake to provide for adequate protection of life and health during work.	(a) Occupational Safety The Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)[1] requires packages or objects of one thousand kilograms or more to be marked plainly before loading them on a ship.

[1] Convention No. 27 came into force on 9 March 1932. It has been ratified by 40 States including all but three Members of the Council of Europe: Iceland, Turkey, United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo, Ruanda-Urundi; Denmark: Faroe Islands; Netherlands: Surinam.

Draft Social Charter	I.L.O. Standards
(Article 3)	The Protection Against Accidents (Dockers) Conventions, 1929 and (Revised) 1932 (Nos. 28 and 32)[1] provide for measures to ensure safe access to ships, safe working conditions on them (fencing, coverings, hoisting machinery) first aid, and reciprocal arrangements between ratifying States. The Safety Provisions (Building) Convention, 1937 (No. 62)[2] lays down safety rules as to scaffolds, working platforms, gangways and hoisting appliances and provides for the keeping of safety and first-aid equipment. A number of Recommendations also deal with the promotion of occupational safety: Prevention of Industrial Accidents, 1929 (No. 31); Power-driven Machinery, 1929 (No. 32); Protection against Accident (Dockers) Reciprocity, 1932 (No. 40); Safety Provisions (Building), 1937 (No. 53); Co-operation in Accident Prevention (Building), 1937 (No. 55).

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[1] Convention No. 28 came into force on 1 April 1932 and is no longer open to ratification. It had been ratified by four States including the following two Members of the Council of Europe: Ireland and Luxembourg. Convention No. 32 came into force on 30 October 1934. It has been ratified by 19 States including the following six Members of the Council of Europe: Belgium, France, Italy, Norway, United Kingdom, Sweden. Convention No. 32 is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

[2] Convention No. 62 came into force on 4 July 1942. It has been ratified by 12 States including the following four Members of the Council of Europe: Belgium, France, Federal Republic of Germany, Netherlands. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo, Ruanda-Urundi; France: Guadeloupe, French Guiana, Martinique, Réunion; Netherlands: Surinam.

Draft Social Charter	I.L.O. Standards
(Article 3)	(b) Occupational Health
	The White Lead (Painting) Convention, 1921 (No. 13)[1] prohibits the use of white lead, sulphate of lead, etc., in internal painting and regulates their use where it is not prohibited.
	A number of Recommendations also deal with the promotion of occupational health: Anthrax Prevention, 1919 (No. 3); Lead Poisoning (Women and Children), 1919 (No. 4); Protection of Workers' Health, 1953 (No. 97); Ships' Medicine Chests, 1958 (No. 105); Medical Advice at Sea, 1958 (No. 106).
Article 4	
The right to a fair wage	
With a view to ensuring the effective exercise of the right to a fair wage, the Contracting Parties undertake:	Provisions dealing with minimum wages and with fair wages clauses in public contracts are contained in the following instruments:

[1] Convention No. 13 came into force on 31 August 1923. It has been ratified by 29 States including the following nine Members of the Council of Europe: Austria, Belgium, France, Greece, Italy, Luxembourg, Netherlands, Norway, Sweden. It is applicable without modification to the following non-metropolitan territories: France: all non-metropolitan territories; Netherlands: Surinam.

Draft Social Charter	I.L.O. Standards
(Article 4)	Minimum Wage Fixing Machinery Convention, 1929 (No. 26)[1] - and the corresponding Recommendation (No. 30); Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)[2] and the corresponding Recommendation (No. 89); Labour Clauses (Public Contracts) Convention, 1949 (No. 94)[3] and the corresponding Recommendation (No. 84); Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)[4]; Plantations Convention (No. 110)[5] and Recommendation (No. 110), 1958.

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[1] Convention No. 26 came into force on 14 June 1930. It has been ratified by 37 States, including the following nine Members of the Council of Europe: Belgium, France, Federal Republic of Germany, Ireland, Italy, Luxembourg, Netherlands, Norway and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas and Associated Territories; United Kingdom: Guernsey, Jersey, Isle of Man.

[2] Convention No. 99 came into force on 23 August 1953. It has been ratified by 12 States, including the following five Members of the Council of Europe: Austria, France, Federal Republic of Germany, Netherlands and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: France: Overseas Departments; United Kingdom: Jersey, Isle of Man, Nyasaland.

[3] Convention No. 94 came into force on 20 September 1952. It has been ratified by 16 States, including the following seven Members of the Council of Europe: Austria, Belgium, Denmark, France, Italy, Netherlands and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas Departments; Netherlands: Netherlands Antilles, Surinam; United Kingdom: Aden, Antigua, Bahamas, Barbados, Bermuda, British Guiana, British Somaliland, British Virgin Islands, Brunei, Cyprus, Dominica, Gibraltar, Gilbert and Ellice Islands, Grenada, Jamaica, Kenya, Mauritius, Nigeria, North Borneo, St. Lucia, St. Vincent, Sarawak, Singapore, Solomon Islands, Tanganyika, Uganda. The Convention is applicable with modification to the following territories of the United Kingdom: British Honduras, Malta, Trinidad, Zanzibar.

(footnote continued on p. 27)

Draft Social Charter	I.L.O. Standards
(Article 4)	
1. to permit deductions from wages only	The Protection of Wages Convention, 1949 (No. 95)[1] provides that deductions from wages shall be permitted only

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(footnotes continued from p.26)

[4] Convention No. 82 came into force on 19 June 1955. It has been ratified by four States, including the following three Members of the Council of Europe: Belgium, France and the United Kingdom. It is applicable, without modification as regards provisions relating to wages, to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas and Associated Territories; United Kingdom: Aden, Bahamas, Bermuda, British Guiana, British Honduras, Dominica, Gambia, Gibraltar, Grenada, Jamaica, Kenya, Leeward Islands, Malta, Mauritius, Northern Rhodesia, St. Helena, St. Lucia, St. Vincent, Solomon Islands, Southern Rhodesia, Zanzibar. The provisions of the Convention relating to wages are applicable with modifications to all other non-metropolitan territories of the United Kingdom, except British Somaliland, Guernsey, Jersey, Isle of Man and Sarawak.

[5] Convention No. 110 has received no ratification and is not yet in force.

[1] Convention No. 95 came into force on 24 September 1952. It has been ratified by 22 States, including the following seven Members of the Council of Europe: Austria, France, Greece, Italy, Netherlands, Norway and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: France: Overseas Departments, Overseas and Associated Territories; Netherlands: Netherlands Antilles, Surinam; United Kingdom: Aden, Bahamas, Barbados, British Guiana, British Somaliland, Brunei, Cyprus, Dominica, Gibraltar, Grenada, Jersey, Malta, Isle of Man, Mauritius, Montserrat, Nigeria, North Borneo, St. Lucia, St. Vincent, Sarawak, Tanganyika, Uganda, Zanzibar. The Convention is applicable with modifications to the following territories: Netherlands: Netherlands New Guinea; United Kingdom: British Honduras, Kenya, Sierra Leone, Solomon Islands, Trinidad and Tobago.

Draft Social Charter (Article 4)	I.L.O. Standards
under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.	under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award, that deductions from wages for payments to an employer or his representative or any intermediary for obtaining or retaining employment shall be prohibited, and that wages may be assigned or attached only as prescribed by national laws or regulations and shall be protected from attachment or assignment to the extent necessary for the maintenance of the worker and his family. This Convention also contains provisions regarding payment of money wages in legal tender, payment of wages in kind, direct payment of wages to workers, freedom to dispose of wages, works stores and services, priority of wage claims in bankruptcy, periodicity and place of wage payments, etc. Detailed provisions regarding the protection of wages are also contained in the following instruments: Protection of Wages Recommendation, 1949 (No. 85); Social Policy (Non-metropolitan Territories) Convention, 1947 (No. 82)[1]; Indigenous and Tribal Populations Recommendation, 1957 (No. 104); Plantations Convention (No.110)[2] and Recommendation (No. 110), 1958.

[1] See p. 27, note 4.

[2] See p. 27, note 5.

Draft Social Charter	I.L.O. Standards
(Article 4)	
and recognise:	
2. the right of all workers to additional wages for work performed at the request of the employer in addition to normal working hours;	The Hours of Work (Industry) Convention, 1919 (No. 1)[1] provides that rate of pay for overtime shall not be less than one and one-quarter times the regular rate. A similar provision may be found in the other Conventions relating to hours of work as, for example, in the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)[2] and in the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109).[3] Numerous other Conventions and Recommendations contain prescriptions regarding the payment of overtime wages, either fixing a minimum rate of one and one-quarter times the normal wage or providing that the rate of compensatory pay is to be fixed by collective agreement or otherwise.
3. the right of men and women workers to equal pay for work of equal value.	The Equal Remuneration Convention, 1951 (No. 100)[4] provides that each State "shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value."

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[1] Convention No. 1 came into force on 13 June 1921. It has been ratified by 27 States, including the following six Members of the Council of Europe: Austria, Belgium, France, Greece, Italy and Luxembourg. The ratifications by Austria, France and Italy are conditional.

[2] Convention No. 30 came into force on 29 August 1933. It has been ratified by 15 States, including the following three Members of the Council of Europe: Austria, Luxembourg and Norway.

[3] Convention No. 109 has not yet come into force.

[4] Convention No. 100 came into force on 23 May 1953. It has been ratified by 29 States, including the following six Members of the Council of Europe: Austria, Belgium, France, Federal Republic of Germany, Ireland and Italy. It is applicable without modification to the following non-metropolitan territories of France:

Draft Social Charter	I.L.O. Standards
(Article 4)	The Discrimination (Employment and Occupation (Convention, 1958 (No. 111)[1] requires each State "to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof" made on the basis (inter alia) of sex. Further provisions regarding equal remuneration for work of equal value are contained in the following instruments: Equal Remuneration Recommendation, 1951 (No. 90); Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111); Social Policy (Non-metropolitan Territories) Convention, 1947 (No. 82)[2]; Indigenous and Tribal Populations Convention, 1957 (No. 107)[3]; Plantations Recommendation, 1958 (No.110).

[1] Convention No. 111 has received no ratification and is not yet in force.

[2] Convention No. 82 came into force on 19 June 1955. It has been ratified by four States, including the following three Members of the Council of Europe: Belgium, France and the United Kingdom. Its provisions regarding equal pay for work of equal value are applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas and Associated Territories; United Kingdom: all non-metropolitan territories except British Somaliland, Guernsey, Jersey, Isle of Man and Sarawak.

[3] Convention No. 107 will come into force on 2 June 1959. It has been ratified by three States, but by no Members of the Council of Europe.

Draft Social Charter

(Article 4)

The exercise of these rights may be assured by voluntary collective agreement, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

I.L.O. Standards

The Equal Remuneration Convention, 1951 (No. 100)[1] provides that the principle of equal remuneration for men and women workers for work of equal value may be applied by means of (a) national laws or regulations; (b) legally established or recognised machinery for wage determination; (c) collective agreements; or (d) a combination of these various means.

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111)[2] provides that each State shall, by methods appropriate to national conditions and practice, (inter alia) enact such legislation as may be calculated to secure the acceptance and observance of the policy of promoting equality of opportunity and treatment in respect of employment and occupation, and to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with this policy.

See also under Article 31 of the draft Social Charter below.

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[1] See p. 29, note 4.

[2] See p. 30, note 1.

Draft Social Charter	I.L.O. Standards
Article 5 The right to organise	
With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests, and to join these organisations, the Contracting Parties undertake that national law shall not be such as	The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)[1] guarantees to individuals, workers and employers "without distinction whatsoever" the right to form freely and to join the organisations of their own choosing. The Convention also grants the organisations themselves certain rights and guarantees, viz. the right to draw up their constitutions and rules, to elect their representatives, to organise their administration and activities and to formulate their programmes (Article 3, paragraph 1); the right to establish both national and international federations and confederations (Article 5); a guarantee against any interference by the public authorities "which would restrict this right or impede the lawful exercise thereof" (Article 3, paragraph 2); in addition such organisations "shall not be liable to be dissolved or suspended by administrative authority" (Article 4). Lastly, the term "organisation" is defined as "any organisation of workers or of employers for furthering and defending the interests of workers or of employers" (Article 10).

[1] Convention No. 87 came into force on 4 July 1950. It has been ratified by 25 States including all the Members of the Council of Europe with the exception of Greece and Turkey. It is applicable without modification to the following non-metropolitan territories: Denmark: Greenland; France: Cameroons, Comoro Islands, French Equatorial Africa, French West Africa, French Somaliland, French Polynesia, Guadeloupe, Guiana, Madagascar, Martinique, New Caledonia, Réunion, St. Pierre et Miquelon, Togoland; United Kingdom: Aden, Guernsey, Jersey, Malta, Isle of Man, Nigeria, Trinidad. It is applicable with modifications to the following territories: British Guiana, Gibraltar, Sierra Leone.

Draft Social Charter	I.L.O. Standards
(Article 5)	
to impair, nor shall it be so applied as to impair, this freedom.	(As regards respect for legality see the comparison below between the I.L.O. standards and Article 29 of the Draft Social Charter.) The Right to Organise and Collective Bargaining Convention, 1949 (No. 98)[1] supplements the foregoing Convention by granting the workers protection against any acts of anti-union discrimination and by protecting workers' and employers' organisations against any acts of interference by each other in their establishment, functioning or administration. The Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)[2] is applicable to non-metropolitan territories. It grants employers and workers the right to associate for all lawful purposes.

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[1] Convention No. 98 came into force on 18 July 1951. It has been ratified by 39 States including all the Members of the Council of Europe with the exception of Greece and the Netherlands. It is applicable without modification to the following territories: France: Guadeloupe, Guiana, Martinique, Réunion; United Kingdom: Aden, British Guiana, Gibraltar, Guernsey, Jersey, Isle of Man, Nigeria, Sierra Leone, Trinidad. It is applicable with modifications to the following territory: United Kingdom: Norther Rhodesia.

[2] Convention No. 84 came into force on 1 July 1953. It has been ratified by four States including the following three Members of the Council of Europe: Belgium, France, United Kingdom. It is applicable without modification to the following territories: Belgium: Belgian Congo and Ruanda Urundi; France: Cameroons, French Equatorial Africa, French Polynesia, French West Africa, French Somaliland, Madagascar, New Caledonia, St. Pierre et Miquelon, Togoland; Italy: Trust Territory of Somaliland; United Kingdom: Aden, Antigua, Bahamas, Barbados, Basutoland, British Guiana, British Honduras, Cyprus, Dominica, Falkland Islands, Fiji Islands, Gambia, Gibraltar, Hong Kong, Jamaica, Kenya, Federation of Malaya, Malta, Mauritius, Montserrat, Nigeria, North Borneo, Nyasaland, Northern Rhodesia, Southern Rhodesia, St. Kitts-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, [illegible], Sierra Leone, Singapore, Swaziland, Tanganyika, [illegible] Tobago, Uganda, British Virgin Islands, Zanzibar.

Draft Social Charter	I.L.O. Standards
(Article 5)	
The extent to which the guarantees provided for in this paragraph shall apply to the armed forces, the police and the administration of the State shall be determined by national laws or regulations.	The Right of Association (Agriculture) Convention, 1921 (No. 11)[1] states that persons engaged in agriculture must be allowed the same rights of association and combination as workers in industry. Article 2 of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)[2] states that workers "without distinction whatsoever" shall have the right to establish and to join organisations of their own choosing. As regards the "armed forces and the police", Article 9 of the Convention stipulates that the extent to which they should be covered by the guarantees provided for in the Convention must be determined by national laws or regulations. It follows that the Convention applies to civil servants and government employees in the same way as to other workers.

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[1] Convention No. 11 came into force on 11 May 1923. It has been ratified by 46 States including all the Members of the Council of Europe with the exception of Turkey. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo, Ruanda Urundi; Denmark: Greenland; France: Cameroons, Comoro Islands, French Equatorial Africa, French West Africa, French Polynesia, French Somaliland, Madagascar, New Caledonia, St. Pierre et Miquelon, Togoland; Netherlands: Netherlands West Indies, Surinam; United Kingdom: Guernsey, Jersey, Isle of Man.

[2] For the date of entry into force of Convention No. 87 the number of ratifications and the territories to which it is applicable see page 32, note .

Draft Social Charter	I.L.O. Standards
Article 6 The right to bargain collectively With a view to ensuring the effective exercise of the right to bargain collectively, the Contracting Parties undertake:	
1. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;	Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)[1] states that measures appropriate to national conditions shall be taken where necessary "to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations with a view to the regulation of terms and conditions of employment by means of collective agreements". Article 3 of the Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)[2] states that all practicable measures shall be taken to assure to trade unions "the right to conclude collective agreements with employers or employers' organisations". The Collective Agreements Recommendation, 1951 (No. 91) regulates the procedure for collective agreements together with their definition, effects, extension, interpretation and enforcement.

[1] For the entry into force of Convention No. 98, the number of ratifications and the non-metropolitan territories to which it is applicable see page 33, note 1.

[2] For the entry into force of Convention No. 84, the number of ratifications and the non-metropolitan territories to which it is applicable see page 33, note 2.

Draft Social Charter	I.L.O. Standards
(Article 6)	
2. to promote the establishment and use of appropriate machinery for conciliation or arbitration for the settlement of labour disputes;	Article 3 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)[1] provides for the establishment of appropriate machinery "for the purpose of ensuring respect for the right to organise". Under Article 5 of the Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)[2] "all procedures for the investigation of disputes between employers and workers shall be as simple and expeditious as possible"; Article 6 of the same Convention deals with conciliation procedure and Article 7 with machinery for settling disputes with which representatives of the employers and workers and their respective organisations must be associated. The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92) lays down principles governing conciliation and arbitration.
3. to promote joint consultation of workers and employers;	A considerable number of international labour Conventions and Recommendations[3] provide for joint consultation with workers and employers and their respective organisations. In many cases, for example, consultation of this kind is necessary to enable a State which has ratified a Convention to avail itself of certain exceptions. Article 4

[1] For the entry into force of Convention No. 98, the number of ratifications and the non-metropolitan territories to which it is applicable see page 33, note 1.

[2] For the entry into force of Convention No. 84, the number of ratifications and the non-metropolitan territories to which it is applicable see page 33, note 2.

[3] A list of these instruments is given in Report VIII(1) which has been prepared for the 43rd Session of the International Labour Conference, 1959, pp. 65, et seq.

Draft Social Charter	I.L.O. Standards
(Article 6)	
	of the Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)[1] provides for consultation with representatives of the employers' and workers' organisations "in the establishment and working of arrangements for the protection of workers and the application of labour legislation". The Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94) urges that steps should be taken "to promote consultation and co-operation between employers and workers at the level of the undertaking on matters of mutual concern not within the scope of collective bargaining machinery".
and recognise:	
4. the right of workers and employers to collective action in cases of conflicts of interest.	As regards the right of organisations to formulate their own programmes and to organise their activities freely, see above for a comparison between the I.L.O. standards and Article 5 of the Draft Social Charter.

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[1] For the entry into force of Convention No. 84, the number of ratifications and the non-metropolitan territories to which it is applicable see page 33, note 2.

Draft Social Charter	I.L.O. Standards
Article 7 The right of children and young persons to protection With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:	
1. to provide that the minimum age of admission to employment shall be 15 years, subject to	The Minimum Age (Industry) Convention, 1919 (No. 5)[1] provides that children under 14 years shall not be employed or work in industrial undertakings, other than undertakings in which only members of the same family are employed. The prohibition does not apply to work in technical schools approved and supervised by public authority.

[1] Convention No. 5 came into force on 13 June 1921. It has been ratified by 34 States, including the following ten Members of the Council of Europe: Austria, Belgium, Denmark, France, Greece, Ireland, Luxembourg, Netherlands, Norway and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands, France: Overseas and Associated Territories, United Kingdom: Guernsey, Jersey, Isle of Man. The Convention is applicable with modifications to the following territory of Denmark: Greenland.

Draft Social Charter	I.L.O. Standards
(Article 7)	
exceptions for children employed for prescribed light work, without harm to their health, morals or education;	The Minimum Age (Industry) Convention (Revised), 1937 (No. 59)[1] provides that children under 15 years shall not be employed in industrial undertakings. Except as regards employments which are dangerous to life, health or morals, national laws or regulations may permit such children to be employed or work in undertakings in which only members of the employer's family are employed. The prohibition does not apply to work in technical schools approved and supervised by public authority. The Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)[2] provides that children under 14 years or children over 14 years who are still required to attend primary school shall not be employed in any non-industrial employment. Children over 12 years may be employed outside school hours on light work which is not harmful to health or normal development, does not prejudice

[1] Convention No. 59 came into force on 21 February 1941. It has been ratified by 15 States, including the following three Members of the Council of Europe: Italy, Luxembourg and Norway. It is applicable without modification to the following non-metropolitan territories of the United Kingdom: Aden, Bechuanaland, Fiji, Gambia, Kenya, Mauritius, Solomon Islands, Tanganyika, Zanzibar. (The declarations of application were made under the Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83) which is not yet in force.) The Convention is applicable with modifications to all other territories of the United Kingdom, except British Somaliland, Brunei, Guernsey, Jersey, and Isle of Man. (Declarations made under Convention No. 83 - see above.)

[2] Convention No. 33 came into force on 6 June 1935. It has been ratified by eight States, including the following four Members of the Council of Europe: Austria, Belgium, France and Netherlands. It is applicable without modification to the following non-metropolitan territories: France: Overseas and Associated Territories: Netherlands: Netherlands Antilles.

Draft Social Charter	I.L.O. Standards
(Article 7)	
	school attendance or capacity to benefit from instruction, does not exceed two hours (nor, with school hours, seven hours) per day and is not carried on on Sundays or public holidays or during the night (i.e. between 8 p.m. and 8 a.m.) The Convention does not apply, subject to certain conditions, to work in technical and professional schools approved and supervised by public authority. Employment in undertakings in which only members of the employer's family are employed may be exempted, provided it is not harmful to health or normal development, prejudicial to school attendance, or dangerous.
	The Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)[1] contains similar provisions, but prescribes a general minimum age of 15 years and fixes the minimum age for employment on light work outside school hours at 13 years.
	The Minimum Age (Agriculture) Convention, 1921 (No. 10)[2] provides that children under 14 years may not be employed or work in agricultural undertakings, save outside the hours fixed for school attendance. The prohibition does not apply to work in technical schools approved and supervised by public authority.

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[1] Convention No. 60 came into force on 29 December 1950. It has been ratified by nine States, including the following two Members of the Council of Europe: Italy and Luxembourg.

[2] Convention No. 10 came into force on 31 August 1923. It has been ratified by 30 States, including the following 10 Members of the Council of Europe: Austria, Belgium, France, Federal Republic of Germany, Ireland, Italy, Luxembourg, Netherlands, Norway and Sweden. It is applicable without modification to the following non-metropolitan territories: France: Overseas Departments; Netherlands: Netherlands Antilles. The Convention is applicable with modifications to the following territory of Italy: Trust Territory of Somaliland.

Draft Social Charter	I.L.O. Standards
(Article 7)	The Minimum Age (Sea) Convention, 1920 (No. 7)[1] provides that children under 14 years shall not be employed or work on vessels engaged in maritime navigation, other than vessels on which only members of the same family are employed. The prohibition does not apply to work on school or training ships approved and supervised by public authority. The Minimum Age (Sea) Convention (Revised), 1936 (No.58)[2] contains provisions similar to those of Convention No. 7, but prescribes a minimum age of 15 years. National legislation may provide for the issue of employment permits to children over 14 years where the educational or other appropriate authority is satisfied that the employment will be beneficial to the child.

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[1] Convention No. 7 came into force on 27 September 1921. It has been ratified by 33 States, including the following 11 Members of the Council of Europe: Belgium, Denmark, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands; United Kingdom: Guernsey, Jersey, Isle of Man. The Convention is applicable with modification to the following territories: Denmark: Greenland; Italy: Trust Territory of Somaliland.

[2] Convention No. 58 came into force on 11 April 1939. It has been ratified by 25 States, including the following eight Members of the Council of Europe: Belgium, Denmark, France, Iceland, Italy, Netherlands, Norway and Sweden. It is applicable without modification to the following non-metropolitan territories: France: Overseas Departments; Netherlands: Netherlands Antilles; United Kingdom: (declarations of application under the Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83), which is not yet in force): Aden, Dominica, Fiji, Gambia, Grenada, Jamaica, Kenya, Mauritius, St. Helena, Seychelles, Sierra Leone, Solomon Islands, Uganda, Zanzibar. The Convention is applicable with modifications to the following territories of the United Kingdom: Bahamas, Barbados, British Guiana, British Honduras, Cyprus, Falkland Islands, Gibraltar, Gilbert and Ellice Islands, Hong Kong, Leeward Islands, Malta, Nigeria, North Borneo, Nyasaland, St. Lucia, St. Vincent, Sarawak, Singapore, Tanganyika, Trinidad and Tobago. (Declarations made under Convention No. 83 - see above.)

Draft Social Charter	I.L.O. Standards
(Article 7)	Provisions concerning the minimum age of employment are also contained in the following instruments: Forced Labour Convention, 1930 (No. 29) - Article 11[1]; Unemployment (Young Persons) Recommendation, 1935 (No. 45) - paragraph 1; Recruiting of Indigenous Workers Convention 1936 (No. 50) - Article 6[2]; Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64) - Article 8[3]; Social Policy in Dependent Territories Recommendation, 1944 (No. 70) - Annex, Articles 18, 19, 20 and 23; Social Policy (Non-Metropolitan Territories) Convention 1947 (No. 82) - Article 19[4].

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[1] Convention No. 29 came into force on 1 May 1932. It has been ratified by 54 States, including the following 12 Members of the Council of Europe: Belgium, Denmark, France, Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Netherlands, Norway, Sweden and the United Kingdom. It is applicable without modification to all the non-metropolitan territories of Denmark, France, Italy, Netherlands and the United Kingdom. It is applicable with modifications to the following territories of Belgium: Belgian Congo and Ruanda-Urundi.

[2] Convention No. 50 came into force on 8 September 1939. It has been ratified by eight States, including the following three Members of the Council of Europe: Belgium, Norway and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; United Kingdom: All territories except Aden, Basutoland, Bechuanaland, Bermuda, Cyprus, Falkland Islands, Gibraltar, Malta, St. Helena, Zanzibar. The Convention is applicable with modifications to the following territories of the United Kingdom: Basutoland, Bechuanaland.

[3] Convention No. 64 came into force on 8 July 1948. It has been ratified by five States, including the following two Members

(footnotes continued on p. 43)

Draft Social Charter	I.L.O. Standards
(Article 7)	
2. to provide that a higher minimum age of admission to employment shall be fixed with regard to prescribed occupations regarded as dangerous or unhealthy;	The Minimum Age (Industry) Convention (Revised), 1937 (No. 59)[1] provides for the prescription of an age or ages higher than 15 years for admission to industrial employments which are dangerous to life, health or morals. The Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)[1] and the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)[1] provide for the fixing of an age or ages higher than those prescribed by these instruments for admission to non-industrial employment (14 and 15 years respectively), for admission to employments dangerous to life, health or morals and, if necessary, to employment in itinerant occupations.

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[3] (footnotes continued from p. 42)

of the Council of Europe: Belgium and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; United Kingdom: All territories except Bahamas, Barbados, Bermuda, Cyprus, Falkland Islands, Gibraltar, Malta, North Borneo, Southern Rhodesia.

[4] Convention No. 82 came into force on 19 July 1955. It has been ratified by four States, including the following three Members of the Council of Europe: Belgium, France and the United Kingdom. It is applicable without modification as regards its provisions relating to the minimum age for employment and the school leaving age, to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas and Associated Territories; United Kingdom: Aden, Bahamas, Barbados, Basutoland, Bechuanaland, Bermuda, British Guiana, British Honduras, Dominica, Falkland Islands, Gambia, Gibraltar, Grenada, Jamaica, Leeward Islands, Malta, Mauritius, Northern Rhodesia, St. Helena, St. Lucia, St. Vincent, Southern Rhodesia, Swaziland, Trinidad and Tobago.

[1] See under Article 7, paragraph 1 of the draft Social Charter.

Draft Social Charter

(Article 7)

I.L.O. Standards

The White Lead (Painting) Convention, 1921 (No. 13)[1] provides for prohibition of the employment of persons under 18 years in any painting work of an industrial character involving the use of white lead or sulphate of lead or other products containing these pigments.

The Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4) provides for the exclusion of persons under 18 years from employment in specified processes.

The Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)[2] provides that persons under 18 years shall not be employed or work on vessels engaged in maritime navigation as trimmers or stokers. The Convention does not apply to work on school or training ships approved and supervised by public authority.

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[1] Convention No. 13 came into force on 31 August 1923. It has been ratified by 29 States, including the following nine Members of the Council of Europe: Austria, Belgium, France, Greece, Italy, Luxembourg, Netherlands, Norway and Sweden. It is applicable without modification to the following non-metropolitan territories: France: All territories; Netherlands: Surinam

[2] Convention No. 15 came into force on 20 November 1922. It has been ratified by 39 States, including the following 13 Members of the Council of Europe: Belgium, Denmark, France, Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands and Greenland. United Kingdom: (declarations of application under the Labour Standards (Non-Metropolitan Territories) Convention, 1947, (No. 83), which is not yet in force): Aden, Bermuda, British Guiana, Cyprus, Dominica, Gambia, Gibraltar, Grenada, Guernsey, Hong Kong, Jamaica, Jersey, Kenya, Malta, Isle of Man, Mauritius, Nigeria, North Borneo, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Singapore, Tanganyika, Trinidad and Tobago, Uganda, Zanzibar. The Convention is applicable with modifications to the following territories: Italy: Trust Territory of Somaliland. United Kingdom: (declaration made under Convention No. 83 - see above) Fiji, Nyasaland, Solomon Islands

Draft Social Charter	I.L.O. Standards
(Article 7)	
	The Minimum Age (Coal Mines) Recommendation, 1953 (No. 96) provides that persons under 16 years shall not be employed underground in coal mines and that persons between 16 and 18 years may be so employed only under prescribed conditions or for purposes of apprenticeship or vocational training under proper supervision.
	Relevant provisions are also contained in the Social Policy in Dependent Territories Recommendation, 1944 (No. 70) (Annex, Articles 21, 22 and 24).
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;	Minimum Age (Agriculture) Convention 1921 (No. 10) - see provisions mentioned with reference to Article 7, paragraph 1 of the draft Social Charter. The Convention further provides that employment outside school hours shall not be such as to prejudice a child's attendance at school.
	The Minimum Age (Non-Industrial Employment) Convention 1932 (No. 33) and Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60) - see provisions mentioned with reference to Article 7, paragraph 1 of the draft Social Charter.
	Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79) - see provisions mentioned with reference to Article 7, paragraph 6 of the draft Social Charter.
	Relevant provisions are also contained in the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82) (Article 19).[1]

[1] For particulars of entry into force and ratifications, see under Article 7, paragraph 1 of the draft Social Charter.

Draft Social Charter	I.L.O. Standards
(Article 7)	
4. to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development and particularly with their need for vocational training;	Provisions limiting the working hours of young persons are set out in the Minimum Age (Agriculture) Convention, 1921 (No. 10) - see above under Article 7, paragraphs 1 and 3 - and in the Minimum Age (Non-Industrial Occupations) Conventions, 1932 (No. 33) and 1937 (No. 60) - see above under Article 7, paragraph 1. Working hours of young persons under 18 years of age may also be limited under the Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103) which provides that they should be granted an uninterrupted weekly rest of two days. The working hours of young persons following vocational training courses are limited in virtue of the Vocational Training Recommendation, 1939 (No. 57), which provides that such courses should be included in normal working hours.
5. to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay;	The Holidays with Pay Recommendation, 1954 (No. 98) provides that young persons under 18 years of age should receive a longer period of annual holiday with pay than the minimum of two weeks prescribed for adults. The Holidays with Pay Convention, 1936 (No. 52)[1] prescribes a holiday of not less than 12 working days for persons under 16 years of age. See also under Article 2(3) of the draft Social Charter.

[1] Convention No. 52 came into force on 22 September 1939. It has been ratified by 27 States, including the following four Members of the Council of Europe: Denmark, France, Greece, Italy.

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(Article 7)	
6. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national law or regulations;	The Night Work of Young Persons (Industry) Convention, 1919 (No. 6)[1] prohibits the employment of persons under 18 years at night in industrial undertakings, other than undertakings in which only members of the same family are employed. "Night" is a period of 11 consecutive hours including specified intervals. Persons over 16 years may be employed during the night in specified undertakings on work which must be carried on continuously, and also in certain cases of emergency. The Night Work of Young Persons (Industry) Convention (Revised), 1948, (No. 90)[2] provides that persons under 18 years of age shall not be employed or work at night in industrial undertakings. "Night" is a period of at least 12 consecutive hours, including specified intervals. The employment at night of persons over 16 years may, subject to certain conditions, be authorised for purposes of apprenticeship or vocational training in industries or occupations which must be carried on continuously and also in certain cases of emergency.

[1] Convention No. 6 came into force on 13 June 1921. It is in force in 26 States, including the following eight Members of the Council of Europe: Austria, Belgium, Denmark, France, Greece, Ireland, Italy and Luxembourg. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands, Greenland; France: all non-metropolitan territories. The Convention is applicable with modifications to the following territory of Italy: Trust Territory of Somaliland.

[2] Convention No. 90 came into force on 12 June 1951. It has been ratified by 20 States including the following four Members of the Council of Europe: Italy, Luxembourg, Netherlands and Norway. It is applicable without modifications to the following non-metropolitan territory of the Netherlands: Netherlands Antilles.

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(Article 7)

I.L.O. Standards

The Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)[1] provides that persons under 18 years shall not be employed or work at night in non-industrial occupations. "Night", in the case of children under 14 years and children still subject to full-time school attendance, is a period of at least 14 consecutive hours, and in other cases a period of at least 12 consecutive hours, including specified intervals. Persons over 16 years may be permitted to work at night in certain cases of emergency and, subject to certain conditions, for purposes of vocational training. Special provision is made for work as performers in public entertainment and film making.

The Hours of Work and Manning (Sea) Convention, 1936 (No. 57)[2] provides that, on vessels engaged in maritime navigation, no rating under 16 years of age shall work at night (a period of at least nine consecutive hours commencing before and ending after midnight). A similar provision, but applicable to all persons, officers as well as ratings, is contained in the Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)[3]

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[1] Convention No. 79 came into force on 29 December 1950. It has been ratified by 13 States, including the following two Members of the Council of Europe: Italy and Luxembourg.

[2] Convention No. 57 has not yet come into force. It has been ratified by five States, including the following two Members of the Council of Europe: by Belgium and by Sweden (conditional ratification).

[3] Convention No. 76 has not yet come into force. It has been ratified by one State, but by no Member of the Council of Europe.

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(Article 7)	
	and its revising Conventions of 1949 (No. 93)[1] and 1958 (No. 109)[2].
	The Night Work of Children and Young Persons (Agriculture) Recommendation, 1921 (No. 14) provides for nightly rest periods of ten or nine consecutive hours respectively for children under 14 years and for persons between 14 and 18 years employed in agricultural undertakings.
	Relevant provisions are also contained in the following instruments: Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946 (No. 80); Social Policy in Dependent Territories Recommendation, 1944 (No. 70) (Annex, Article 25).
7. to provide that persons under 18 years of age employed in occupations prescribed by national law or regulations shall be subject to regular medical control.	The Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)[3] provides that persons under 18 years shall not be admitted to employment in industrial undertakings unless found fit for the work in question by medical examination, and that the continued employment of such persons shall be subject to re-examination at intervals of not more than a year. In occupations involving high health risks, examination and re-examination are required until the age of 21 years.

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[1] Convention No. 93 has not yet come into force. It has been ratified by four States, but by no member of the Council of Europe.

[2] Convention No. 109 has received no ratification and is not yet in force.

[3] Convention No. 77 came into force on 29 December 1950. It has been ratified by 16 States, including the following three Members of the Council of Europe: France, Italy, Luxembourg.

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(Article 7)	
	The Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)[1] contains similar provisions in respect of young persons employed in non-industrial occupations.
	The detailed rules regarding the medical examination of young persons contained in the above-mentioned Conventions are further supplemented by the Medical Examination of Young Persons Recommendation 1946 (No. 79).
	The Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)[2] provides that the employment of persons under 18 years of age on vessels engaged in maritime navigation shall be conditional on the production of a medical certificate attesting fitness for such work, and that their continued employment shall be subject to re-examination at intervals of not more than one year.

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[1] Convention No. 78 came into force on 29 December 1950. It has been ratified by 16 States, including the following three Members of the Council of Europe: France, Italy, Luxembourg.

[2] Convention No. 16 came into force on 20 November 1922. It has been ratified by 39 States, including the following 11 Members of the Council of Europe: Belgium, Denmark, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Sweden and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands and Greenland; Italy: Trust Territory of Somaliland; United Kingdom (declarations under the Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 85), which is not yet in force); Aden, Bermuda, Cyprus, Dominica, Gambia, Gibraltar, Grenada, Hong Kong, Jamaica, Mauritius, Nigeria, North Borneo, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Singapore, Solomon Islands, Tanganyika, Trinidad, Uganda, Zanzibar. The Convention is applicable with modifications to the following territories of the United Kingdom: Fiji, Kenya (declarations under Convention No. 85 - see above).

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(Article 7)	
	The Medical Examination (Seafarers) Convention, 1946 (No. 73)[1] provides for medical examination at intervals not exceeding two years of all persons employed on vessels engaged in maritime navigation.
	The Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4) provides that the employment of persons under 18 years of age in processes involving lead compounds shall be permitted only subject to certain conditions, including periodic medical examination.

[1] Convention No. 73 came into force on 17 August 1955. It has been ratified by 13 States, including the following five Members of the Council of Europe: Belgium, France, Italy, Netherlands and Norway. It is applicable without modification to the following non-metropolitan territories of France: Overseas Departments.

Draft Social Charter	I.L.O. Standards
Article 8 The right of employed women to protection	
With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:	
1. to provide either by paid leave or by adequate social security benefits for women to take leave	(a) Maternity Leave The Maternity Protection Convention, 1919 (No. 3)[1] prohibits the employment in commerce and industry of any woman during the six weeks following confinement, and allows any pregnant woman to leave her work during the six weeks immediately preceding the date of confinement.

[1] Convention No. 3 came into force on 13 June 1921. It is now in force for 18 States, including the following five Members of the Council of Europe: France, the Federal Republic of Germany, Greece, Italy, Luxembourg. It is applicable with modifications to the following non-metropolitan territories: France: all non-metropolitan territories; Italy: Trust Territory of Somaliland; United Kingdom: Fiji Islands, Nigeria, Southern Rhodesia, Solomon Islands, Singapore. These declarations of application were made by the United Kingdom under the Labour Standards (Non-Metropolitan Territories) Convention, 1947, which has not yet come into force.

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(Article 8)	
before and after child-birth up to a total of at least 12 weeks;	The Maternity Protection Convention (Revised) 1952 (No. 103)[1] applies to women employed in agriculture and in industrial occupations. Part VII (Maternity Protection) of the Plantations Convention 1958 (No. 110)[2] applies to women plantation workers. These two Conventions provide for 12 weeks' maternity leave of which not less than six must be taken after confinement. They also state that ante-natal leave must, where necessary, be extended to cover the period between the presumed date and the actual date of confinement, and that the total duration of the leave shall be extended in the event of sickness caused by pregnancy or confinement. These Conventions are supplemented by the following Recommendations: The Maternity Protection (Agriculture) Recommendation, 1921 (No. 12) The Maternity Protection Recommendation, 1952 (No. 95) which states that maternity leave may be extended to 14 weeks or more when made necessary by abnormal circumstances. (b) Benefits during Maternity Leave The Maternity Protection Convention, 1919 (No. 3), the Maternity Protection Convention (Revised) 1952 (No. 103), and Part VII (Maternity Protection) of the Plantations Convention, 1958 (No. 110) state that a woman shall be entitled during her maternity leave

[1] Convention No. 103 came into force on 7 September 1955. It has been ratified by seven States, none of which however, is a Member of the Council of Europe.

[2] Convention No. 110 has not yet come into force and no ratifications have been received.

Draft Social Charter

(Article 8)

I.L.O. Standards

to sufficient cash benefit for the full and healthy maintenance of herself and her child together with medical care such as free attendance by a doctor or midwife. The first two Conventions stipulate that these benefits must be paid out of public funds or under an insurance system. According to Convention No. 103 the rate of cash benefit must be not less than two-thirds of the woman's previous earnings taken into account for the purpose of computing benefits. It also stipulates that in no circumstances may an employer be made personally liable for the cost of the benefit granted to women in his employment.

Part VII (Maternity Benefit) of the Social Security (Minimum Standards) Convention, 1952 (No. 102)[1] states that periodical payments of benefit for a minimum period of 12 weeks in the event of maternity must be made by a social security or assistance scheme; the Convention fixes a minimum rate of benefit in relation to the wage rates payable in the country concerned. It also provides for free medical attendance.

The Sickness Insurance (Sea) Convention, 1936 (No. 56)[2] provides inter alia for maternity benefit.

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[1] Convention No. 102 came into force on 27 April 1957. Part VII has been accepted by four States, including the following two Members of the Council of Europe: the Federal Republic of Germany and Greece.

[2] Convention No. 56 came into force on 9 December 1949. It has been ratified by five States, including the following Members of the Council of Europe: Belgium, France, the Federal Republic of Germany and the United Kingdom. It is applicable in the following non-metropolitan territories: France: Guadeloupe, Guiana, Martinique, Réunion; United Kingdom: Guernsey, Jersey, Isle of Man.

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(Article 8)	
	The provisions of these Conventions are either extended in scope or supplemented by the following Recommendations:
	The Maternity Protection (Agriculture) Recommendation, 1921 (No. 12);
	The Income Security Recommendation 1944 (No. 67); and
	The Maternity Protection Recommendation, 1952 (No. 95) which states in particular that the rate of benefit payable during maternity leave should be increased to 100 per cent. of the woman's previous earnings taken into account for the purpose of computing benefits.
2. to prohibit dismissal from employment through or on account of maternity absence;	The Maternity Protection Convention 1919, (No. 3), the Maternity Protection Convention (Revised) 1952 (No. 103) and Part VII (Maternity Protection) of the Plantations Convention, 1958 (No. 110) make it illegal for an employer to give notice to a woman during absence caused by pregnancy or confinement or by sickness due to pregnancy or confinement, or to give notice at such a date that it would expire during such an absence. Convention No. 110 also states that in general it shall be illegal to dismiss a woman solely because of her pregnancy or the fact that she is nursing a child.
	The provisions of these Conventions are either enlarged in scope or strengthened (as regards protection of employment) by the Maternity Protection (Agriculture) Recommendation, 1921 (No. 12) and the Maternity Protection Recommendation, 1952 (No. 95). The latter states that

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(Article 8)	
	the prohibition of dismissal should take effect from the day the employer receives the doctor's certificate attesting pregnancy and continue until not less than one month after the end of maternity leave.
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;	The Maternity Protection Convention, 1919 (No. 3), the Maternity Protection Convention (Revised), 1952 (No. 103) and Part VII (Maternity Protection) of the Plantations Convention, 1958 (No. 110) make provision for breaks during the working day to enable mothers to nurse their children. The first of these instruments allows two half-hour breaks while the other two leave it to national legislation to fix the number and duration of these breaks. These provisions are enlarged in scope by the Maternity Protection (Agriculture) Recommendation, 1921 (No. 12) and strengthened by the Maternity Protection Recommendation, 1952 (No. 95) which states that nursing breaks totalling an hour and a half should be allowed.
4. to regulate the employment of	(a) Night Work The Night Work (Women) Convention, 1919, (No. 4)[1] provides that women

[1] Convention No. 4 came into force on 13 June 1921. It has been ratified by 36 States, including the following nine Members of the Council of Europe: Austria, Belgium, France, Greece, Ireland, Italy, Luxembourg, Netherlands, and the United Kingdom. Of these nine States, Belgium, France, Ireland and Netherlands have denounced the Convention and ratified Convention No. 89; Greece has denounced the Convention and ratified Convention No. 41; and the United Kingdom has denounced the Convention. It is applicable without modification to the following non-metropolitan territories of France: all non-metropolitan territories. It is applicable with modifications to the following non-metropolitan territory of Italy: Trust Territory of Somaliland.

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(Article 8)	
women workers on night work in industrial employment and to prohibit their employment in underground mining or as appropriate on other work which is unsuitable for them.	without distinction of age shall not be employed during the night in industrial undertakings other than undertakings in which only members of the same family are employed. "Night" is a period of at least 11 consecutive hours, including a specified interval. The prohibition does not apply in certain cases of force majeure and in respect of work on raw materials necessary to preserve them from certain loss. The Night Work (Women) Convention (Revised) 1934 (No. 41)[1] contains similar provisions, but excepts from its scope women holding responsible positions of management not ordinarily engaged in manual work. The Night Work (Women) Convention (Revised) 1948 (No. 89)[2] contains similar provisions to those of Convention No. 4, but excepts from its scope (i) women holding responsible positions of a managerial or technical character and (ii) women employed in health and welfare services not ordinarily engaged in manual work.

[1] Convention No. 41 came into force on 22 November 1936. It has been ratified by 22 States, including the following six Members of the Council of Europe: Belgium, France, Greece, Ireland, Netherlands and the United Kingdom. Of these six States, Belgium, France, Ireland and Netherlands have denounced the Convention by ratifying Convention No. 89, and the United Kingdom has denounced the Convention. It is applicable without modification to the following non-metropolitan territories: France: Algeria, Overseas and Associated Territories; Netherlands: Surinam.

[2] Convention No. 89 came into force on 27 February 1951. It has been ratified by 24 States, including the following seven Members of the Council of Europe: Austria, Belgium, France, Ireland, Italy, Luxembourg and the Netherlands. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: French Guiana,

(continued on Page 58)

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(Article 8)	The Night Work of Women (Agriculture) Recommendation, 1921 (No. 13) provides for a night rest of not less than nine hours for women wage earners in agricultural undertakings. Relevant provisions are also contained in the Social Policy in Dependent Territories Recommendation, 1944 (No. 70). (b) Underground Work etc. The Underground Work (Women Convention, 1935 (No. 45)[1] provides that no female, whatever her age, shall be employed on underground work in any mine. National laws or regulations may provide for certain exceptions specified in the Convention (e.g. for persons holding positions of management not performing manual work and persons employed in health and welfare services).

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[2] (footnote continued from p. 57)

Guadeloupe, Martinique, Réunion; Netherlands: Netherlands Antilles. The Convention is applicable with modifications to the following territory of the Netherlands: Netherlands New Guinea.

[1] Convention No. 45 came into force on 30 May 1939. It has been ratified by 47 States, including the following 12 Members of the Council of Europe: Austria, Belgium, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Sweden, Turkey and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Italy: Trust Territory of Somaliland; Netherlands: Netherlands Antilles; United Kingdom: Guernsey, Jersey, Isle of man, and (by virtue of declarations made under the Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83), which is not yet in force) Bahamas, Basutoland, Bechuanaland, British Guiana, Cyprus, Falkland Islands, Fiji, Gibraltar, Hong Kong, Kenya, Nigeria, Northern Rhodesia, Nyasaland, Sierra Leone, Singapore, Solomon Islands, Southern Rhodesia, Swaziland, Tanganyika and Uganda.

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(Article 8)	Similar provisions are contained in the Social Policy in Dependent Territories Recommendation, 1944 (No. 70). The White Lead (Painting) Convention, 1921 (No. 13)[1] provides for prohibition of the employment of females in any painting work of an industrial character involving the use of white lead or sulphate of lead or other products containing these pigments. The Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4) provides for the exclusion of women from employment in specified processes. The Forced Labour Convention, 1930 (No. 29)[2] provides that in cases in which forced labour may be exacted as an exceptional measure pending its complete supression, only adult males may be called upon (Article 11).

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[1] Convention No. 13 came into force on 31 August 1923. It has been ratified by 29 States, including the following nine Members of the Council of Europe: Austria, Belgium, France, Greece, Italy, Luxembourg, Netherlands, Norway and Sweden. It is applicable without modification to the following non-metropolitan territories: France: all territories; Netherlands: Surinam.

[2] Convention No. 29 came into force on 1 May 1932. It has been ratified by 54 States, including the following 12 Members of the Council of Europe: Belgium, Denmark, France, Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Netherlands, Norway, Sweden and the United Kingdom. It is applicable without modification to all the non-metropolitan territories of Denmark, France, Italy, Netherlands and the United Kingdom. It is applicable with modifications to the following territories of Belgium: Belgian Congo and Ruanda-Urundi.

Draft Social Charter

Article 9

The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Contracting Parties will endeavour:

1. to provide or promote assistance to individuals to enable them to solve problems related to occupational choice and progress, with due regard for the individual's characteristics and their relation to

I.L.O. Standards

The Vocational Guidance Recommendation, 1949 (No. 87) contains detailed provisions regarding the principles and methods of vocational guidance for young persons, including those in school, and for adults, the principles of administrative organisation of vocational guidance, the training of officers and research and publicity; the Recommendation provides, inter alia, for individual counselling interviews for each young person, complete analysis of individual ability, medical examination, appropriate tests, opportunity for work experience and the supply of information on possible careers; in the case of adults, provision is made for similar facilities and assistance in the form of employment counselling. Prescriptions respecting vocational guidance are also set out in the Employment Service Convention, 1948 (No. 88)[1] and

[1] Convention No. 88 came into force on 10 August 1950. It has been ratified by 27 States, including the following 11

(footnote contd. on p. 61)

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(Article 9)	
occupational opportunity; such assistance to be available both to young persons, including school children, and to adults;	the Unemployment (Young Persons) Recommendation, 1935 (No. 45), the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71), the Equal Remuneration Recommendation 1951 (No. 90), and the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99).
2. to encourage the full utilisation of the facilities provided, by appropriate measures such as reducing or abolishing any fees or charges.	The Vocational Guidance Recommendation, 1949 (No. 87) provides that the use of vocational guidance should be encouraged to the widest practicable extent; it also indicates that provision should be made by the central authorities for the adequate financing of vocational guidance facilities.

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[1] (Footnote contd. from p. 60)
Members of the Council of Europe: Belgium, France, the Federal Republic of Germany, Greece, Italy, Luxembourg, Netherlands, Norway, Sweden, Turkey and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Netherlands: Surinam; United Kingdom: Cyprus, Gibraltar, Guernsey, Jersey, Kenya, Malta, Isle of Man, Sierra Leone, Singapore, Tanganyika. It is applicable with modifications to the following non-metropolitan territories: Netherlands: Netherlands Antilles; United Kingdom: British Guiana, Mauritius, Uganda.

Draft Social Charter	I.L.O. Standards
Article 10 The right to vocational training With a view to ensuring the effective exercise of the right to vocational training, the Contracting Parties undertake:	
1. to provide or promote as necessary, the technical and vocational training of workers;	Detailed provisions regarding vocational training are set out in the Vocational Training Recommendation, 1939 (No. 57) which contains prescriptions regarding, inter alia, pre-vocational preparation, the network of technical schools to be established, training before and during employment, the co-ordination and supply of information regarding vocational training, certificates on termination of training and the qualifications of the teaching staff. The Vocational Training (Adults) Recommendation, 1950 (No. 88) lays down numerous prescriptions dealing with the training of adults; the question of the vocational training of seafarers and agriculture workers is dealt with in detail in the Vocational Training (Seafarers) Recommendation, 1946 (No. 77) and the Vocational Training (Agriculture) Recommendation, 1956 (No. 101), respectively. Further provisions on vocational training are set out in the Social Policy (Non-Metropolitan Territories) Convention

Draft Social Charter	I.L.O. Standards
(Article 10)	1947 (No. 82)[1], the Employment Service Convention, 1948 (No. 88)[2] and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).[3] Provisions regarding vocational training have also been included in the following Recommendations: the Unemployment (Young Persons) Recommendation 1935 (No. 45), the Vocational Education (Building) Recommendation, 1937 (No. 56), the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71), the Employment Service Recommendation, 1944 (No. 72), the Migration for Employment Recommendation (Revised), 1949 (No. 86), the Equal Remuneration Recommendation, 1951 (No. 90), the Indigenous and Tribal Populations Recommendation, 1957 (No. 104), the Plantations Recommendation, 1958 (No. 110) and the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111).

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[1] Convention No. 82 came into force on 19 June 1955. It has been ratified by four States including the following three Members of the Council of Europe: Belgium, France and the United Kingdom. It is applicable without modifications to the following non-metropolitan territories: United Kingdom: Aden, Bahamas, Bermuda, British Guiana, British Honduras, Gambia, Guernsey, Gibraltar, Jersey, Malta, Isle of Man, Mauritius, Federation of Rhodesia and Nyasaland (Northern Rhodesia, Southern Rhodesia), St. Helena, Federation of the West Indies (Antigua, Dominica, Grenada, Jamaica, Montserrat, St. Kitts, St. Lucia, St. Vincent). The Convention is applicable with modifications to the following non-metropolitan territories: Belgium: Belgian Congo, Ruanda-Urundi; France: all the Overseas Territories; New Zealand: Cook Islands and Niue, Tokelau Islands; United Kingdom: Basutoland, Bechuanaland, Brunei, Cyprus, Falkland Islands, Fiji, Gilbert and Ellice Islands, Hong Kong, Kenya, Nigeria, North Borneo, Federation of Rhodesia and Nyasaland (Nyasaland), Seychelles, Sierra Leone, Singapore, Solomon Islands, Swaziland, Tanganyika, Uganda, Federation of the West Indies (Barbados, Trinidad), Zanzibar.

[2] See p. 60, note 1.

[3] Convention No. 111 has not yet come into force.

Draft Social Charter	I.L.O. Standards
(Article 10)	
2. to provide or promote a system of apprenticeship;	The Apprenticeship Recommendation, 1939 (No. 60) is of general application (excluding seamen) and lays down the measures to be taken to make apprenticeship as effective as possible, such as provisions respecting the technical and other qualifications of the employers concerned, the conditions governing the entry of young persons into apprenticeship and the rights and obligations of master and apprentice. Further provisions respecting apprentices are included in the Vocational Training (Agriculture) Recommendation, 1956 (No. 101), and the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82).[1]
3. to provide or promote, as necessary, special facilities for re-training of adult workers where this is necessary as a consequence, particularly of technological developments or of dislocations of the employment market;	Detailed provisions regarding the re-training of adults are laid down in the Vocational Training (Adults) Recommendation, 1950 (No. 88), particularly as regards demobilised persons, adults who are unemployed as a result of technological developments or for other reasons, persons wishing to learn an occupation in which there is a long-term manpower shortage, migrants, etc.; the methods of training to be utilised are set out in detail. Further provisions concerning re-training of adults are set out in the Unemployment Provision Recommendation, 1934 (No. 44) and the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71).

[1] See p. 68, note 1.

Draft Social Charter	I.L.O. Standards
(Article 10) 4. to encourage the full utilisation of the facilities provided, by appropriate measures such as:	
(a) reducing or abolishing any fees or charges;	(a) and (b) The Vocational Training Recommendation, 1939 (No. 57) provides that admission to technical and vocational schools should be free and that economic assistance such as free meals or maintenance allowances should be given when required. As regards seafarers, the Vocational Training (Seafarers Recommendation, 1946 (No. 77) advocates measures regarding the award of scholarships and allowances, the granting of paid study leave, etc. Further provisions regarding the reduction of fees and financial assistance are laid down in the Vocational Training (Adults) Recommendation, 1950 (No. 88), the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99) and the Plantations Recommendation, 1958 (No. 110).
(b) granting financial assistance in appropriate cases;	
(c) including in the normal working hours time spent on supplementary training, taken by the workman	(c) The Vocational Training Recommendation, 1939 (No. 57) provides that time spent in attending supplementary courses by apprentices and other young workers who are under an obligation to attend such courses should be included in normal working hours. Provisions on this subject are also set out in the Vocational Training (Adults) Recommendation, 1950 (No. 88).

Draft Social Charter	I.L.O. Standards
(Article 10) with the consent of his employer, during employment;	
(d) ensuring, through adequate supervision, the efficiency of apprenticeship arrangements and the adequate protection of apprentices.	(d) The Apprenticeship Recommendation, 1939 (No. 60) provides that supervision should be established over apprenticeship, particularly with a view to ensuring that the rules governing apprenticeship are observed, that the training given is satisfactory and that there is reasonable uniformity in the conditions of apprenticeship. The Vocational Guidance Recommendation, 1949 (No. 87) prescribes measures to be taken in connection with the supervision of the application of contracts of apprenticeship.

Draft Social Charter	I.L.O. Standards
Article 11 The right to protection of health	
With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia*:	
1. to remove as far as possible the causes of ill-health;	Part II (Medical Care) of the *Social Security (Minimum Standards) Convention, 1952 (No. 102)*[1] states that the medical and pharmaceutical benefits for which it provides and which must be made available to a specified percentage of employees or of the population "shall be afforded with a view to maintaining.... health" and that the persons thus protected should be encouraged "to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities". The *Medical Care Recommendation 1944 (No. 69)* states that the medical care service, which should cover the entire population, should also be designed to protect and improve the health of the individual.

[1] Convention No. 102 came into force on 27 April 1955. Part II has been accepted by six States including the following five Members of the [illegible]: Denmark, Federal Republic of Germany, [illegible] and the United Kingdom.

Draft Social Charter	I.L.O. Standards
(Article 11)	
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;	The Medical Care Recommendation, 1944 (No. 69) provides that the members of the medical and allied professions participating in the medical care service "may appropriately undertake such general health care as can with advantage be given by the same staff including.... advice to expectant mothers and mothers with infants and other care of a like nature". The Social Policy in Dependent Territories Recommendation, 1944 (No. 70) provides that "all practicable measures shall be taken to improve the health of the people by the extension of medical facilities.... by the spread of health education".
3. to prevent as far as possible epidemic, endemic and other diseases.	The Plantations Convention, 1958 (No. 110)[1] provides for measures to abolish or control endemic diseases. The Social Policy in Dependent Territories Recommendation, 1944 (No. 70) contains a similar provision which covers epidemic as well as endemic diseases. The Seamen's Welfare in Ports Recommendation, 1936 (No. 48) provides for special measures to protect the health of these workers.
Article 12	
The right to social security	
With a view to ensuring the effective exercise of the right to social security the Contracting Parties undertake:	

[1] Convention No. 110 has not yet come into force.

Draft Social Charter	I.L.O. Standards
(Article 12)	
1. to establish or maintain a system of social security;	The instruments adopted by the I.L.O. adopt two different approaches to social security. Up to the Second World War each instrument normally dealt with one particular contingency, whereas the post-war instruments, which deal with social security as a whole, cover all contingencies.
	Compensation for Employment Injuries
	The Conventions provide that persons who suffer employment injuries shall be provided with all necessary medical, surgical and pharmaceutical care, together with compensation in proportion to the disability for the whole of its duration and, in the event of death, compensation for the worker's dependants.
	The Workmen's Compensation (Accidents) Convention, 1925 (No. 17)[1] provides that such compensation shall be paid to all persons suffering employment injuries, with the exception of seafarers, fishermen and agricultural workers; the

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1 Convention No. 17 came into force on 1 April 1927. It has been ratified by 31 States, including the following nine Members of the Council of Europe: Austria, Belgium, France, Federal Republic of Germany, Greece, Luxembourg, the Netherlands, Sweden and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas Departments; Italy: Trust Territory of Somaliland; Netherlands: Netherlands Antilles; United Kingdom: Guernsey, Jersey, Kenya, the Isle of Man, Mauritius, Northern Rhodesia, Tanganyika.

It is applicable with modifications to the following territories: United Kingdom: Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, British Guiana, British Honduras, Cyprus, Dominica, Falkland Islands, Fiji Islands, Gambia, Grenada, Jamaica, Malta, Montserrat, Nigeria, North Borneo, Nyasaland, St. Christopher, Nevis, Anguilla, St. Helena, St. Lucia, St. Vincent, Sierra Leone, Singapore, Southern Rhodesia, Swaziland, Trinidad and Tobago, Uganda, British Virgin Islands.

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Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)[1] provides that agricultural wage earners shall enjoy the same protection in this respect as industrial workers; the Social Security (Seafarers) Convention, 1946 (No. 70)[2] lays down a similar principle with regard to seafarers. The Plantations Convention, 1958 (No. 110)[3] lays down a similar principle as regards plantation workers in Part VIII (Workmen's Compensation). The Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)[4] makes the shipowner liable for the payment of compensation in respect of seafarers. Part VI (Employment Injury Benefit) of the Social Security (Minimum Standards) Convention, 1952 (No. 102)[5] provides that protection

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[1] Convention No. 12 came into force on 26 February 1923. It has been ratified by 32 States, including the following 11 Members of the Council of Europe: Austria, Belgium, Denmark, France, Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, Sweden, the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; Netherlands: Netherlands Antilles; United Kingdom: Guernsey, Jersey, Isle of Man.

[2] Convention No. 70 has not yet come into force.

[3] Convention No. 110 has not yet come into force.

[4] Convention No. 55 came into force on 29 October 1939. It has been ratified by seven States, including the following three Members of the Council of Europe: Belgium, France and Italy. It is applicable without modification to the following territories: France: French Guiana, Guadeloupe, Martinique and Réunion.

[5] Convention No. 102 came into force on 27 April 1955. Part VI has been accepted by six States, including the following four Members of the Council of Europe: Federal Republic of Germany, Greece, Norway and Sweden.

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shall cover not less than 50 per cent. of employees in the ratifying country.

These Conventions are supplemented by the following Recommendations:

Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No. 22);

Workmen's Compensation (Jurisdiction) Recommendation, 1925 (No. 23);

Income Security Recommendation, 1944 (No. 67).

Social Policy in Dependent Territories Recommendation, 1944 (No. 70) (which provides for the payment of compensation for employment injuries to all workers, employees and apprentices employed on vessels and by industrial, commercial and agricultural undertakings in these territories) and the Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945, (No. 74).

Compensation for Occupational Diseases

The Conventions provide for the payment of compensation for occupational diseases according to the general principles of national workmen's compensation legislation and at rates not less than those prescribed for accidents. Two Conventions - the Workmen's Compensation (Occupational Diseases) Convention 1925 (No. 18)[1] and the Workmen's Compensation (Occupational Diseases) Convention

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[1] Convention No. 18 came into force on 1 April 1927. It is now in force in 29 States, including the following eight Members of the Council of Europe: Austria, Belgium, Denmark, France, Federal Republic of Germany, Luxembourg, Norway. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; Denmark: Faroe Islands; United Kingdom: Guernsey, Jersey, Isle of Man.

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(Article 12)	(Revised) 1934 (No. 42)[1] - contain a schedule of diseases and substances and of the corresponding industries, occupations or processes in respect of which workers are entitled to compensation. The Workmen's Compensation (Occupational Diseases) Recommendation 1925 (No. 24) provides for the adoption of a simple procedure for revising the schedules of occupational diseases. Part VI (Employment Injury Benefit) of the Social Security (Minimum Standards) Convention 1952 (No. 102)[2] stipulates that not less than 50 per cent. of employees in the ratifying country must be protected. These instruments are supplemented by the following Recommendations: Income Security Recommendation 1944 (No. 67); Social Policy in Dependent Territories Recommendation 1944 (No. 70); Social Policy in Dependent Territories (Supplementary Provisions) Recommendation 1945 (No. 74).

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[1] Convention No. 42 came into force on 17 June 1936. It has been ratified by 33 States, including the following 14 Members of the Council of Europe: Austria, Belgium, Denmark, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden, Turkey, United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas Departments; Netherlands: Netherlands Antilles, Surinam; United Kingdom: Guernsey, Jersey, Isle of Man. It is applicable with modifications to the following territory: Italy: Trust Territory of Somaliland.

[2] See p. 70, note 5.

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Sickness Benefit

The Conventions provide, in the event of sickness, for medical and pharmaceutical care and, in the event of disability, for the payment of cash benefit. In the Social Security (Minimum Standards) Convention 1952 (No. 102) these two types of benefit are dealt with in two separate Parts: Part II (Medical Care)[1] and Part III (Sickness Benefit).[2]

The Sickness Insurance (Industry) Convention 1927 (No. 24)[3] applies to workers in industry, commerce and domestic service.

The Sickness Insurance (Agriculture) Convention 1927 (No. 25)[4] applies to agricultural workers.

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[1] Convention No. 102 came into force on 27 April 1955. Part II has been accepted by six States including the following five Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Norway, United Kingdom.

[2] Part III of Convention No. 102 has been accepted by five States, including the following four Members of the Council of Europe: Federal Republic of Germany, Greece, Norway, United Kingdom.

[3] Convention No. 24 came into force on 15 July 1928. It has been ratified by 18 States, including the following five Members of the Council of Europe: Austria, France, Federal Republic of Germany, Luxembourg, United Kingdom. It is applicable without modification to the following non-metropolitan territories: France: French Guiana, Guadeloupe, Martinique, Réunion; United Kingdom: Guernsey, Jersey, Isle of Man.

[4] Convention No. 25 came into force on 15 July 1928. It has been ratified by 14 States, including the following four Members of the Council of Europe: Austria, Federal Republic of Germany, Luxembourg, United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

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Shipowners' Liability (Sick and Injured Seamen) Convention 1936 (No. 55)[1] and the Sickness Insurance (Sea) Convention 1936 (No. 56)[2] apply to seafarers, as does the Social Security (Seafarers) Convention 1946 (No. 70)[3], which simply provides that these workers shall, in the event of sickness, be entitled to benefits not less favourable than those granted to industrial workers.

The Social Security (Minimum Standards) Convention 1952 (No. 102)[4] provides both in Part II (Medical Care) and in Part III (Sickness Benefit) that coverage must be given to a prescribed proportion of employees or residents in the ratifying country.

General rules regarding entitlement to cash benefit are contained in the Income Security Recommendation 1944 (No. 67).

The Medical Care Recommendation 1944 (No. 69) lays down higher standards for the organisation of a medical care service.

The Social Security (Armed Forces) Recommendation 1944 (No. 68) deals with sickness benefit and medical care for persons discharged from the armed forces and assimilated services, or from war employment.

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1 See p. 70, note 4.

2 Convention No. 56 came into force on 9 December 1939. It has been ratified by five States, including the following four Members of the Council of Europe: Belgium, France, Federal Republic of Germany, United Kingdom. It is applicable without modification to the following non-metropolitan territories: France: French Guiana, Guadeloupe, Martinique, Réunion; United Kingdom: Guernsey, Jersey, Isle of Man.

3 See p. 70, note 2.

4 See p. 73, notes 1 and 2.

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The Seafarers (Medical Care for Dependants) Recommendation 1946 (No. 76) provides that the dependants of seafarers should be given proper and sufficient medical care pending the establishment of a medical care service covering all workers and their dependants. The rules that should govern a service of this kind are embodied in the Medical Care Recommendation 1944 (No. 69).

Old-Age Insurance

The Conventions provide for the payment of an old-age pension to protected persons who have reached the age fixed by national legislation which should not, however, in general exceed 65 years.

The Old-Age Insurance (Industry etc.) Convention 1933 (No. 35)[1] covers workers in industrial and commercial undertakings or in the liberal professions, home workers and domestic servants; the Old-Age Insurance (Agriculture) Convention 1933 (No. 36)[2] applies to workers in agricultural undertakings; the Seafarers' Pensions Convention 1946 (No. 71)[3] applies to seafarers, as does the Social Security (Seafarers) Convention 1946 (No. 70)[4] which entitles these

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1 Convention No. 35 came into force on 18 July 1937. It has been ratified by nine States, including the following three Members of the Council of Europe: France, Italy, United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

2 Convention No. 36 came into force on 18 July 1937. It has been ratified by eight States including the following three Members of the Council of Europe: France, Italy, United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

3 Convention No. 71 has not yet entered into force.

4 See p. 70, note 2.

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workers to old-age benefits not less favourable than those payable to industrial workers.

Part V (Old Age-Benefit) of the Social Security (Minimum Standards) Convention 1952 (No. 102)[1] prescribes the proportion of employees or residents of the ratifying country who must be protected.

The Invalidity, Old-Age and Survivors' Insurance Recommendation 1933 (No. 43) and the Income Security Recommendation 1944 (No. 67) lay down general rules for a more advanced old-age insurance scheme.

The Social Security (Armed Forces) Recommendation 1944 (No. 68) lays down rules for the extension of such a scheme to persons discharged from the armed forces and assimilated services or from war employment.

Invalidity Insurance

An invalidity pension is provided for by the following Conventions:

The Invalidity Insurance (Industry etc.) Convention 1933 (No. 37)[2] covers workers in industrial and commercial undertakings or in the liberal professions, home workers and domestic servants.

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[1] Convention No. 102 came into force on 27 April 1955. Part V has been accepted by eight States, including the following six Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Italy, Norway, United Kingdom.

[2] Convention No. 37 came into force on 18 July 1937. It has been ratified by eight States, including the following three Members of the Council of Europe: France, Italy, United Kingdom. It is applicable without modifications to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

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	The Invalidity Insurance (Agriculture) Convention 1933 (No. 38)[1] covers workers in agricultural undertakings.
	The Social Security (Seafarers) Convention 1946 (No. 70)[2] entitles these workers in respect of incapacity for work (whether due to employment injury or not) to benefits not less favourable than those granted to industrial workers.
	Part IX (Invalidity Benefit) of the Social Security (Minimum Standards) Convention 1952 (No. 102)[3] prescribes a minimum percentage of employees or residents in the ratifying country who must be protected.
	The Invalidity, Old-Age and Survivor's Insurance Recommendation 1933 (No. 43) and the Income Security Recommendation 1944 (No. 67) lay down general rules for a more advanced invalidity insurance system.
	The Social Security (Armed Forces) Recommendation 1944 (No. 68) lays down rules for the extension of the system to persons discharged from the armed forces and assimilated services or from war employment.

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[1] Convention No. 38 came into force on 16 July 1937. It has been ratified by seven States, including the following three Members of the Council of Europe: France, Italy, United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

[2] See above p. 70, note 2.

[3] Convention No. 102 came into force on 27 April 1955. Part IX has been accepted by the following three States, which are Members of the Council of Europe: Denmark, the Federal Republic of Germany, and Greece.

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Survivor's Insurance

The Conventions provide for the payment of a survivor's pension at least to the widow of the deceased insured person or pensioner (as long as she does not remarry) and to orphans below a specified age.

The Survivor's Insurance (Industry etc.) Convention 1933 (No. 39)[1] covers workers in industrial and commercial undertakings or in the liberal professions, home workers and domestic workers; the Survivor's Insurance (Agriculture) Convention 1933 (No. 40)[2] covers workers in agricultural undertakings.

The Social Security (Seafarers) Convention 1946 (No. 70)[3] provides that, in the event of the death of a seafarer, his dependants shall be entitled to benefits not less favourable than those granted to the dependants of industrial workers.

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[1] Convention No. 39 came into force on 8 November 1946. It has been ratified by six States, including the following two Members of the Council of Europe: Italy, United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

[2] Convention No. 40 came into force on 29 September 1949. It has been ratified by five States, including the following two Members of the Council of Europe: Italy, United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

[3] See p. 70, note 2.

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Part X (Survivor's Benefit) of the Social Security (Minimum Standards) Convention 1952 (No. 102)[1] provides that protection must be given to a minimum proportion of all employees or residents in the ratifying country.

The Invalidity, Old-Age and Survivor's Insurance Recommendation 1933 (No. 43) and the Income Security Recommendation 1944 (No. 67) lay down general rules for a more advanced system of survivor's insurance.

The Social Security (Armed Forces) Recommendation 1944 (No. 68) lays down rules for the extension of such a system to persons discharged from the armed forces and assimilated services or from war employment.

Unemployment Insurance

The payment of benefit or allowances in the event of involuntary unemployment is provided for by the Unemployment Provision Convention 1934 (No. 44)[2] for any person habitually employed for a wage or salary; Part IV (Unemployment Benefit) of the Social Security (Minimum Standards) Convention 1952 (No. 102)[3] stipulates

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[1] Convention No. 102 came into force on 27 April 1955. Part X has been accepted by five States, including the following three Members of the Council of Europe: Federal Republic of Germany, Greece, United Kingdom.

[2] Convention No. 44 came into force on 10 June 1938. It has been ratified by nine States, including the following five Members of the Council of Europe: France, Ireland, Italy, Norway, United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man.

[3] Convention No. 102 came into force on 27 April 1955. Part IV has been accepted by seven States, including the following six Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Norway, Sweden, United Kingdom.

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that protection must be given to a minimum percentage of employees or residents of the ratifying country.

The Unemployment Indemnity (Shipwreck) Convention 1920 (No. 8)[1] provides that in the event of shipwreck each seafarer shall be paid an indemnity against unemployment.

The Social Security (Seafarers) Convention 1946 (No. 70)[2] provides that in the event of unemployment, seafarers shall receive benefits not less favourable than those to which industrial workers are entitled.

These Conventions are supplemented by the Unemployment Insurance (Seamen) Recommendation 1920 (No. 10) which provides that an effective system of insurance should be established for seafarers against unemployment due to shipwreck or any other cause.

The Social Security (Armed Forces) Recommendation 1944 (No. 68) lays down rules for the extension of an unemployment insurance system to persons discharged from the armed forces and assimilated services or from war employment.

Guiding principles for a general unemployment insurance system are contained in the Unemployment Provision Recommendation 1934 (No. 44) and the Income Security Recommendation 1944 (No. 67).

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[1] Convention No. 8 came into force on 16 March 1923. It has been ratified by 29 States, including the following 12 Members of the Council of Europe: Belgium, Denmark, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden, United Kingdom. It is applicable without modification to the following non-metropolitan territories: Denmark: Faroe Islands; Netherlands: Netherlands Antilles; United Kingdom: Guernsey, Jersey, Isle of Man.

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(Article 12)	
	Family Benefits
	See below under Article 15 of the draft Social Charter.
	Maternity Insurance
	See above under Article 8 of the draft Social Charter.
2. to maintain the social security system at a satisfactory level at least equal to that required for ratification of the European Code of Social Security;	Under Article 2[1] of the Social Security (Minimum Standards) Convention 1952 (No. 102), States which ratify this Convention must apply Parts I, XI, XII, XIII, and XIV and must accept at least three other Parts including at least one of the following Parts: IV, V, VI, IX and X. Any State which at the time of ratification has not accepted all the optional Parts of the Convention may later accept all or some of these Parts. The Convention also provides that a State "whose economic and medical facilities are insufficiently developed" may, if and for so long as the competent authority considers necessary, avail itself, by a declaration appended to its ratification, of certain temporary exceptions which lower the level of protection. In such a case the State Member is required to include in its annual reports upon the application of this Convention a statement whether the reasons for which it availed itself of these exceptions still exist or whether it renounces its right to avail itself of all or some of these exceptions.
3. to endeavour to raise progressively the system of social security to a higher level.	

[1] See below p.84, note 7.

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4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements, or by other means, and subject to the conditions laid down in such agreements, to ensure:	Some of the instruments which deal with insurance specifically state that all foreign workers are entitled to the protection they provide. These Conventions are as follows:
(a) equal treatment with their own nationals of the nationals of other Contracting Parties in respect of social security rights, including the retention of	The Maternity Protection Convention, 1919 (No. 3).[1]
	The Maternity Protection Convention (Revised) 1952 (No. 103).[2]
	Part VII (Maternity Protection) of the Plantations Convention, 1958 (No. 110).[3]
	The Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55).[4]
	The Social Security (Seafarers) Convention, 1946 (No. 70).[5]
	The Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945 (No. 74).
	Other Conventions, while laying down the principle of equal treatment for foreign and national workers, do allow a certain amount of differentiation provided it is reciprocal. Thus, the Unemployment Convention 1919 (No. 2)[6] requires States which have established

[1] Convention No. 3 came into force on 13 June 1921. It is now in force in 18 States, including the following five Members of the Council of Europe: France, the Federal Republic of Germany, Greece, Italy, Luxembourg. It is applicable without modification in the following non-metropolitan territories: France: All non-metropolitan territories; Italy: Trust Territory of Somaliland; United Kingdom: Fiji Islands, Nigeria, Southern Rhodesia, Solomon Islands, Singapore. For these territories declarations of application have been made by the United Kingdom under the Labour Standards (Non-Metropolitan Territories) Convention 1947 (No. 83) which has not yet come into force.

(Other footnotes continued on p. 88).

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benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Contracting Parties;	a system of unemployment insurance to make reciprocal arrangements with other States Members for the payment of unemployment benefit to foreign workers. The Unemployment Provision Convention 1934 (No. 44)[1] applies to all foreign workers, but in the case of benefit payable from funds to which the foreign worker has not contributed, exceptions may be made in respect of foreigners who are nationals of States which have not ratified the Convention. The Unemployment Provision Recommendation 1934 (No. 44) states that equality of treatment should be granted to the nationals "of Members and States which, without having ratified the Convention, effectively apply its provisions". Lastly, a number of insurance conventions which lay down the principle of equal treatment for foreign workers contain provisions allowing certain differences in treatment depending on whether the foreigners are resident or non-resident, and whether or not they are nationals of States which have ratified the Convention in question. These Conventions are as follows:

(footnotes continued from p. 82).

[2] Convention No. 103 came into force on 7 September 1955. It has been ratified by seven States, none of which is a Member of the Council of Europe.

[3] Convention No. 110 has not yet come into force.

[4] See p. 74, note 1.

[5] See p. 70, note 2.

[6] Convention No. 2 came into force on 14 July 1921. It is now in force in 35 States including all the Members of the Council of Europe. It is applicable without modification in the following non-metropolitan territories: United Kingdom: Guernsey, Jersey, Isle of Man. It is applicable with modifications to the following territories: Netherlands: Netherlands Antilles,

Draft Social Charter	I.L.O. Standards
(Article 12)	Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35).[1]
	Old-Age Insurance (Agriculture) Convention, 1933 (No. 36).[2]
	Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37).[3]
	Invalidity Insurance (Agriculture) Convention, 1933 (No. 38).[4]
	Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39).[5]
	Survivors' Insurance (Agriculture) Convention, 1933 (No. 40).[6]
	Social Security (Minimum Standards) Convention, 1952 (No. 102), Part XII (Equality of treatment of non-national residents).[7]

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[1] See p. 75, note 1.

[2] See p. 75, note 2.

[3] See p. 76, note 2.

[4] See p. 77, note 1.

[5] See p. 78, note 1.

[6] See p. 78, note 2.

[7] Convention No. 102 came into force on 27 April 1955 and has been ratified by nine States, including the following seven Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Italy, Norway, Sweden and the United Kingdom. Part XII must automatically be applied by States ratifying the Convention.

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Other instruments that are primarily concerned with the protection of foreign workers deal with the position of the latter as regards social security. The Migration for Employment Convention (Revised), 1949 (No. 97)[1] provides that each Member which ratifies this instrument will give to immigrants lawfully within its territory, without discrimination in respect of nationality, equality of treatment in respect of social security, subject to (a) appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition; (b) certain special provisions concerning benefits or portions of benefits which are payable wholly out of public funds.

The Migration for Employment Recommendation (Revised), 1949 (No. 86) in the annexed Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons, provides that the competent authority in the immigration country shall, in so far as such matters are regulated by laws or regulations or are subject to the control of administrative authorities, grant equality of treatment to migrants and members of their families in respect of safety and medical assistance.

The Maintenance of Migrants' Pension Rights Convention, 1935 (No. 4)[2] places nationals of other member States substantially on the same footing as nationals of the ratifying State for the purpose of insurance against invalidity, old age, and death.

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1 Convention No. 97 came into force on 22 January 1957 and has been ratified by 11 States, including the following six Members of the Council of Europe: Belgium, France, Italy, Netherlands, Norway, and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and the Isle of Man.

(footnote 2 continued on p. 86)

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Certain instruments require equality of treatment to be given to nationals of a Member State which has itself ratified the international instrument in question. This is the case with the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)[1], supplemented by the Equality of Treatment (Accident Compensation) Recommendation, 1925 (No. 25) and the Plantations Convention 1958 (No. 110), Part VIII (Workmen's Compensation)[2]; these instruments provide that foreign workers and their dependants who are nationals of another Member having ratified the Convention shall enjoy equality of treatment in respect of workmen's compensation, without any condition as to residence.

(footnote 2 continued from p. 85)

[2] Convention No. 48 came into force on 10 August 1938 and has been ratified by seven States, including the following two Members of the Council of Europe: Italy and the Netherlands.

[1] Convention No. 19 came into force on 8 September 1926. It has been ratified by 50 States, including the following 13 Members of the Council of Europe: Austria, Belgium, Denmark, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden, and the United Kingdom. It is applicable without modification to the following territories: Belgium: Belgian Congo and Ruanda-Urundi; Denmark: Faroe Islands and Greenland; France: Algeria; Italy: Trust Territory of Somaliland; Netherlands: Surinam; United Kingdom: Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, British Guiana, British Honduras, British Virgin Islands, Cyprus, Dominica, Falkland Islands, Fiji Islands, Gambia, Grenada, Guernsey, Hong Kong, Jamaica, Jersey, Kenya, Malta, Isle of Man, Mauritius, Montserrat, Nigeria, Northern Rhodesia, Southern Rhodesia,

(footnotes continued on p. 87)

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	The Reciprocity of Treatment Recommendation, 1919 (No. 2) recommends that "each Member .... shall, on condition of reciprocity and upon terms to be agreed between the countries concerned, admit the foreign workers (together with their families) employed within its territory, to the benefit of its laws and regulations for the protection of its own workers ...".
(b) the granting, maintenance and resumption of social security rights by such means as the accumulation of	The Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)[1] establishes a scheme for the maintenance of rights in the course of acquisition and of rights acquired with compulsory invalidity, old-age and widows' and orphans' insurance institutions. For these rights it provides for the totalisation of insurance contribution periods completed by any person, irrespective of nationality, with insurance institutions of two or more Members, and lays down rules to govern the assessment and

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(footnotes continued from p. 86)

St. Kitts-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sierra Leone, Singapore, Swaziland, Tanganyika, Trinidad and Tobago, Uganda and Zanzibar; it is applicable with modidications to: North Borneo, Nyasaland. With the exception of Guernsey, Jersey and the Isle of Man, to which the Convention is applicable ipso jure, these declarations of application were included in the ratification of Convention No. 83 and will take effect only when the latter Convention comes into force.

[2] Convention No. 110 has not yet come into force.

[1] See p. 85, note 2.

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insurance or employment periods completed under the legislation of each of the Contracting Parties.	payment of benefits due. It lays down the rule that rights acquired in an insurance institution of one member State shall be maintained, but permits restrictions in the case of persons who are not nationals of a member State as regards payment of pensions or fractions of pensions which are payable out of public funds; it further provides that laws or regulations permitting the retention or suspension of benefit may be applied to beneficiaries and states that insurance institutions are to afford assistance to one another for the maintenance of rights. The Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75) advocates the conclusion of bilateral or multilateral agreements in favour of this particular class of workers to enable (a) all seafarers employed in the service of a foreign country to be covered by compulsory social insurance, and (b) seafarers or their dependants to retain rights acquired under the social insurance laws of another Member. Such agreements, the Recommendation states, might apply the provisions of Convention No. 48. The Migration for Employment (Co-operation between States) Recommendation, 1939 (No. 62) contemplates agreements for the settlement of pension rights of migrants for employment if the maintenance of such rights is not otherwise provided for as between the states concerned.

Draft Social Charter	I.L.O. Standards
Article 13 **The right to social and medical assistance**	
With a view to ensuring the effective exercise of the right to social and medical assistance, the Contracting Parties undertake:	Effect may be given to certain of the Parts of the Social Security (Minimum Standards) Convention 1952 (No. 102)[1] by a social assistance scheme covering all residents. The Parts in question are: Part III (sickness benefit)[2]; Part IV (unemployment benefit)[3]; Part V (old-age benefit)[4]; Part VII (family benefits)[5]; Part IX (invalidity benefit)[6]; and Part X (survivors' benefit)[7].

[1] Convention No. 102 came into force on 27 April 1955. It has been ratified by nine States, including the following seven Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Italy, Norway, Sweden and the United Kingdom.

[2] The provisions of Part III have been accepted by five States, including the following four Members of the Council of Europe: Federal Republic of Germany, Greece, Norway and the United Kingdom.

[3] The provisions of Part IV have been accepted by seven States, including the following six Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Norway, Sweden and the United Kingdom.

[4] The provisions of Part V have been accepted by eight States, including the following six Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Italy, Norway and the United Kingdom.

[5] The provisions of Part VII have been accepted by five States, all Members of the Council of Europe: Federal Republic of Germany, Italy, Norway, Sweden and the United Kingdom.

[6] The provisions of Part IX have been accepted by three States, all Members of the Council of Europe: Denmark, Federal Republic of Germany and Greece.

[7] The provisions of Part X have been accepted by five States, including the following three Members of the Council of Europe: Federal Republic of Germany, Greece and the United Kingdom.

Draft Social Charter	I.L.O. Standards
(Article 13)	
1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted the necessary means of subsistence and, in case of sickness, the care necessitated by his condition;	In the first of the Conventions listed below it is provided that protected persons who fail to qualify for insurance benefits shall receive benefits out of social assistance funds; in the others, it is provided that in countries having no compulsory insurance legislation at the time when the instrument comes into force, existing non-contributory old-age, invalidity, and survivors' pensions schemes shall, subject to certain conditions, be deemed to satisfy the requirements of the Convention. Maternity Protection Convention (Revised) 1952 (No. 103).[1] Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35).[2] Old-Age Insurance (Agriculture) Convention, 1933 (No. 36).[3] Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37).[4] Invalidity Insurance (Agriculture) Convention, 1933 (No. 38).[5] Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39).[6] Survivors' Insurance (Agriculture) Convention, 1933 (No. 40).[7]

[1] Convention No. 103 came into force on 7 September, 1955. It has been ratified by seven States, none of which is a Member of the Council of Europe.

[2] Convention No. 35 came into force on 18 July, 1937. It has been ratified by nine States, including the following three Members of the Council of Europe: France, Italy and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and the Isle of Man.

(footnotes continued on p. 91)

Draft Social Charter

(Article 13)

I.L.O. Standards

The Income Security Recommendation, 1944 (No. 67) states more generally that "provision for needs not covered by compulsory social insurance should be made by social assistance". This principle is amplified in its relation to unemployment in the Unemployment Provision Recommendation, 1934 (No. 44).

The Medical Care Recommendation, 1944 (No. 69) states that "medical care should be provided either through a social insurance medical care service with supplementary provision by way of social assistance to meet the requirements of needy persons not covered by social insurance, or by a public medical care service".

(footnotes continued from p.90)

[3] Convention No. 36 came into force on 18 July 1937. It has been ratified by eight States, including the following three Members of the Council of Europe: France, Italy and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and the Isle of Man.

[4] Convention No. 37 came into force on 18 July 1937. It has been ratified by eight States, including the following three Members of the Council of Europe: France, Italy and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and the Isle of Man.

[5] Convention No. 38 came into force on 18 July 1937. It has been ratified by seven States, including the following three Members of the Council of Europe: France, Italy and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and the Isle of Man.

[6] Convention No. 39 came into force on 8 November 1946. It has been ratified by six States, including the following two Members of the Council of Europe: Italy, and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and the Isle of Man.

[7] Convention No. 40 came into force on 29 September 1949. It has been ratified by five States, including the following two Members of the Council of Europe: Italy and the United Kingdom. It is applicable without modification to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and the Isle of Man.

Draft Social Charter	I.L.O. Standards
(Article 13)	
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;	
3. to provide that everyone may receive by appropriate services such advice and personal help as may be required to prevent, to remove, or to alleviate want;	
4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this Article on an equal footing	One of the above-mentioned Conventions which call for assistance benefits, the Maternity Protection Convention (Revised), 1952 (No. 103)[1], expressly provides that there shall be no discrimination on grounds of nationality. Part XII of the Social Security (Minimum Standards) Convention, 1952 (No. 102)[2] affirms the principle of equal treatment

[1] See page 90, note 1.

[2] See page 89, note 1. Any Member ratifying Convention No. 102 is automatically required to give effect to Part XII (Equality of Treatment of Non-National Residents).

Draft Social Charter (Article 13)	I.L.O. Standards
to nationals of other contracting parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.	for national and non-national residents, but provides that "special rules concerning non-nationals ... may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds". Similar provisions may be found in the following Conventions: Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)[1]; Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)[2]; Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)[3]; Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)[4]; Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)[5]; Survivors' Insurance (Agriculture) Convention, 1933 (No. 40).[6] After enunciating the principle of equality of treatment these Conventions state, however, that "national laws or regulations may make the award of a pension to foreigners conditional upon the completion of a period of residence in the territory of the Member which shall not exceed by more than five years" the period of residence required of its own nationals. Lastly, the Migration for Employment Convention (Revised), 1949 (No. 97)[7] in Annex II makes the competent authority of the territory of immigration responsible for special measures to assist migrant workers when the employment for which they were recruited has been found unsuitable.

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[1] See page 90, note 2.

[2] See page 91, note 3.

[3] See page 91, note 4.

[4] See page 91, note 5.

[5] See page 91, note 6.

[6] See page 91, note 7.

[7] Convention No. 97 came into force on 22 January 1952. The provisions of Annex II are in force in ten States including the following five Members of the Council of Europe: Belgium, Italy, Netherlands, Norway and the United Kingdom.

Draft Social Charter	I.L.O. Standards
Article 14 The right of the disabled to rehabilitation and resettlement	
With a view to ensuring the effective exercise of the right of the disabled to rehabilitation and resettlement, the Contracting Parties undertake:	The Vocational Training (Adults) Recommendation, 1950 (No. 88) provides that disabled persons, whatever the origin and nature of their disability, should have access to adequate and appropriate training facilities; it lays down the principles to be implemented in this connection. This instrument is supplemented by the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99) which contains detailed prescriptions regarding the methods of training, the administration of the vocational rehabilitation services, the methods of enabling disabled persons to make use of these services and co-operation between these services and the bodies responsible for medical treatment. Further provisions regarding the training of the disabled are set out in the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71) and in Part VI (Employment Injury Benefit) of the Social Security (Minimum Standards) Convention, 1952 (No. 102).[1]
1. to take adequate measures for the provision of training facilities, including specialised institutions where necessary;	
2. to take adequate measures for the	The Employment Service Convention, 1948 (No. 88)[2] - provides that measures must be taken in the employment service

[1] Convention No. 102 came into force on 27 April 1955. Part VI has been accepted by six States, including the following four Members of the Council of Europe: the Federal Republic of Germany, Greece, Italy, Norway, Sweden.

[2] Convention No. 88 came into force on 10 August 1950. It has been ratified by 27 States, including the following 11 Members of the Council of Europe: Belgium, France, the Federal Republic of Germany, Greece, Italy, Luxembourg, Netherlands, Norway, Sweden,

(footnote continued on p. 95)

Draft Social Charter (Article 14)	I.L.O. Standards
placing of disabled persons in employment, such as specialised placing services, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.	to meet adequately the needs of disabled persons. On these same lines, the Vocational Training (Adults) Recommendation, 1950 (No. 88) contains provisions regarding selective placement, under medical advice, in occupations suited to the nature of the disability. The Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99) contains detailed provisions regarding the special arrangements to be made for the placement of disabled persons, including inter alia the registration of applicants for employment, evaluating their physical and vocational capacity, assisting them to obtain such guidance, training or services as may be necessary, ascertaining whether placement has proved satisfactory, and other measures to promote the engagement of disabled persons. The placing of disabled persons in employment is dealt with also in the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71) and in the Employment Service Recommendation, 1948 (No. 83). The Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99) provides for the organisation and development of arrangements for employment under sheltered conditions for disabled persons who are unfit for ordinary competitive employment; these arrangements include sheltered workshops and special programmes for the homebound. Provision is also made for the encouragement of co-operatives or similar enterprises managed by or on behalf of disabled persons.

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[2] (footnote continued from p. 94)

Turkey, the United Kingdom. It is applicable without modification to the following non-metropolitan territories: Netherlands: Suriname; United Kingdom: Cyprus, Gibraltar, Guernsey, Jersey, Kenya, Malta, Isle of Man, Sierra Leone, Singapore, Tanganyika. It is applicable with modifications to the following non-metropolitan territories: Netherlands: Netherlands Antilles; United Kingdom: British Guiana, Mauritius, Uganda.

Draft Social Charter	I.L.O. Standards
(Article 14)	The above-mentioned Recommendation advocates arrangements for contacting employers, when necessary, to demonstrate the employment capacities of disabled persons, and to secure employment for them and for encouraging employers to notify job vacancies to the service responsible for the placement of disabled persons.
Article 15 The right of the family to social and economic Protection	
The Contracting Parties, recognising the importance of the family as a fundamental unit of society, will-	Social Protection The Forced Labour Convention, 1930 (No. 29)[1] provides that in those cases where forced or compulsory labour may be required, conjugal and family ties must be respected. The Recruiting of Indigenous Workers Convention, 1936 (No. 50)[2] contains rules

[1] Convention No. 29 came into force on 1 May 1932. It has been ratified by 54 States including the following 12 Members of the Council of Europe: Belgium, Denmark, France, Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Netherlands, Norway, Sweden and the United Kingdom. It is applicable to the following non-metropolitan territories: Belgium: applicable with modifications to Belgian Congo, Ruanda-Urundi; Denmark: Faroe Islands and Greenland; France: all non-metropolitan territories: Italy: Trust Territory of Somaliland; Netherlands: Netherlands Antilles, Netherlands New Guinea and Surinam; United Kingdom: all territories.

[2] Convention No. 50 came into force on 8 September 1939. It has been ratified by eight States including the following three Members of the Council of Europe: Belgium, Norway and the United Kingdom. It is applicable without modification to the following territories: Belgium: Belgian Congo and Ruanda-Urundi; United Kingdom: all territories except Aden, Bermuda, Cyprus, Falkland Islands, Gibraltar, Malta, St. Helena and Zanzibar; it is applicable with modifications to Basutoland and Bechuanaland.

Draft Social Charter	I.L.O. Standards
(Article 15)	
endeavour to ensure the economic and social protection of family life.	designed to protect the family as a unit and family life when the head of the family is recruited. The Migration for Employment Convention, 1939 (No. 66)[1] lays down rules for the protection of the families of migrant workers. Relevant provisions are also contained in the Migration for Employment Recommendation (Revised), 1949 (No. 86) and the Migration for Employment (Co-operation between States) Recommendation, 1939 (No. 62). Economic Protection The Social Security (Minimum Standards) Convention, 1952 (No. 102)[2] lays down in Part VII (Family Benefit) that a given percentage of employees or residents or (in the case of a social assistance scheme) all residents shall be eligible for dependants' allowances. The benefits shall consist of periodical payments, benefits in kind for children, or a combination of both types of benefit; the total value of such benefits is determined as a proportion of the wage of an ordinary adult male labourer.

[1] Convention No. 66 has not come into force.

[2] Convention No. 102 came into force on 27 April 1955. Part VII (Family Benefit) has been accepted by five States, all Members of the Council of Europe: Federal Republic of Germany, Italy, Norway, Sweden and the United Kingdom.

Draft Social Charter	I.L.O. Standards
(Article 15)	The Income Security Recommendation, 1944 (No. 67) lays down the principles of a scheme of family allowances of a higher standard.
Article 16	
The right of mothers and children to social and economic protection	
With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.	Protection of Mothers See above under article 8 of the draft Social Charter. Protection of Children See above under article 15 of the draft Social Charter.

Draft Social Charter	I.L.O. Standards
Article 17	
The right to engage in a gainful occupation in other member countries	
With a view to ensuring the effective exercise of the right to engage in a gainful occupation in other member countries, the Contracting Parties will endeavour:	
1. to apply existing regulations in a spirit of liberality;	The Migration for Employment Recommendation (Revised), 1949 (No. 86) provides that in countries where the employment of migrants is subject to restrictions, these restrictions should as far as possible (a) cease to be applied to migrants who have resided in the country for a period which should not as a rule exceed five years; (b) cease to be applied at the same time to the migrant worker's family who have been authorised to accompany or join him. The Migration for Employment (Co-operation between States) Recommendation, 1939 (No. 62) provides, among other things, for periodical meetings of a joint committee of the country of emigration and the country of immigration for the application or adaptation of proposals or measures affecting migrants.

Draft Social Charter	I.L.O. Standards
(Article 17)	
2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;	The Migration for Employment Convention (Revised), 1949 (No. 97)[1], in Annex II (which applies to migrants for employment recruited under government sponsored arrangements for group transfer) provides that if the migrant worker "fails, for a reason for which he is not responsible, to secure the employment for which he has been recruited or other suitable employment, the cost of his return and that of the members of his family who have been authorised to accompany or join him, including administrative fees..... shall not fall upon the migrant". Annex III (Importation of the personal effects, tools and equipment of migrants for employment) provides for the exemption from customs duties of the personal effects belonging to migrant workers and members of their families who have been authorised to accompany them, and of their hand tools and equipment. The Migration for Employment Convention, 1939 (No. 66)[2] contains similar rules.
3. to utilise, individually or collectively, regulations governing the employment of foreign workers.	Each Member ratifying the Migration for Employment Convention (Revised), 1949 (No. 97)1 "undertakes that its employment service and other services connected with migration will co-operate ... with the corresponding services of other Members". The Migration for Employment Recommendation (Revised), 1949 (No. 86) lays down rules designed to ensure that the

[1] Convention No. 97 came into force on 22 January 1957. It has been ratified by 11 States, including the following six Members of the Council of Europe: Belgium, France (has excluded the provisions of Annex II), Italy, Netherlands, Norway and the United Kingdom (has excluded the provisions of Annexes I and III). It is applicable to the following non-metropolitan territories: United Kingdom: Guernsey, Jersey and Isle of Man.

[2] Convention No. 66 has not come into force.

Draft Social Charter (Article 17)	I.L.O. Standards
	technical selection of migrants for employment should be carried out in such a way as to restrict migration as little as possible; see also the provisions mentioned above under Article 17, paragraph 1 of the draft Social Charter. The Migration for Employment (Co-operation between States) Recommendation, 1939 (No. 62) advocates the establishment of procedures for co-operation among States for the recruitment of migrant workers and the protection of their interests. The Migration for Employment Recommendation (Revised), 1949 (No. 86) provides for the conclusion of bilateral agreements for this purpose, in which Members should take into account the provisions of the Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons appended to the Recommendation.
and recognises: 4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Contracting Parties.	The Migration for Employment Convention (Revised), 1949 (No. 97)[1] states that measures shall be taken as appropriate by each State to "facilitate the departure... of migrants for employment". The Migration for Employment Recommendation (Revised), 1949 (No. 86) indicates that Members should facilitate the international distribution of manpower and in particular the movement of manpower from countries which have a surplus to those which have a deficiency of manpower.

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[1] See page 100, note 1.

Draft Social Charter	I.L.O. Standards
Article 18 **The right of migrant workers to protection and assistance**	
With a view to ensuring the effective exercise of the right of migrant workers to protection and assistance, the Contracting Parties undertake:	
1. to maintain or satisfy themselves that there is maintained adequate and free services to assist such workers, particularly in obtaining accurate information and to take all appropriate steps so far as national laws and regulations	Each Member which ratifies the Migration for Employment Convention (Revised), 1949 (No. 97)[1] undertakes - (a) to ensure that the services rendered by its public employment service to migrants for employment are rendered free; (b) to maintain or to satisfy itself that there is maintained an adequate and free service to assist migrants for employment, and in particular to provide them with accurate information and (c) to take all appropriate steps against misleading propaganda relating to emigration and immigration. These rules are amplified in Annexes I and II of the Convention, the first of which applies to migrants for employment not recruited under government

[1] See page 100, note 1.

Draft Social Charter (Article 18)	I.L.O. Standards
permit, against misleading propaganda concerning emigration and immigration.	sponsored arrangements for group transfer, and the second of which applies to migrant workers recruited under government sponsored arrangements for group transfer. In addition these Annexes restrictively specify institutions, bodies or persons who may be authorised to engaged in operations of recruitment, introduction and placing. The Migration for Employment Convention, 1939 (No. 66)[1] contains similar rules. The Migration for Employment (Co-operation between States) Recommendation, 1939 (No. 62) and the Migration for Employment Recommendation (Revised), 1949 (No. 86) provide for the conclusion of bilateral or multilateral agreements in these matters and the establishment of methods of co-operation between States.
2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and to provide, within their own jurisdiction, appropriate services for health, medical	The Migration for Employment Convention (Revised), 1949 (No. 97)[2] provides that "measures shall be taken as appropriate by each Member, within its jurisdiction, to facilitate the departure, journey and reception of migrants for employment". Annexes I and II of the Convention both state that such measures "shall, as appropriate, include (a) the simplification of administrative formalities; (b) the provision of interpretation services; (c) any necessary assistance during an initial period in the settlement of the migrants and members of their families authorised to accompany or join them; (d) the safeguarding of the welfare during the journey and in particular on board ship, of migrants and members of their families authorised to accompany them". These rules are amplified in the Migration for Employment Recommendation

[1] See page 100, note 2.

[2] See page 100, note 1.

Draft Social Charter	I.L.O. Standards
(Article 18)	
ttention and hygienic conditions during the journey.	(Revised), 1949 (No. 86), particularly in the Model Agreement appended thereto. A chapter of the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100) deals with the protection of migrant workers and their families during their outward and return journeys and prior to the period of employment. The Migration for Employment Convention (Revised), 1949 (No. 97)[1] provides that each Member shall "maintain, within its jurisdiction, appropriate medical services responsible for - (a) ascertaining, where necessary, both at the time of departure and on arrival, that migrants for employment and members of their families authorised to accompany or join them are in reasonable health; (b) ensuring that migrants for employment and members of their families enjoy adequate medical attention and good hygienic conditions at the time of departure, during the journey and on arrival in the territory of destination". Relevant provisions are also contained in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100). The Migration for Employment Recommendation (Revised), 1949 (No. 86) and the Model Agreement annexed thereto amplify the provisions contained in Convention No. 97. The Migration (Protection of Females at Sea) Recommendation, 1926 (No. 26) deals with the moral and material assistance to be given to emigrant women and girls during their journey.

[1] See page 100, note 1.

Draft Social Charter	I.L.O. Standards
(Article 18) 3. to secure for such workers lawfully within their territories, in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters: (a) remuneration and other employment and working conditions; (b) membership of trade unions and enjoyment of the benefits of collective bargaining; (c) accommodation;	The Migration for Employment Convention (Revised), 1949 (No. 97)[1] provides that each member State which ratifies this instrument shall apply "without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters: (a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities - (i) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons; (ii) membership of trade unions and enjoyment of the benefits of collective bargaining; (iii) accommodation; .....". These provisions are amplified in the Model Agreement appended to the Migration for Employment Recommendation (Revised), 1949 (No. 86). The Migration for Employment Convention, 1939 (No. 66).[2] The Migration for Employment Recommendation, 1939 (No.61) and the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100) also contain provisions on this matter.

[1] See page 100, note 1.

[2] See page 100, note 2.

Draft Social Charter	I.L.O. Standards
(Article 18)	
4. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals, with regard to employment taxes, dues or contributions payable in respect of employed persons;	The Migration for Employment Convention (Revised), 1949 (No. 97)[1] provides that each ratifying State shall "apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters: ..... (c) employment taxes, dues or contributions payable in respect of the person employed; .....". This rule is also incorporated in the Model Agreement appended to the Migration for Employment Recommendation (Revised), 1949 (No. 86). The Migration for Employment 1939 (No. 66)[2] and the Migration for Employment Recommendation, 1939 (No. 61) likewise contain provisions on this subject.
5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to legal proceedings	The Migration for Employment Convention (Revised), 1949 (No. 97)[1] provides that each Member ratifying the Convention shall "apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters: ..... (d) legal proceedings relating to the matters referred to in this

[1] See page 100, note 1.

[2] See page 100, note 2.

Draft Social Charter (Article 18)	I.L.O. Standards
relating to matters referred to in this Article;	Convention", that is to say matters relating to the recruitment, placing and working conditions of migrants. This rule of equality of treatment in respect of legal proceedings is also incorporated, with an enlarged scope, in the Model Agreement appended to the Migration for Employment Recommendation (Revised), 1949 (No. 86).
6. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;	The Migration for Employment Convention (Revised), 1949 (No. 97)[1] provides that a migrant for employment who has been admitted on a permanent basis and the members of his family shall not be returned home because the migrant is unable to follow his occupation by reason of illness contracted or injury sustained subsequent to entry. The Convention adds, however, that when migrants for employment are admitted on a permanent basis upon arrival in the country of immigration, the competent authority may determine that this rule shall take effect only after a reasonable period which shall in no case exceed five years from the date of admission of such migrants. Annex II to the Convention (which applies to migrant workers recruited under government sponsored arrangements for group transfer) provides that if the migrant fails, for a reason for which he is not responsible, to secure the employment for which he has been recruited or other suitable employment, the cost of his return and that of the members of his family who have been authorised to accompany him, including administrative fees, transport and maintenance charges to the final destination and charges for the transport of household belongings, shall not fall upon the migrant.

[1] See page 100, note 1.

Draft Social Charter	I.L.O. Standards
(Article 18)	
	The Migration for Employment Recommendation (Revised), 1949 (No. 86) lays down that the State should, as far as possible, refrain from removing a regularly admitted migrant or the members of his family from its territory on account of his lack of means or the state of the employment market, unless an agreement to this effect has been concluded between the competent authorities of the emigration and immigration territories concerned. The Recommendation lists the safeguards for migrant workers which such an agreement should contain.
	The Migration for Employment Recommendation, 1939 (No. 61) contains similar provisions.
7. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as he may desire;	The Migration for Employment Convention (Revised), 1949 (No. 97)[1] provides that, "taking into account the limits allowed by national laws and regulations concerning export and import of currency, the transfer of such part of the earnings and savings of the migrant for employment as the migrant may desire" shall be permitted.
	The Social Policy (Non-Metropolitan Territories). Convention 1947 (No. 82)[2] provides for the adoption of measures to

[1] See page 100, note 1.

[2] Convention No. 82 came into force on 19 June 1955. It has been ratified by four States, including the following three Members of the Council of Europe: Belgium, France and the United Kingdom. It is applicable, without modification as regards the provisions mentioned in the text above, to the following non-metropolitan territories: Belgium: Belgian Congo and Ruanda-Urundi; France: Overseas and Associated Territories; United Kingdom: all territories except Guernsey, Jersey, Isle of Man and Sarawak.

Draft Social Charter	I.L.O. Standards
(Article 18)	
	encourage the transfer of the migrant workers' wages and pay from one area of a non-metropolitan territory to another. The Migration for Employment Recommendation (Revised), 1949 (No. 86) contains provisions on this subject. The Migration for Employment (Co-operation between States) Recommendation, 1939 (No. 62) recommends that agreements be concluded to permit the transfer of savings and to provide for the adoption of the most favourable exchange rates for such purposes.
8. to extend the protection and assistance provided for in this Article to self-employed migrants in so far as such measures apply to this category.	The Migration for Employment Convention (Revised), 1949 (No. 97)[1] and the Migration for Employment Recommendation (Revised), 1949 (No. 86) define a migrant for employment as a person who migrates from one country to another with a view to being employed otherwise than on his own account. The Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100) applies to any worker participating in migratory movements "whether he has taken up employment, is moving in search of employment or is going to arranged employment, and irrespective of whether he has accepted an offer of employment or entered into a contract".

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[1] See page 100, note 1.

Draft Social Charter	I.L.O. Standards
PART III Article 19 Undertakings	
1. Each of the Contracting Parties undertakes:	Under Article 19, paragraphs 5(d) and 7(a) of the I.L.O. Constitution, a Member which ratifies a Convention "will take such action as may be necessary to make effective the provisions of such Convention".
(a) to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that Part;	The great majority of I.L.O. Conventions do not contain provisions permitting application in part or by stages. There exist, however, eight Conventions[1] containing clauses under which the ratifying States are free not to accept all the substantive provisions of these instruments. The provisions in question vary from Convention to Convention but all provide that ratifying States are bound by a minimum number of parts, including a certain number of compulsory parts.
(b) to consider itself bound by not	Thus, the most recent Convention of this type, that concerning Conditions of Employment of Plantation Workers, 1958 (No. 110), which is similar in structure to the Draft European Social Charter, provides in Article 3 that any State for which the Convention is in force shall not only comply with Part I (General Provisions) and Part XIV (Final Provisions) but shall also comply with Parts IV (Wages) and IX (Right to Organise and Collective Bargaining) and XI (Labour Inspection)

[1] Statistics of Wages and Hours of Work, 1938 (No. 63); Labour Inspection, 1947 (No. 81); Labour Standards (Non-Metropolitan Territories), 1947 (No. 83); Fee-Charging Employment Agencies (Revised), 1949 (No. 96); Migration for Employment (Revised), 1949 (No. 97); Social Security (Minimum Standards) 1952 (No. 102); Wages, Hours of Work and Manning (Sea) (Revised), 1958 (No. 109); Plantations, 1958 (No. 110). The texts of the relevant provisions of these Conventions will be found in Appendix I.

Draft Social Charter	I.L.O. Standards
(Article 19)	
less than 10 of the Articles or by not less than 45 of the numbered paragraphs and Articles containing only one paragraph of Part II of this Charter to be selected by it. The articles or paragraphs selected shall be notified to the Secretary-General of the Council of Europe at the time when the instrument of ratification of the Contracting Party concerned is deposited.	as well as with at least two of the other parts which deal, for example, with Annual Holidays with Pay (Part V), Weekly Rest (Part VI), Maternity Protection (Part VII), etc.

Draft Social Charter	I.L.O. Standards
(Article 19)	
2. Any Contracting Party may, at a later date, declare by notification to the Secretary-General that it considers itself bound by any Articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this Article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification and shall have the same effect as from the thirtieth day after the date of the notification.	The eight Conventions mentioned under paragraph 1 above contain provisions for the subsequent application of Parts or Annexes previously excluded from the ratification (see Appendix I).

Draft Social Charter	I.L.O. Standards
(Article 19)	
3. The Secretary-General shall communicate to all the other Contracting Parties any notification which he shall have received pursuant to this Part of the Charter.	The Director-General of the International Labour Office notifies all Members of the Organisation of the registration of all ratifications, declarations and denunciations communicated to him.
PART IV Article 20 Reports concerning accepted provisions	
The Contracting Parties shall send to the Secretary-General of the Council of Europe a report at two-yearly intervals, in a form to be determined by the Committee of	Under Article 22 of the I.L.O. Constitution a Member which ratifies a Convention is required to report annually to the International Labour Office, in a form determined by the Governing Body[1], on the measures taken to give effect to ratified Conventions. Under Article 23, paragraph 1 of the Constitution, the Director-General of the International Labour Office lays before every general session of the International Labour Conference a summary of these reports.

[1] Individual forms for the annual report are adopted by the Governing Body of the International Labour Office for each Convention which enters into force.

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(Article 20)

Ministers, concerning the application of such provisions of Part II of the Charter as they have accepted.

Article 21

Reports concerning provisions which are not accepted

The Contracting Parties shall send to the Secretary-General at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or in a subsequent notification. The Committee of Ministers shall

I.L.O. Standards

Under Article 19, paragraph 5(e) of the I.L.O. Constitution[1] a Member must report to the International Labour Office as requested by the Governing Body, "the position of its law and practice" as regards a Convention it has not ratified, "stating the difficulties which prevent or delay" ratification. The Governing Body usually requests reports[2] every year on two or three unratified Conventions dealing with matters of major and current interest. The Committee of Experts on the Application of Conventions and Recommendations mentioned under Articles 23 and 24, below, examines these reports and draws general conclusions from them. Under Article 23, paragraph 1 of the Constitution the Director-General of the I.L.O. lays before every general session of the International Labour Conference a Summary of these reports.

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[1] Article 19, paragraph 7(b)(iv) in the case of a federal State.

[2] Forms of report adopted by the Governing Body for this purpose either follow a general pattern or contain specific questions for certain Conventions of special interest.

Draft Social Charter	I.L.O. Standards
(Article 21)	
determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.	
Article 22 Communication of copies	
1. Each Contracting Party shall communicate copies of its reports referred to in Articles 20 and 21 to such of its national organisations as are members of the international organisations of employers and trade unions in consultative status with the Council of Europe.	Under Article 23, paragraph 2 of the I.L.O. Constitution Members must communicate to the representative organisations of employers and workers copies of the reports sent to the International Labour Office on ratified and unratified Conventions.
2. The Contracting Party shall forward to the Secretary-General any comments on the said	The forms of annual report adopted by the Governing Body include a standard Question asking governments to state whether they have received from the organisations of employers and workers concerned any observations "regarding the practical

Draft Social Charter	I.L.O. Standards
(Article 22)	
reports received from these national organisations, if so requested by them.	fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention". The Report forms addressed to governments stress that "the information available to the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful".
Article 23 Examination of the reports	
The reports sent to the Secretary-General in accordance with Articles 20 and 21 shall be examined by a Committee of Experts, who shall have also before them any comments forwarded to the Secretary-General	The reports on the effect given to ratified and unratified Conventions are examined every year by the Committee of Experts on the Application of Conventions and Recommendations. This Committee also has before it the observations received from employers' and workers' organisations, referred to above. Mention may also be made in this connection of the adoption by the International Labour Conference of standards designed to ensure that the labour and social legislation enacted in member countries receives full implementation in practice. These standards include the Labour Inspection Convention, 1947 (No. 81)[1] and the

[1] Convention No. 81 came into force on 7 April 1950. It has been ratified by 34 States, including all the Members of the Council of Europe but Iceland. It is applicable without modification to the following non-metropolitan territories: France: French Guiana, Guadeloupe, Martinique, Reunion; Netherlands: Netherlands Antilles, Surinam; United Kingdom: Antigua, Barbados, British Guiana, Brunei, Cyprus, Gibraltar, Grenada, Guernsey, Jamaica, Jersey, Kenya, Malta, Isle of Man, Mauritius, Nigeria, North Borneo, St. Vincent, Sarawak, Singapore, Tanganyika, Uganda. It is applicable with modifications to the following non-metropolitan territories: United Kingdom: British Honduras, Hong Kong, Sierra Leone.

Draft Social Charter	I.L.O. Standards
(Article 23)	
in accordance with paragraph 2 of Article 22.	Labour Inspectorates (Non-metropolitan Territories) Convention, 1947 (No. 85)[1] as well as two Labour Inspection Recommendations, 1923 and 1947 (Nos. 20 and 81) and five further Labour Inspection Recommendations relating to specific categories of workers or fields of activity: Health Services, 1919 (No. 5); Seamen, 1926 (No. 28); Building, 1937 (No. 54); Indigenous Workers, 1939 (No. 59); Mining and Transport, 1947 (No. 82).
Article 24 Committee of Experts	
1. The Committee of Experts shall consist of not more than seven members appointed by the Committee of Ministers	The Committee of Experts on the Application of Conventions and Recommendations is composed at present of 16 independent members chosen by the Governing Body of the International Labour Office on the proposal of the Director-General, for their special qualifications in the field of international law and labour law administration.

[1] Convention No. 85 came into force on 26 July 1955. It has been ratified by four States including the following three Members of the Council of Europe: Belgium, France, United Kingdom. It is applicable without modification to the following non-metropolitan territories: Belgium: Belgian Congo, Ruanda Urundi; France: Cameroons, Comoro Islands, French Equatorial Africa, French Polynesia, French Somaliland, French West Africa, Madagascar, New Caledonia, St. Pierre and Miquelon, Togoland; Italy: Trust Territory of Somaliland; United Kingdom: Aden, Antigua, Bahamas, British Guiana, British Honduras, British Virgin Islands, Cyprus, Dominica, Gambia, Gibraltar, Grenada, Hong Kong, Jamaica, Kenya, Montserrat, Mauritius, Northern Rhodesia, Saint Christopher, St. Helena, St. Lucia, St. Vincent, Seychelles, Sierra Leone, Singapore, Tanganyika, Trinidad, Zanzibar. It is applicable with modifications to the following non-metropolitan territories: United Kingdom: Barbados, Brunei, Fiji, Nigeria, North Borneo, Nyasaland, Uganda.

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(Article 24)

from a list of independent experts of the highest integrity and of recognised competence in social and international questions, nominated by the Contracting Parties.

2. The members of the Committee shall be appointed for a period of six years. They may be reappointed. However, of the members first appointed, the terms of office of two members shall expire at the end of four years.

3. The members whose terms of office are to expire at the end of the initial period of four years, shall be chosen by lot by the Committee

I.L.O. Standards

The Committee members are appointed in a personal capacity for a period of three years and may be reappointed when their mandate expires.

of Ministers immediately after the first appointment has been made.

4. A member of the Committee of Experts appointed to replace a member whose term of office has not expired, shall hold office for the remainder of his predecessor's term.

Article 25
Participation of the International Labour Organisation

The International Labour Organisation shall be invited to nominate a representative to participate in a consultative capacity in the deliberations of the Committee of Experts.

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Article 26

Subcommittee of the Governmental Social Committee

1. The reports of the Contracting Parties and the conclusions of the Committee of Experts shall be submitted for examination to a Subcommittee of the Governmental Social Committee of the Council of Europe.

2. This Subcommittee shall be composed of one representative of each of the Contracting Parties. The international employers' and trade

I.L.O. Standards

Under Article 7 of its Standing Orders the International Labour Conference appoints a Committee on the Application of Conventions and Recommendations to consider the measures taken by Members to give effect inter alia to ratified and unratified Conventions. The Committee has before it the above-mentioned Summaries of the governments' reports, laid before the Conference by the Director-General of the International Labour Office, as well as the Report of the Committee of Experts on the Application of Conventions and Recommendations which has been previously submitted to the Governing Body and communicated to all the States Members.

Under Article 56 of its Standing Orders the Conference appoints a Committee composed of Government[1], Employers' and Workers' representatives; when votes are taken in this Committee each of the three groups is entitled (if necessary through special systems of voting) to cast an equal number of votes regardless of its actual numerical strength (Article 65).

[1] Government members are chosen regardless of their country's position in respect of ratifications of Conventions.

Draft Social Charter	I.L.O. Standards
(Article 26)	
union organisations in consultative status with the Council of Europe shall be invited to be represented by observers in a consultative capacity at the meetings of the Subcommittee.	
3. The Subcommittee shall present to the Committee of Ministers a report containing its conclusions and appending the report of the Committee of Experts.	Under Article 7 of the Standing Orders of the Conference the Committee on the Application of Conventions and Recommendations must submit a Report to the Conference. This Report summarises the governments' replies to the points raised by the Committee of Experts and gives the Conference Committee's conclusions, if any.
Article 27 Committee of Ministers	
The Committee of Ministers may, on the basis of the report of the Subcommittee, and after consultation with the Consultative Assembly, make to each Contracting	Articles 24-29 and 31-34 of the I.L.O. Constitution provide for the making of representations and complaints to the Governing Body of the International Labour Office regarding the effective observance of ratified Conventions, and lay down the procedures to be followed by the Governing Body and the governments concerned, such as the appointment of a Commission of Inquiry, the reference of a complaint to the International Court of Justice and the recommendation of appropriate action to the International Labour Conference.

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Part V

Article 28

Emergency Clause

1. In time of war or other public emergency threatening the life of the nation, any Contracting Party may take measures derogating from its obligations under this Charter

I.L.O. Standards

Similar provisions are contained in a number of Conventions which permit of their "suspension" in the event of war[1],[2] or in the event of an emergency endangering the national safety[1],[3] or "in case of necessity for meeting the requirements of national safety"[4] or "to deal with ... national necessities"[5], "when in case of serious emergency the public interest demands it"[6] or again "in cases of *force majeure*".[7]

It is sometimes stated that such suspension may be maintained only "for the period during which /*it*/ is strictly indispensable".[4]

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[1] Hours of Work (Industry) Convention, 1919 (No. 1), Article 14; Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), Article 9.

[2] Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), Article 13.

[3] Hours of Work (Coal Mines) Conventions, 1931 and 1935 (No. 31 and 46), Article 16; Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61), Article 11; Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Article 8.

[4] Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67), Article 19.

[5] Night Work (Bakeries) Convention, 1925 (No. 20), Article 3(d).

[6] Night Work of Young Persons (Industry) Convention, 1919 (No. 6), Article 7; Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79), Article 4; Night Work (Women) Convention (Revised), 1948 (No. 89), Article 5; Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90), Article 5.

[7] Officers' Competency Certificates Convention, 1936 (No. 53), Article 3(2); Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Article 8, to which may be aided the Forced Labour Convention, 1930 (No. 29), Article 2, para. 2(d).

Draft Social Charter	I.L.O. Standards
(Article 28)	
to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.	Lastly, in certain cases such suspension may only be ordered "after consultation with the employers' and workers' organisations concerned".[1] In the case of Conventions which contain no special clauses providing for suspension or derogation in cases of force majeure (war, etc.), the Committee of Experts on the Application of Conventions and Recommendations[2] and the Conference Committee on the Application of Conventions and Recommendations[3] drew the following conclusions which would appear to follow from the application of general principles: 1. obligations resulting from the Conventions are not abrogated; 2. such obligations may be regarded as being in suspense if the State which is a party to the Conventions is prevented from implementing them by force majeure.[4]

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[1] Night Work (Bakeries) Convention, 1925 (No. 20), Article 3 (d); Night Work (Women) Convention (Revised), 1948 (No. 89), Article 5; Night Work of Young Persons (Industry) Convention (Revised), 1948 (this follows from a resolution adopted by the Conference when the revised Convention was adopted); Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Article 8.

[2] International Labour Conference, 27th Session, 1945; Report of the Committee of Experts on the Application of Conventions, p. 5; ibid., 29th Session, 1946, pp. 5-6.

[3] International Labour Conference, 27th Session, 1945; Record of Proceedings, pp. 439-440; ibid., 29th Session, 1946 p. 506.

[4] For a discussion of this question as a whole see International Labour Code, 1951, I.L.O., Geneva, 1954, Vol. I, explanatory note pp. XCVI-XCVII and the references quoted in this note.

Draft Social Charter	I.L.O. Standards
(Article 28)	
2. Any Contracting Party which has availed itself of this right of derogation shall within a reasonable lapse of time keep the Secretary-General of the Council of Europe fully informed of the measures taken and the reasons therefor. It shall likewise inform the Secretary-General when such measures have ceased to operate and the provisions of the Charter which it has accepted are again being fully executed.	Only one Convention[1] makes it compulsory to notify the I.L.O. immediately of "any suspension ... together with the reasons for such suspension", as well as "the date from which such suspension has been terminated". As regards the other Conventions, this obligation derives from Article 22 of the Constitution[2] (submission of annual reports) and from the question in all the annual report forms asking governments to state (among other things) "the practical difficulties encountered in the application of the Convention ..."[3]

[1] Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67), Article 19.

[2] See above under Article 20 of the draft Social Charter.

[3] It should however be noted that the Night Work (Women) Convention (Revised), 1948 (No. 89) expressly provides in Article 5 that any suspensions must be notified by the Government in its annual report.

Draft Social Charter	I.L.O. Standards
(Article 28)	
3. The Secretary-General shall in turn inform the other Contracting Parties of all communications received in accordance with paragraph 2 of this Article.	Other States Members - together with the employers and workers - are informed of these suspensions by the summary of annual reports submitted to the Conference and, where necessary, by the Report of the Committee of Experts on the Application of Conventions and Recommendations.
Article 29	
Restrictions	
1. The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to any restrictions or limitations not specified in those Parts,	Only one Convention, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)[1], contains a provision to this effect. Article 8 of this Convention is worded as follows: "Article 8 1. In exercising the rights provided for in this Convention, workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land. 2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention."

[1] See above, comparison with Article 5 of the draft Social Charter.

Draft Social Charter	I.L.O. Standards
(Article 29)	
except such as are prescribed by legal provision or are imposed constitutionally, and are compatible with the nature of these rights and principles or are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.	It may be assumed, however, that, although the other Conventions do not contain special provisions of a similar nature, these instruments must necessarily be applied within the framework of constitutional law and public order, it being understood that a State that has ratified a Convention is thereby bound to take any necessary steps to put it into effect (including the repeal or amendment of any provisions which may be incompatible with the said Convention).
2. The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.	No corresponding provisions are to be found either in the I.L.O. Constitution or in international labour Conventions.

Draft Social Charter	I.L.O. Standards
Article 30 Relations between the Charter and domestic law or international agreements The provisions of this Charter shall not prejudice the provisions of domestic law or of any bi-lateral or multi-lateral Conventions or agreements which are already in force, or may come into force, under which more favourable treatment would be accorded to the persons protected.	Article 19, paragraph 8 of the I.L.O. Constitution states - "8. In no case shall the adoption of any Convention or Recommendation by the Conference or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation." This constitutional provision has been reproduced in a number of Conventions. In certain cases (e.g. in the Indigenous and Tribal Populations Convention, 1957 (No. 107)) it is further provided that "the application of the provisions of this Convention shall not affect benefits conferred on the populations concerned in pursuance of other Conventions and Recommendations" (Article 29).

Draft Social Charter	I.L.O. Standards
Article 31 Implementation by collective agreements 1. In member States where the provisions of paragraphs 1, 2, 3, 4 and 5 of Article 2, paragraphs 4 and 5 of Article 7 and paragraphs 1, 2, 3 and 4 of Article 10 of Part II of this Charter are matters normally left to agreements between employers or employers' organisations or are normally carried out otherwise than by law, ... the undertakings of those paragraphs may be given and compliance with them	Pursuant to Article 19, paragraph 5(d) of the I.L.O. Constitution a State which has ratified a Convention is required to "take such action as may be necessary to make effective the provisions of such Convention". The possibility of applying international labour Conventions through collective agreements is expressly provided for in a number of such Conventions.[1] The scope of Conventions and Recommendations is determined in each case by special provisions in the instrument itself. On the basis of the provisions defining the scope of Conventions (together with any provisions relating to exceptions) it is possible to classify

1 Cf. International Labour Code, 1951, Geneva, 1952, Vol. I, [illegible] pp. 701-703.

Draft Social Charter	I.L.O. Standards
(Article 31)	
shall be treated as effective if their provisions are applied through such agreements or other means to the great majority of the workers concerned.	the various Conventions under three headings: Conventions of general application, i.e. those which are applicable to all workers irrespective of the undertaking or industry in which they are employed; Conventions which apply only to workers employed in specific industries or undertakings (agriculture, work at sea, etc.) but which are generally applicable to all workers so employed; and Conventions which apply only to certain special classes of workers. In some cases where the scope of a Convention is thus determined in relation to the undertakings or industry or in relation to a special class of workers, the member State ratifying the Convention may, however, adapt the scope somewhat under certain clearly defined rules. The State may, for example, have to define the precise dividing line between industry, commerce and agriculture or may exclude certain special classes of undertakings such as those in which only the members of the same family are employed. However this may be, and subject to any exclusions or exceptions of which any Member may avail itself, the scope of national laws and regulations enacting the standards laid down in the Convention may in no event be narrower than the scope laid down by the Convention.
2. In member States where these provisions are normally the subject of legislation, the undertakings concerned may likewise be given and compliance with them shall be treated as effective if the provisions are applied by law to the great majority of the workers concerned.	Nevertheless, in one case (the Social Security (Minimum Standards) Convention, 1952 (No. 102)) it is left entirely to States Members to define the scope of the social security measures in question; in this case the number of persons protected must satisfy certain statistical criteria and if, for instance, the law covers certain "prescribed classes of employees", these classes must total "not less than 50 per cent. of all employees" and the protective measures must also extend to the wives and children of employees in the prescribed classes.[1]

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[1] ...ention No. 102.

Draft Social Charter

(Article 31)

I.L.O. Standards

Among the matters which, under Article 31 of the Draft Social Charter, may be given effect by means of collective agreements, on condition that these collective agreements are applicable to "the great majority of the workers concerned", it is of interest to note that the subject of hours of work, for instance, is dealt with not only in the Forty Hour Week Convention, 1935 (No. 47) which is of general application, but also in special instruments on the subject of hours of work in certain sectors such as industry[1], commerce and offices[2], work on board ship[3], and certain special undertakings or branches of industry.[4]

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[1] Hours of Work (Industry) Convention, 1919 (No. 1).

[2] Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); Hours of Work (Hotels, etc.) Recommendation, 1930 (No. 37); Hours of Work (Theatres) Recommendation, 1930 (No. 38); Hours of Work (Hospitals, etc.) Recommendation, 1930 (No. 39).

[3] Hours of Work and Manning (Sea) Convention, 1936 (No. 57); Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76); Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (N 93); Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109); Hours of Work and Manning (Sea) Recommendation, 1936 (No. 49); Wages, Hours of Work and Manning (Sea) Recommendation, 1958 (No. 109).

[4] Sheet-Glass Workers Convention, 1934 (No. 43); Reduction of Hours of Work (Glass-Bottle Workers) Convention, 1935 (No. 49); Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61); Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51); Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67); Control Books (Road Transport) Recommendation, 1939 (No. 63); Methods of Regulating Hours (Road Transport) Recommendation, 1939 (No. 65); Hours of Work (Fishing) Recommendation, 1920 (No. 7); Hours of Work (Inland Navigation) Recommendation, 1920 (No. 8).

Draft Social Charter	I.L.O. Standards
(Article 31)	In respect of holidays with pay (Article 2, paragraph 3 of the draft Charter), the I.L.O. standards extend to industry and commerce[1], agriculture[2] and maritime work.[3]

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[1] Holidays with Pay Convention, 1936 (No. 52); Holidays with Pay Recommendation, 1936 (No. 47).

[2] Holidays with Pay (Agriculture) Convention, 1952 (No. 101); Holidays with Pay (Agriculture) Recommendation, 1952 (No. 93).

[3] Holidays with Pay (Sea) Convention, 1936 (No. 54); Paid Vacations (Seafarers) Convention, 1946 (No. 72); Paid Vacations (Seafarers) Convention (Revised) 1949 (No. 91).

Draft Social Charter	I.L.O. Standards
Article 32 Territorial Application	
1. This Charter shall apply to the metropolitan territory of each Contracting Party. Each Contracting Party may, at the time of signature or of the deposit of its instrument of ratification specify, by declaration addressed to the Secretary-General of the Council of Europe, the	The majority of international labour Conventions are territorial in scope. (Conventions for the protection of seafarers, however, extend, as a rule, to shipping registered in the national territory of the member State in question.) Nevertheless, a number of Conventions contain provisions which make it possible to exclude certain areas of the country's metropolitan territory from the scope of the instrument by reason of the economic and social development of such areas, their sparse population, etc.[1] In the majority of cases a declaration to this effect must be made in the first annual report after the date on which the Convention comes into force for the member State concerned[2]; it is also provided that a decision to exclude certain areas may only be taken after consulting employers' and workers' organisations. In some cases it must be stated in the annual reports submitted by the member State whether the circumstances which led it to take such a decision still exist and what progress, if any, has been made in extending the geographical application of the Convention.

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[1] Sickness Insurance (Industry) Convention, 1927 (No. 24), Article 10; Sickness Insurance (Agriculture) Convention, 1927 (No. 25) Article 9; Safety Provisions (Building) Convention, 1937 (No. 62), Article 5; Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), Article 23; Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), Article 8; Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78), Article 8; Labour Inspection Convention, 1947 (No. 81), Article 29; Employment Service Convention, 1948 (No. 88), Article 12; Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Article 7; Protection of Wages Convention, 1949 (No. 95), Article 17; Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), Article 15.

[2] In the case of Conventions Nos. 24-25 mentioned in footnote 1 above the declaration must be made at the time of ratification; moreover, in Europe Finland is the only country entitled to avail itself of this clause.

Draft Social Charter (Article 32)	I.L.O. Standards
territory which shall be considered to be its metropolitan territory for this purpose.	Furthermore, it is established practice that - (a) a member State may declare that a part of its metropolitan territory previously regarded as an integral part of its national territory should henceforward be regarded as a non-metropolitan territory. In such a case, all Conventions previously ratified will ipso jure remain applicable to the new non-metropolitan territory; (b) a member State may declare that a territory previously regarded as a non-metropolitan territory should henceforward be regarded as forming an integral part of its metropolitan territory. In this case all Conventions previously ratified will ipso jure become applicable to the former territory in the same way as to other parts of the metropolitan territory.
2. any Contracting Party may at the time of ratification of this Charter or at any time thereafter, declare by	Article 35 of the I.L.O. Constitution distinguishes between two classes of non-metropolitan territories, for which it imposes different obligations on member States; (a) the first class comprises territories in which the matters dealt with in the Conventions are not within the self-governing powers of the territory[1];

[1] To this class belong not only the territories regarded as "non-self-governing territories" within the meaning of Article 73(e) of the United Nations Charter, but also the "territories which can no longer be considered as non-self-governing" and in particular "territories which ... by virtue of the national constitution of the member State, form an integral part of the national territory of that State but to which the metropolitan legislation is not always automatically applicable" (International Labour Conference, 38th Session, Geneva 1955, Report III (Part IV), pp. 6-7, para. 30).

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(Article 32)	
notification addressed to the Secretary-General that the Charter shall extend in whole or in part to a non-metropolitan territory or territories specified in the said declaration for whose international relations it is responsible. It shall specify in the declaration the Articles or paragraphs of Part II of the Charter which it accepts as binding in respect of the territories named in the declaration.	(b) the second class comprises territories where the matters dealt with in the Conventions are within the self-governing powers of the territory. A. In respect of the first class of territories, article 35, paragraph 1 provides that "the Members undertake that Conventions which they have ratified ... shall be applied to the non-metropolitan territories for whose international relations they are responsible ... except where ... the Convention is inapplicable owing to the local conditions or subject to such modifications as may be necessary to adapt the Convention to local conditions". By the terms of paragraph 2 of article 35 "each Member which ratifies a Convention shall, as soon as possible after ratification, communicate to the Director-General of the International Labour Office a declaration stating ... the extent to which it undertakes that the provisions of the Convention shall be applied and giving such particulars as may be prescribed by the Convention."[1]

[1] Certain conventions provide that the declaration in question shall indicate -

(footnote continued on p. 135)

Draft Social Charter	I.L.O. Standards
(Article 32)	
3. .....[1]	
4. any Contracting Party may declare at a later date by notification addressed to the Secretary-General that, in respect of one or more of the territories to which the Charter has been extended in accordance	It is further provided in paragraph 3 of article 35 that "each Member which has communicated a declaration in virtue of the preceeding paragraph, may from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration and stating the present position in respect of such territories."[2] Lastly, in accordance with decisions taken by the Governing Body, the reports on the application of ratified Conventions in these territories should - (i) if the Convention is fully applied, furnish all the information requested by the annual report forms adopted by the Governing Body;

[1] (footnote continued from p. 134)

(a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;

(b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(d) the territories in respect of which it reserves its decision, pending further consideration of the position.

(See, for example, Article 10, paragraph 1 of the Maternity Protection Convention (Revised), 1952 (No. 103).)

[1] In the interests of clarity it has been thought preferable to deal with paragraph 3 below after paragraph 4 (p. 139).

[2] In a number of conventions it is expressly provided that -

(footnote continued on p. 136)

Draft Social Charter	I.L.O. Standards
(Article 32)	
be deemed to be an integral part of the original declaration in respect of the territories concerned, and shall have the same effect as from the thirtieth day after the date of the notification;	According to paragraph 4, "the Member responsible for the international relations of /the/ territory shall bring the Convention to the notice of the government of the territory as soon as possible with a view to the enactment of legislation or other action by such government". By the terms of the same paragraph, the Member may thereafter, "in agreement with the government of the territory, ... communicate to the Director-General of the International Labour Office, a declaration accepting the obligations of the Convention on behalf of such territory". Under paragraph 6 of article 35, "a declaration of acceptance may specify such modification of the provisions of the Convention as may be necessary to adapt the Convention to local conditions". Under paragraph 7, each Member may "from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration or terminating the acceptance of the obligations of the Convention on behalf of the territory concerned".[1]

[1] Certain Conventions provide that a Member may "by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration". In addition the Member may, at any time at which the Convention is subject to denunciation (see below, comparison with Article 35 of the draft European Social Charter) communicate to the Director-General "a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention" (see, for example, Article 11, paragraphs 2 and 3 of the Maternity Protection Convention (Revised), 1952 (No. 103)).

Draft Social Charter	I.L.O. Standards
(Article 32)	
3. .....[1]	
4. any Contracting Party may declare at a later date by notification addressed to the Secretary-General that, in respect of one or more of the territories to which the Charter has been extended in accordance	It is further provided in paragraph 3 of article 35 that "each Member which has communicated a declaration in virtue of the preceding paragraph, may from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration and stating the present position in respect of such territories."[2] Lastly, in accordance with decisions taken by the Governing Body, the reports on the application of ratified Conventions in these territories should - (i) if the Convention is fully applied, furnish all the information requested by the annual report forms adopted by the Governing Body;

[1] (footnote continued from p. 134)

(a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;

(b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(d) the territories in respect of which it reserves its decision, pending further consideration of the position.

(See, for example, Article 10, paragraph 1 of the Maternity Protection Convention (Revised), 1952 (No. 103).)

[1] In the interests of clarity it has been thought preferable to deal with paragraph 3 below after paragraph 4 (p. 139).

[2] In a number of conventions it is expressly provided that -

(footnote continued on p. 136)

Draft Social Charter

(Article 32)

I.L.O. Standards

The acceptance of the obligations of a Convention on behalf of a territory involves, by virtue of paragraph 6 of article 35, the acceptance "of the obligations stipulated by the terms of the Convention and the obligations under the Constitution of the Organisation which apply to ratified conventions." These include the obligation to make an annual report containing the particulars requested in the report forms (Article 22 of the Constitution), to communicate such reports to representative organisations (Article 23 of the Constitution) etc.

Finally, if the obligations of a Convention are not accepted on behalf of such a territory, the member must, under paragraph 8 of article 35, report "the position of the law and practice of that territory in regard to the matters dealt with in the Convention" and the report must show "the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise" and state "the difficulties which prevent or delay the acceptance of such Convention."

It should be added that, under paragraph 5 of article 35, the rules applicable to the second class of territories may also be applied:

(a) to a territory which is under the joint authority of two or more Members of the Organisation;

(b) to a territory whose administration is entrusted to any international

Draft Social Charter	I.L.O. Standards
(Article 32)	
	authority in virtue of the Charter of the United Nations or otherwise.
3. the Charter shall extend to the territory or territories named in the aforesaid declaration as from the thirtieth day after the date on which the Secretary-General shall have received notifiation of such declaration;	According to established practice, the provisions of a convention come into force for the territory as from the date of registration of the declaration of application or acceptance (with or without modifications) if the Convention is itself already in force for the member State responsible for the territory; otherwise they come into force as from the date on which the Convention comes into force for that State.

Draft Social Charter	I.L.O. Standards
(Article 32)	
5. in the territories referred to in paragraphs 2, 3 and 4 of this Article, the provisions of this charter shall be applied with due regard to local requirements;	When a declaration of application or acceptance has been made: (a) if the declaration provides for the application of the Convention "without modification", the provisions of the Convention must be applied in full unless the Member communicates a further declaration denouncing the former one. In certain cases (see above, p. 135, note 2, and p. 137, note 1) it is possible to submit a further declaration only during the period within which the Convention itself is subject to denunciation. (b) if the declaration provides for the application of the Convention subject to modifications, the Member may avail itself only of the modification specified in the declaration unless it communicates a further declaration denouncing the former one.
6. the Secretary-General shall communicate to the other Contracting Parties any notification transmitted to him in accordance with this Article.	All declarations of application or acceptance registered by the Director-General of the International Labour Office are notified to States Members of the I.L.O.

Draft Social Charter	I.L.O. Standards
Article 33	
Signature, ratification and entry into force	
1. This Charter shall be open for signature by the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.	Under Article 19 paragraph 5[1] of the I.L.O. Constitution Members are required to bring a Convention, within 12 or at the most by 18 months after its adoption by the I.L.O. Conference, before the competent national authorities i.e. the body empowered to legislate in respect of the matters dealt with in the Convention (as a rule, Parliament); if ratification is consented to the Member communicates the formal ratification of the Convention to the Director-General of the International Labour Office.
2. This Charter shall come into force as from the thirtieth day after the date of deposit of the fifth instrument of ratification.	Conventions adopted by the Conference since 1927 usually come into force 12 months after the date on which the ratifications of two Members have been registered by the Director-General. In the case of certain Conventions (in particular instruments dealing with seafarers), a larger number of ratifications is necessary for entry into force.
3. In respect of any Signatory Government ratifying subsequently, the Charter	Conventions adopted since 1927 usually come into force for a Member ratifying subsequently 12 months after the date on which its ratification is registered.

[1] Article 19, paragraph 7, in the case of a federal State.

Draft Social Charter	I.L.O. Standards
(Article 33)	
shall come into force as from the thirtieth day after the date of deposit of its instrument of ratification.	
4. The Secretary-General shall notify all the Members of the Council of Europe of the entry into force of the Charter, the names of the Contracting Parties which have ratified it and the subsequent deposit of any instruments of ratification.	The Final Articles of Conventions require the Director-General to notify all Members of the registration of ratification and of the date upon which a Convention will come into force.
Article 34	
Amendments	
Any Signatory Government may propose amendments to this Charter in a communication addressed to the	Articles 43 and 44 of the Standing Orders of the Conference lay down a procedure for placing on the agenda of the Conference the revision of a Convention in whole or in part. This procedure is initiated by the Governing Body of the International Labour Office which defines the relevant agenda item. The International Labour Office then

Draft Social Charter

(Article 34)

Secretary-General of the Council of Europe. The Secretary-General shall transmit to the other Signatory Governments any amendments so proposed, which shall then be considered by the Committee of Ministers and submitted to the Consultative Assembly for opinion. Any amendments approved by the Committee of Ministers shall enter into force as from the thirtieth day after all the Contracting Parties have informed the Secretary-General of their acceptance. The Secretary-General shall notify all the Members of the Council of Europe of the entry into force of such amendments.

I.L.O. Standards

submits appropriate draft amendments to the Conference for discussion, either in plenary session or in a committee, and for final adoption of the revised Convention. This instrument is then open to ratification, and enters into force, in the same way as a new Convention.

In so far as the original Convention is concerned the Final Articles of all Conventions adopted since 1929 provide that the ratification by a Member of the new Convention shall involve the denunciation of the original Convention if and when the new Convention has come into force. As from the date when the new Convention comes into force the original Convention ceases to be open to ratification; the original Convention remains, however, in force for those Members which have ratified it but have not ratified the new revising Convention.

Draft Social Charter

Article 35

Denunciation

1. Any Contracting Party may denounce this Charter only at the end of a period of five years from the date on which the Charter entered into force for it or at the end of any successive period of two years, and in each case after giving six months' notice to the Secretary-General of the Council of Europe, who shall inform the other Parties accordingly. Such denunciation shall not affect the validity of the Charter in respect of the other Contracting Parties provided that at all times there are not less than five such Contracting Parties.

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The Final Articles of international labour Conventions adopted since 1929 provide that a Member may denounce the instrument within the year following the expiration of the period of ten years after its entry into force. If the right of denunciation is not exercised the Member remains bound thereafter for successive periods of ten years. It may be added that cases of denunciation of a Convention, without the simultaneous ratification of the corresponding revised Convention, have been very rare, not exceeding a total of six out of over 1,800 ratifications registered thus far.

There exists no provision in any Convention requiring that once a Convention has come into force a minimum number of Members must remain parties to it in order to ensure that it continues in force.

Draft Social Charter	I.L.O. Standards
(Article 35)	
2. Any Contracting Party may on the terms specified in the preceding paragraph denounce any of the Articles or paragraphs of Part II of the Charter which it has accepted, provided that the number of Articles or paragraphs binding upon that Party shall at all times not be less than 10 or 45 respectively;	Only three of the eight Conventions capable of ratification by parts or without annexes, referred to above under Article 19 of the draft Social Charter, contain any provisions enabling parts or annexes which have been accepted to be subsequently denounced[1], during the period when the relevant Convention is subject to denunciation.
3. Any Contracting Party may denounce the present Charter or any of the Articles or paragraphs of Part II of the Charter, on the terms specified in paragraph 1 of this Article in respect of any	No provision is made in the I.L.O. Constitution itself for the denunciation of the declarations communicated in accordance with Article 35 of the Constitution. As mentioned above under Article 32 of the draft Social Charter, a certain number of Conventions provide that the denunciation of these declarations may only be communicated during the period when the Member is authorised to denounce the Convention itself (see under Article 32 paragraph 1 of the draft Social Charter).

[1] Labour Standards (Non-Metropolitan Territories) 1957 (No. 83); Migration for Employment (Revised) 1949 (No. 97); Social Security (Minimum Standards) 1952 (No. 102).

Draft Social Charter	I.L.O. Standards
(Article 35)	
territory to which the said Charter is applicable by virtue of a declaration made in accordance with Article 32, paragraph 2.	With regard to the withdrawal of States Members of the Organisation, Article 1, paragraph 5, of the I.L.O. Constitution makes the following provision: "When a Member has ratified any international labour Convention, such withdrawal shall not affect the continued validity for the period provided under the Convention of all obligations arising thereunder or relating thereto." Referring to this provision the Conference was of the opinion that "this formula covered, obviously, both the obligation to apply ratified Conventions effectively and the obligation to supply annual reports on them".[2]
In witness whereof the undersigned, being duly authorised thereto, have signed this Charter.	Pursuant to Article 19, paragraph 4, of the I.L.O. Constitution "two copies of the Convention or Recommendation shall be authenticated by the signatures of the President of the Conference and of the Director-General."

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[1] The Social Department postponed its decision on this paragraph pending a decision of the Committee of Ministers on the question of enabling non-Member States to accede to the Charter.

[2] International Labour Conference, 38th Session, Geneva 1955: Record of Proceedings, page 594. Ibid., 39th Session, Geneva 1956: Record of Proceedings, page 657.

Draft Social Charter	I.L.O. Standards
(Article 35)	
Done at .... this ..... day of ..... 19.., in English and French, both texts being equally authoritative, in a single copy which shall be deposited within the archives of the Council of Europe.	All international labour Conventions contain an article stating that "the English and French versions of the text of this Convention are equally authoritative". Under Article 19, paragraph 4, of the I.L.O. Constitution one of the signed copies (see above) "shall be deposited in the archives of the International Labour Office and the other with the Secretary-General of the United Nations".
The Secretary-General shall transmit certified copies to each of the signatories.	Article 19, paragraph 4, of the I.L.O. Constitution provides that "the Director-General will communicate a certified copy of the Convention or Recommendation to each of the Members" of the Organisation.

A P P E N D I X I

PROVISIONS OF INTERNATIONAL LABOUR CONVENTIONS PERMITTING APPLICATION IN PART OR BY STAGES

Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)

Article 2

1. Any Member which ratifies this Convention may, by a declaration appended to its ratification, exclude from its acceptance of the Convention:

(a) any one of Parts II, III or IV; or

(b) Parts II and IV; or

(c) Parts III and IV.

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 each year in its annual report upon the application of this Convention the extent to which any progress has been made with a view to the application of the Part or Parts of the Convention excluded from its acceptance.

Labour Inspection Convention, 1947 (No. 81)

Article 25

1. Any Member of the International Labour Organisation which ratifies this Convention may, by a declaration appended to its ratification, exclude 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 each year in its annual report upon the application of this Convention the position of its law and practice in regard to the provisions of Part II of this Convention and the extent to which effect has been given, or is proposed to be given, to the said provisions.

Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83)

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with its ratification a declaration stating, in respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, the extent to which it undertakes that the provisions of the Conventions set forth in the Schedule to this Convention shall be applied in respect of the said territories.

2. The aforesaid declaration shall state in respect of each of the Conventions set forth in the Schedule to this Convention -

(a) the territories in respect of which the Member undertakes that the provisions of the Convention shall be applied without modification;

(b) the territories in respect of which the Member undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(d) the territories in respect of which the Member reserves its decision.

3. The undertakings referred to in subparagraphs (a) and (b) of paragraph 2 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

4. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 2 of this Article.

5. Any Member may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 8, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 2

1. A declaration accepting the obligations of this Convention in respect of any non-metropolitan territory where the subject matter of the Conventions set forth in the Schedule to this Convention is within the self-governing powers of the territory may be communicated to the Director-General of the International Labour Office by the Member responsible for the international relations of the territory in agreement with the Government of the territory.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office -

(a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or

(b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraph of this Article shall include an undertaking that the provisions of the Conventions set forth in the Schedule to this Convention shall be applied in the territory concerned either without modification or subject to modifications; when the declaration indicates that the provisions of one or more of the said Conventions will be applied subject to modifications it shall give in respect of each such Convention details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 8, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of any one or more of the Conventions set forth in the Schedule.

Article 4

In respect of each territory for which there is in force a declaration specifying modifications of the provisions of one or more of the Conventions set forth in the Schedule, the annual reports on the application of this Convention shall indicate the extent to which any progress has been made with a view to making it possible to renounce the right to have recourse to the said modifications.

Fee-Charging Employment Agencies Convention (Revised), 1949 (No.96)

Article 2

1. Each Member ratifying this Convention shall indicate in its instrument of ratification whether it accepts the provisions of Part II of the Convention, providing for the progressive abolition of fee-charging employment agencies conducted with a view to profit and the regulation of other agencies, or the provisions of Part III, providing for the regulation of fee-charging employment agencies including agencies conducted with a view to profit.

2. Any Member accepting the provisions of Part III of the Convention may subsequently notify the Director-General that it accepts the provisions of Part II; as from the date of the registration of such notification by the Director-General, the provisions of Part III of the Convention shall cease to be applicable to the Member in question and the provisions of Part II shall apply to it.

Migration for Employment Convention (Revised), 1949 (No. 97)

Article 14

1. Each Member ratifying this Convention may, by a declaration appended to its ratification, exclude from its ratification any or all of the Annexes to the Convention.

2. Subject to the terms of any such declaration, the provisions of the Annexes shall have the same effect as the provisions of the Convention.

3. Any Member which makes such a declaration may subsequently by a new declaration notify the Director-General that it accepts any or all of the Annexes mentioned in the declaration; as from the date of the registration of such notification by the Director-General the provisions of such Annexes shall be applicable to the Member in question.

4. While a declaration made under paragraph 1 of this Article remains in force in respect of any Annex, the Member may declare its willingness to accept that Annex as having the force of a Recommendation.

Social Security (Minimum Standards) Convention, 1952 (No. 102)

Article 2

Each Member for which this Convention is in force -

(a) shall comply with -

(i) Part I;

(ii) at least three of Parts II, III, IV, V, VI, VII, VIII, IX and X, including at least one of Parts IV, V, VI, IX and X;

(iii) the relevant provisions of Parts XI, XII and XIII; and

(iv) Part XIV; and

(b) shall specify in its ratification in respect of which of Parts II to X it accepts the obligations of the Convention.

Article 4

1. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one or more of Parts II to X not already specified in its ratification.

2. The undertakings referred to in paragraph 1 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)

Article 5

1. Each Member ratifying this Convention may, by a declaration appended to its ratification, exclude from its ratification Part II of the Convention.

2. Subject to the terms of any such declaration, the provisions of Part II of the Convention shall have the same effect as the other provisions of the Convention.

3. Any Member which makes such a declaration shall also supply information showing the basic pay or wages for a calendar month of service of an able seaman employed in a vessel to which the Convention applies.

4. Any Member which makes such a declaration may subsequently, by a new declaration, notify the Director-General that it accepts Part II; as from the date of the registration of such notification by the Director-General the provisions of Part II shall be applicable to the Member in question.

5. While a declaration made under paragraph 1 of this Article remains in force in respect of Part II, the Member may declare its willingness to accept Part II as having the force of a Recommendation.

Plantations Convention, 1958 (No. 110)

Article 3

1. Each Member for which this Convention is in force -

(a) shall comply with -

(i) Part I;

(ii) Parts IV, IX and XI;

(iii) at least two of Parts II, III, V, VI, VII, VIII, X, XII and XIII; and

(iv) Part XIV;

(b) shall, if it has excluded one or more Parts from its acceptance of the obligations of the Convention, specify, in a declaration appended to its ratification, the Part or Parts so excluded.

2. Each Member which has made a declaration under paragraph 1 (b) of this Article shall indicate in its annual reports submitted under Article 22 of the Constitution of the International Labour Organisation any progress made towards the application of the excluded Part or Parts.

3. Each Member which has ratified the Convention, but has excluded any Part or Parts thereof under the provisions of the preceding paragraphs, may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of any Part or Parts so excluded; such undertakings shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

INTERNATIONAL LABOUR ORGANISATION

TRIPARTITE CONFERENCE
CONVENED BY THE INTERNATIONAL LABOUR ORGANISATION
AT THE REQUEST OF THE COUNCIL OF EUROPE

Strasbourg, 1-12 December 1958

RECORD OF PROCEEDINGS

INTERNATIONAL LABOUR OFFICE
GENEVA
1959

CONTENTS

SECOND PART: VERBATIM REPORT OF THE PROCEEDINGS.

INTRODUCTION

The Tripartite Conference Convened by the International Labour Organisation at the Request of the Council of Europe was held in Strasbourg from 1 to 12 December 1958.

On 9 October 1958 the International Labour Office sent the following letter to the governments concerned, accompanied by a note relating to certain arrangements for the Conference and by copies of draft Standing Orders governing the procedure of the Conference.

"Geneva, 9 October 1958.

Sir,

I have the honour to inform you that, at the request of the Committee of Ministers of the Council of Europe and in accordance with the provisions of article 3 of the Agreement between the International Labour Organisation and the Council of Europe, the Governing Body of the International Labour Office at its 138th Session (Geneva, February-March 1958) decided to convene a regional conference of a tripartite character to examine the draft European Social Charter drawn up by the Social Committee of the Committee of Ministers.

The Conference, which will be entitled "Tripartite Conference Convened by the International Labour Organisation at the Request of the Council of Europe", will be held at the Maison de l'Europe, Strasbourg, from Monday, 1 December to Saturday, 13 December 1958. The opening sitting will take place at 3 p.m. on Monday, 1 December.

The only item on the agenda of the Conference is the examination of the draft Social Charter, which was elaborated by the Social Committee of the Committee of Ministers of the Council of Europe in pursuance of a proposal made by the Consultative Assembly of the Council of Europe in its Opinion No. 5, adopted on 23 September 1953, and confirmed and further elaborated in its Recommendation No. 104, adopted on 26 October 1956.

The document prepared by the International Labour Office in consultation with the Secretariat-General of the Council of Europe, containing the text of the draft Social Charter and a comparison of its provisions with the corresponding provisions of international labour Conventions and Recommendations, will be forwarded to you as soon as it becomes available.

I enclose herewith a note setting forth certain arrangements for the Conference agreed upon between the Committee of Ministers of the Council of Europe and the Governing Body of the International Labour Office.[1]

You will note in particular that invitations to participate in the Conference by means of tripartite delegations are being extended to the Governments of States which are Members of both the International Labour Organisation and the Council of Europe. I accordingly have pleasure in inviting your Government to appoint a tripartite delegation for participation in the Conference and I should be obliged if you would be good enough to inform me at your earliest convenience of the composition of your country's delegation.

I am also enclosing herewith copies of draft Standing Orders to govern the procedure of the Conference, which have been prepared by the I.L.O. in consultation with the Council of Europe. In this connection, I venture to point out that the Conference will be called upon to approve these Standing Orders at the very outset of its proceedings. I should therefore be grateful if they could be examined carefully by the members of your country's delegation[2] before the opening of the Conference.

I should add that it would be advisable to secure hotel accommodation in Strasbourg for your country's delegation to the Conference as soon as possible.

I have the honour to be, etc.,

(Signed) JEF RENS,

Deputy Director-General."

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[1] See below, "Arrangements concerning the Conference".

[2] See below. The text given is that finally adopted by the Conference at its First Sitting.

ARRANGEMENTS CONCERNING THE CONFERENCE

Composition of the Conference

1. The Conference shall be composed of two Government delegates, one Employers' delegate and one Workers' delegate for each State which is a Member both of the International Labour Organisation and of the Council of Europe.

2. (1) Delegates may be accompanied by advisers. Any delegate may, by notice in writing addressed to the President, appoint one of his advisers to act as his substitute.

(2) An adviser who is acting as substitute for his delegate may speak and vote under the same conditions as the delegate whom he is replacing.

3. Employers' and Workers' delegates and advisers shall be chosen in agreement with the industrial organisations which are most representative of employers or workpeople as the case may be in the State concerned.

4. The following may also participate in the work of the Conference, but without the right to vote:

(a) the members of a tripartite delegation of the Governing Body of the International Labour Office;

(b) the members of a delegation of the Council of Europe;

(c) the members of a delegation of the Organisation for European Economic Co-operation.

5. The United Nations, the European Coal and Steel Community, the Western European Union, the European Economic Community, the European Atomic Energy Community and the Intergovernmental Committee for European Migration may be represented at the Conference by observers.

6. International non-governmental organisations invited by agreement between the International Labour Organisation and the Council of Europe may also be represented at the Conference by observers.

Agenda of the Conference

7. The sole item on the agenda is the examination of the draft European Social Charter drawn up by the Social Committee of the Committee of Ministers of the Council of Europe.

Form of Decisions of the Conference

8. (1) The decisions of the Conference shall be expressed in the form of a report addressed to the Committee of Ministers of the Council of Europe. This report is to be considered as a technical contribution of the I.L.O. to the drafting of the final version of the Charter which the Council of Europe will itself carry out. The report shall also be brought to the attention of the Governing Body of the International Labour Office.

(2) In the report will be recorded the views of participants or groups of participants regarding the provisions contained in the draft European Social Charter. It might be necessary in certain cases, in order to bring out clearly the views of the Conference, for the Conference to formulate its opinion by suggesting texts which could be presented in the form of provisions of the draft Charter.

Documents of the Conference

9. (1) The Conference shall take as the basis of its discussions the document prepared by the International Labour Office in consultation with the Secretariat-General of the Council of Europe, containing the text of the draft Social Charter and a comparison of its provisions with the corresponding provisions of international labour Conventions and Recommendations.

(2) The participants in the Conference may submit papers to it.

Standing Orders of the Conference

10. (1) The International Labour Office will prepare, in consultation with the Council of Europe, draft ad hoc Standing Orders as simple as possible to govern Conference procedure.

(2) These draft Standing Orders shall be submitted to the Conference for its approval.

STANDING ORDERS GOVERNING THE PROCEDURE OF THE TRIPARTITE CONFERENCE CONVENED BY THE INTERNATIONAL LABOUR ORGANISATION AT THE REQUEST OF THE COUNCIL OF EUROPE

Article 1

1. The Conference shall elect as Officers a President and three Vice-Presidents, all of whom shall be of different nationalities.

2. The three Vice-Presidents shall be elected by the Conference on the nomination of the Government, Employers' and Workers' delegates respectively.

Article 2[1]

1. It shall be the duty of the President to declare the opening and closing of the sittings, to bring before the Conference any communications which may concern it, to direct the debates, maintain order, ensure the observance of these rules by such means as circumstances may demand, accord or withdraw the right to address the Conference, put questions to the vote and announce the result of the vote. The President shall not vote.

2. If the President is absent during any sitting or part of a sitting, he shall be replaced by one of the Vice-Presidents, who shall act in rotation.

3. A Vice-President acting as President shall have the same rights and duties as the President.

Article 3

The Conference shall appoint a Steering Committee and may appoint such other committees as may be necessary.

Article 4

1. The Steering Committee shall consist of -

(a) the President of the Conference;

(b) three members of the delegation of the Governing Body of the International Labour Office appointed by that delegation;

(c) three members of the delegation of the Council of Europe appointed by that delegation;

(d) an equal number of representatives of each of the three groups, fixed by the Conference.

2. It shall be the duty of the Steering Committee to arrange the programme of the Conference, to fix the date and agenda for the sittings, and to make proposals relating to the possible setting up and composition of other committees.

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[1] The last sentence of paragraph 1 of this article was added by the Conference. The former paragraph 2 of the draft Standing Orders /The President shall have the right to take part in the discussions and to vote except when replaced in the Conference by a substitute./ was deleted, and therefore the former paragraphs 3 and 4 have become 2 and 3.

Article 5

The credentials of delegates and their advisers shall be deposited with the Secretariat of the Conference and examined by the Steering Committee.

Article 6

The sittings of the Conference shall be public unless otherwise decided.

Article 7

1. No person participating in the Conference shall address the Conference without having asked permission of the President, who shall call upon speakers in the order in which they have signified their desire to speak.

2. Ministers or Under-Secretaries of State from States represented at the Conference, who are not delegates or advisers, may address the Conference if they are invited to do so by the President.

3. The Director-General of the International Labour Office, the Secretary-General of the Council of Europe, the Secretary-General of the Conference and their representatives may address the Conference with the permission of the President.

4. Except with special consent of the Conference no speech shall exceed 15 minutes, exclusive of the time for translation.

5. The President may require a speaker to resume his seat if his remarks are not relevant to the subject under discussion.

Article 8

1. No motion or amendment to a motion shall be discussed unless it has been seconded.

2. (1) Motions as to procedure may be moved without previous notice and without the handing in of a copy to the Secretariat of the Conference.

(2) Motions as to procedure include the following:

(a) a motion to refer the matter back;

(b) a motion to postpone consideration of the question;

(c) a motion to adjourn the sitting;

(d) a motion to adjourn the debate on a particular question;

(e) a motion that the Conference proceed with the next item on the agenda of the sitting.

3. All motions and amendments other than motions as to procedure must be submitted in writing in one of the two official languages.

4. Motions and amendments other than motions as to procedure must be handed in to the Secretariat of the Conference before 5 p.m. to enable them to be discussed at a meeting to be held on the following morning, or before 11 a.m. to enable them to be discussed at a meeting to be held in the afternoon of the same day.

5. Only amendments to amendments already submitted under the conditions referred to above may be submitted during a sitting of the Conference for discussion at that sitting. Such amendments shall be submitted in writing in one of the official languages.

6. (1) Amendments shall be voted on before the motion to which they refer.

(2) If there are several amendments to a motion the President shall determine the order in which they shall be discussed and put to the vote, subject to the following provisions:

(a) every motion or amendment shall be put to the vote;

(b) amendments may be voted on either individually or against other amendments according as the President may decide; but if amendments are voted on against other amendments, the motion shall be deemed to be amended only after the amendment receiving the largest number of affirmative votes has been voted on individually and adopted;

(c) if a motion is amended as the result of a vote, that motion as amended shall be put to the Conference for a final vote.

7. Any amendment may be withdrawn by the person who moved it, unless an amendment to it is under discussion or has been adopted. Any amendment so withdrawn may be moved without previous notice by any other person entitled to participate in the proceedings of the Conference.

8. Any member may at any time draw attention to the fact that the rules are not being observed, and the President shall give an immediate ruling on any question so raised.

Article 9

1. Any delegate may move the closure either on a particular motion or amendment or on the general question.

2. The President shall put a motion for the closure if it is supported by at least one-fifth of the delegates present at the sitting, but before putting it to the vote shall read out the names of those persons who have already signified their wish to speak, and the said persons shall still have the right to speak after the closure has been voted.

3. If application is made for permission to speak against the closure, it shall be accorded to one speaker from the Government group, one speaker from the Employers' group and one speaker from the Workers' group.

4. If the closure is voted, one member from each group no member of which is included in the list of persons who have already signified their wish to speak may speak on the question under discussion.

Article 10

1. Every delegate shall be entitled to vote individually upon every question considered by the Conference.

2. If one of the States represented fails to nominate one of the non-Government delegates whom it is entitled to nominate, the other non-Government delegate shall be allowed to sit and speak at the Conference, but not to vote.

3. Decisions shall be taken by a simple majority of the votes cast for and against by the delegates present at the sitting and entitled to vote.

4. The Conference shall vote by a show of hands or by a record vote.

5. In case of doubt as to the result of a vote by a show of hands, the President may cause a record vote to be taken.

6. A record vote shall be taken on any question if a request to that effect is made by not less than ten delegates present at the sitting and entitled to vote.

7. The vote shall be recorded by the Secretariat and announced by the President.

8. No motion or amendment shall be adopted if an equal number of votes are cast for and against.

Article 11

1. A vote is not valid if the total number of votes cast for and against is less than half the total number of delegates at the Conference entitled to vote.

2. Where a quorum has not been obtained in a vote by a show of hands, the President may immediately take a record vote. He shall be obliged to do so if a record vote is called for by not less than ten delegates entitled to vote.

Article 12

1. The French and English languages shall be the official languages of the Conference.

2. The Secretariat shall make such arrangements for the interpretation of speeches and translation of documents in other languages as are necessary to meet the convenience of delegates and practicable with the facilities and staff available.

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This record of the proceedings of the Tripartite Conference Convened by the International Labour Organisation at the Request of the Council of Europe is arranged as follows:

FIRST PART

List of members of delegations, etc., comprising the names of all persons who took part in the Conference, classified according to the functions they performed.

SECOND PART

A verbatim report of the proceedings, consisting of stenographic reports of the original speeches in the case of speeches delivered in English, and of the translations based on the simultaneous telephonic interpretations into English given by the official interpreters to the Conference in the case of speeches delivered in other languages.

THIRD PART

Appendices, consisting of the reports of the Committees of the Conference.

FIRST PART

LIST OF MEMBERS OF DELEGATIONS, ETC.

LIST OF MEMBERS OF DELEGATIONS, ETC.

DELEGATION OF THE GOVERNING BODY OF THE INTERNATIONAL LABOUR OFFICE

His Excellency Júlio Augusto BARBOZA-CARNEIRO (Brazil), Ambassador; Chairman of the Governing Body of the International Labour Office.

Mr. S.T. MERANI (India), Labour Attaché, Permanent Delegation of India accredited to the European Office of the United Nations and other international organisations in Geneva; Representative of the Government group.

Mr. Charles KUNTSCHEN (Switzerland), Secretary, Central Federation of Swiss Employers' Associations; Representative of the Employers' group.

Mr. Jean MÖRI (Switzerland), Secretary, Swiss Federation of Trade Unions; Representative of the Workers' group.

DELEGATION OF THE COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Mr. G.C. VEYSEY, Chairman of the Social Committee.

Mr. Gregor GELLER, Vice-Chairman of the Social Committee.

CONSULTATIVE ASSEMBLY

Mr. Fernand DEHOUSSE (Belgium), President of the Assembly.

Mr. Bengt ELMGREN (Sweden), Vice-President of the Assembly.

Mr. Peter STRASSER (Austria), Chairman of the Social Committee.

Mr. W.J. SCHUIJT (Netherlands), Vice-Chairman of the Social Committee.

Mr. Willi BIRKELBACH (Federal Republic of Germany), Member of the Social Committee.

Mr. Lodovico MONTINI (Italy), Member of the Social Committee.

Mr. H. VOS (Netherlands), Vice-President of the Economic Committee.

Secretariat of the Delegation

Committee of Ministers

Mr. J. SCHROEDER, Secretary.

Miss KREITMEYER, Assistant.

Consultative Assembly

Mr. HUNTZBUCHLER, Deputy Registrar.

Mr. ADINOLFI, Secretary.

Miss STRASBURGER, Assistant.

DELEGATION OF THE ORGANISATION FOR EUROPEAN ECONOMIC CO-OPERATION

Mr. José CALVET de MAGALHÃES, Minister Plenipotentiary; Chief of the Portuguese Delegation.

Mr. Agostino SOLDATI, Minister Plenipotentiary; Delegate of the Swiss Federal Council.

Marquis CITTADINI CESI, Minister Plenipotentiary; Deputy Secretary-General.

Mr. DELPEREE, Chairman of the Manpower Committee.

Mr. René STOUDMANN, Deputy Chief, Delegation of the Swiss Federal Council.

Mr. Richard CARD, Chief of the Manpower Division.

Mr. Adrianus VERMEULEN, Chief, Manpower and Social Factors Division, European Productivity Agency.

Mr. Thierry MONNIER, Principal Officer, Foreign Relations Division.

AUSTRIA

GOVERNMENT DELEGATES

Mr. Joseph HAMMERL, Chief of the Social Policy Section, Ministry of Social Administration.

Mr. Paul HEMPEL, Counsellor, Ministry of Social Administration.

Substitute Delegates and Advisers

Mr. Otto AUTENGRUBER, Counsellor, Ministry of Finance.

Mrs. Edmée CARMINE, Counsellor, Ministry of Commerce and Reconstruction.

EMPLOYERS' DELEGATE

Mr. Gustav MAUTNER-MARKHOF, Co-owner of the United Mautner-Markhof Yeast Company; Substitute Deputy Member of the Governing Body of the International Labour Office.

Adviser

Mr. Walter TUTSCHKA, Chief of the Social Policy Section, Federation of Austrian Industrialists.

WORKERS' DELEGATE

Mr. Friedrich HOFFMANN, President of the Textile, Clothing and Leather Workers' Union.

Advisers

Mr. Gerhard WEISSENBERG, Adviser on Social Policy, Austrian Federation of Trade Unions.

Mr. Karl KUMMER, Member of Parliament; Adviser to the Vienna Chamber of Labour.

BELGIUM

GOVERNMENT DELEGATES

Mr. O. BEHOGNE, Minister of Labour.

Mr. L.-E. TROCLET, Senator.

Advisers and Substitute Delegates

Mr. G. VAN DEN DAELE, Member of the House of Representatives.

Mr. A. DELPEREE, Chef de cabinet to the Minister of Social Welfare.

Advisers

Mr. Cl. JOSZ, Deputy Chef de cabinet to the Minister of Labour.

Mrs. C. GILON, Member of the International Relations Service, Ministry of Labour.

Mr. Marion COULON, Adviser to the Ministry of Education.

Mr. J. de CONINCK, Deputy Adviser to the Ministry of Public Health.

EMPLOYERS' DELEGATE

Mr. P. VAN LINT, Director-General, Federation of Belgian Industries; Substitute Deputy Member of the Governing Body of the International Labour Office.

Adviser

Mr. F. BUCHET, Delegate of the Federation of Commercial, Banking and Insurance Employers.

WORKERS' DELEGATE

Mr. N. DE BOCK, National Secretary, Belgian General Federation of Labour; Deputy Member of the Governing Body of the International Labour Office.

Adviser

Mr. H. VAN HOORICK, President, Federation of Christian Workers in the power, chemical, leather and other industries.

DENMARK

GOVERNMENT DELEGATES

Mr. Erik DREYER, Permanent Secretary, Ministry of Social Affairs.

Mr. Arne VEJLBY, Deputy Chief, International Relations Division, Ministry of Social Affairs.

EMPLOYERS' DELEGATE

Mr. Mogens DUE, Danish Employers' Confederation.

WORKERS' DELEGATE

Mr. Einar NIELSEN, Vice-President, Confederation of Danish Trade Unions; Member of the Governing Body of the International Labour Office.

FRANCE

GOVERNMENT DELEGATES

Mr. Paul RAMADIER, Representative of the Government of France on the Governing Body of the International Labour Office.

Mr. Henry HAUCK, Minister Plenipotentiary; Labour Counsellor, French Embassy, London; Substitute Representative of the Government of France on the Governing Body of the International Labour Office.

Advisers

Miss Henriette LEGRAND, Civil Administrator (Highest Class), Ministry of Labour.

Mr. Yves DELAMOTTE, Detached to the Cabinet of the Minister of Labour.

EMPLOYERS' DELEGATE

Mr. Pierre WALINE, General Delegate of the Federation of Metallurgical and Mining Industries; Vice-Chairman of the Governing Body of the International Labour Office.

Advisers

Mr. Gabriel SAINTIGNY, Member of the Paris Chamber of Commerce.

Mr. Jacques-André LEBLANC, Director, Federation of Metallurgical and Mining Industries.

WORKERS' DELEGATE

Mr. Gabriel VENTEJOL, Federal Secretary, General Confederation of Labour (Force ouvrière).

Advisers

Mr. Théo BRAUN, Vice-President, French Confederation of Christian Workers.

Mr. Jean-Paul MOUZIN, Federal Secretary, General Confederation of Supervisors.

FEDERAL REPUBLIC OF GERMANY

GOVERNMENT DELEGATES

Mr. Gregor GELLER, Director, Federal Ministry of Labour and Social Affairs; Substitute Representative of the Government of the Federal Republic of Germany on the Governing Body of the International Labour Office.

Mr. BECKER, Ministerial Counsellor, Federal Ministry of Labour and Social Affairs.

Adviser and Substitute Delegate

Mr. Adolph REIFFERSCHEIDT, Minister Plenipotentiary; Permanent Delegate of the Federal Republic of Germany accredited to the Council of Europe.

Advisers

Mr. Hans BOCK, Counsellor of Legation, Permanent Delegation of the Federal Republic of Germany accredited to the Council of Europe.

Mr. Fritz HERBST, Ministerial Counsellor, Federal Ministry of Labour and Social Affairs.

Mr. Carl-Peter SPAHN, Ministerial Counsellor, Federal Ministry of the Interior.

Mr. Fritz THOMAS, Senior Counsellor, Federal Ministry of Labour and Social Affairs.

Mr. Joachim WOLF, Ministerial Counsellor, Federal Ministry of Economic Affairs.

EMPLOYERS' DELEGATE

Mr. Fritz FAUBEL, Director of the Bayer Chemical Works; Member of the Executive Committee, German Confederation of Employers' Associations.

Advisers

Mr. Klaus SCHÖNE, Counsellor, Central Secretariat of the German Confederation of Employers' Associations.

Mr. Herbert ZIGAN, General Secretary, Federation of Employers in South-East Westphalia.

WORKERS' DELEGATE

Mr. Hermann BEERMANN, Member of the Executive Board, German Confederation of Trade Unions.

Advisers

Mr. Dietrich P. BRANDT, Counsellor for International Social Questions, German Union of Salaried Employees.

Mr. Walter HENKELMANN, Chief of Section in the Social Policy Division, German Confederation of Trade Unions.

Secretariat

Mr. Siegfried VOGEL, Interpreter, Federal Ministry of Labour and Social Affairs.

Mrs. Frieda BANNERT, Federal Ministry of Labour and Social Affairs.

GREECE

GOVERNMENT DELEGATES

Mr. Antoine TRIANTAFYLOU, Director, Ministry of Labour.

Mr. Panos PANARETOS, Chief of Section, Ministry of Labour.

EMPLOYERS' DELEGATE

Mr. Alexandros BARDAS, Legal Adviser to the Federation of Greek Industrialists.

WORKERS' DELEGATE

Mr. Jean PATSANTZIS, Substitute General Secretary, Greek General Confederation of Labour.

IRELAND

GOVERNMENT DELEGATES

Mr. William HONOHAN, Assistant Secretary, Department of Social Welfare.

Mr. John AGNEW, Assistant Principal, Department of Industry and Commerce.

EMPLOYERS' DELEGATE

Mr. John J. O'BRIEN, Director-General, Federated Union of Employers; Deputy Member of the Governing Body of the International Labour Office.

WORKERS' DELEGATE

Mr. W. BEIRNE, General Secretary, Irish National Union of Vintners', Grocers' and Allied Trades' Assistants.

ITALY

GOVERNMENT DELEGATES

Mr. Rosario PURPURA, Director-General of Industrial Relations, Ministry of Labour and Social Welfare; Substitute Representative of the Government of Italy on the Governing Body of the International Labour Office.

Mr. Arrigo MONTEVECCHI, Director of Division, Ministry of Labour and Social Welfare.

Advisers

Mr. Gabriele POSTERARO, Director of Section, International Labour Questions Division, Ministry of Labour and Social Welfare.

Mr. Giampiero RELLINI, Chief of the Labour Office, Ministry of Labour and Social Welfare.

Mr. Enzo MONTANO, Attaché of Legation.

EMPLOYERS' DELEGATE

Mr. Renzo BOCCARDI, Head of the Delegation for Northern Italy, Italian Confederation of Industry.

Advisers

Mr. Giuseppe MISSERVILLE, Chief of the Trade Union Service, Italian Confederation of Agriculture.

Mr. Nicola GIOVE, Economic and Legal Adviser, Italian Confederation of Commerce.

Mr. Maurizio MOCHI-ONORI, Legal and International Labour Questions Service, Italian Confederation of Industry.

WORKERS' DELEGATE

Mr. Giovanni GATTI, Deputy National Secretary, Italian Workers' Union.

Advisers

Mr. Luigi MACARIO, Secretary of the Italian Confederation of Workers' Unions.

Mr. Carlo SAVOINI, Member of the Research Department, Italian Confederation of Workers' Unions.

LUXEMBOURG

GOVERNMENT DELEGATES

Mr. Gust van WERVEKE, Secretary-General, Ministry of Labour and Social Security.

Mr. Pierre WURTH, Ministry of Foreign Affairs.

EMPLOYERS' DELEGATE

Mr. Jules HAYOT, Director, Federation of Luxembourg Industrialists.

Adviser

Mr. Georges FABER, Administrative and Social Service, ARBED Co.Ltd.

WORKERS' DELEGATE

Mr. Henri WEINAND, National Federation of Luxembourg Workers.

Adviser

Mr. Léon WAGNER, President, Confederation of Luxembourg Christian Trade Unions.

Mr. Pierre SCHOCKMEL, Confederation of Luxembourg Christian Trade Unions.

NETHERLANDS

GOVERNMENT DELEGATES

Mr. A.A. van RHIJN, Secretary of State for Social Affairs, Ministry of Social Affairs and Public Health; former Minister of Agriculture and Fisheries.

Father J.G. STOKMAN, O.F.M.; Member of Parliament.

Adviser and Substitute Delegate

Mr. T.M. PELLINKHOF, Chief of the International Affairs Division, Ministry of Social Affairs and Public Health.

Advisers

Mr. H.L. FAGEL, Chief of the Industrial Relations Division, Ministry of Social Affairs and Public Health.

Mr. A.P.M. van RIEL, Chief p.i. of the Division for Foreign Affairs and Immigration of the Government Employment Office, Ministry of Social Affairs and Public Health.

Mr. H.B. ELDERING, Principal, Ministry of Social Affairs and Public Health.

Mr. J.A. BAKKER, Chief of the International Relations Division, Ministry of Social Welfare.

EMPLOYERS' DELEGATE

Mr. A.G. FENNEMA, Director, Employers' Federation for International Social Affairs; Deputy Member of the Governing Body of the International Labour Office.

Advisers

Mr. J.C. van GORKOM, Secretary, Central Social Federation of Employers.

Mr. J. KRAMER, Secretary, Federation of Christian Protestant Employers.

Mr. K.A.J.M. SAMSON, Secretary, Organisation of Catholic Middle Classes.

WORKERS' DELEGATE

Mr. J. ALDERS, Vice-President, Netherlands Catholic Workers' Movement.

Advisers

Mr. H. KORTE, General Secretary, Netherlands Federation of Trade Unions.

Mr. H.L. BAKELS, Legal Adviser, Netherlands Federation of Trade Unions.

Mr. C.P. HAZENBOSCH, Secretary, Netherlands Federation of Christian Protestant Trade Unions.

Secretary to the Delegation

Miss J.S. PRINS, Ministry of Social Affairs and Public Health.

NORWAY

GOVERNMENT DELEGATES

Mr. Agnar KRINGLEBOTTEN, Secretary-General, Ministry of Social Affairs.

Mr. Berger ULSAKER, Permanent Secretary, Ministry of Labour and Local Government.

EMPLOYERS' DELEGATE

Mr. Trygve KLEPPE, Director, Norwegian Employers' Confederation.

Adviser and Substitute Delegate

Mr. Jan DIDRIKSEN, Legal Adviser, Norwegian Employers' Confederation.

WORKERS' DELEGATE

Mr. Arne Kr. MEEDBY, Legal Adviser, Norwegian Federation of Trade Unions.

Adviser and Substitute Delegate

Mr. Thorleif ANDRESEN, Secretary, Norwegian Federation of Trade Unions.

SWEDEN

GOVERNMENT DELEGATES

Mr. Wilhelm BJÖRCK, former Director-General, Paymaster-General's Office; former Under-Secretary of State in the Ministry of Social Affairs, Labour and Housing.

Mr. Ernst BEXELIUS, Director-General, Social Welfare Board.

EMPLOYERS' DELEGATE

Mr. Gunnar LINDSTRÖM, Director, Swedish Employers' Confederation.

Adviser

Mr. Sven HYDÉN, Director, Swedish Employers' Confederation.

WORKERS' DELEGATE

Mr. Arnold SÖLVÉN, Legal Adviser, Swedish Confederation of Trade Unions.

Adviser

Mr. Otto NORDENSKIÖLD, First Secretary, Swedish Federation of Salaried Employees' Organisations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

GOVERNMENT DELEGATES

Mr. Geoffrey Charles VEYSEY, C.B., Under-Secretary, Ministry of Labour and National Service.

Mr. James Geddes ROBERTSON, Assistant Secretary, Ministry of Labour and National Service.

Adviser

Mr. Cyril Anthony LARSEN, Principal, Ministry of Labour and National Service.

EMPLOYERS' DELEGATE

Mr. Kenneth John BURTON, Secretary, British Employers' Confederation.

Adviser

Mr. Christopher BELLINGHAM-SMITH, Principal Assistant, International, British Employers' Confederation.

WORKERS' DELEGATE

Mr. Robert WILLIS, Chairman of the General Council of the Trades Union Congress; General Secretary of the London Typographical Society.

Adviser

Mr. Edwin HALL, Member of the General Council of the Trades Union Congress; General Secretary of the Lancashire Area of the National Union of Mineworkers.

OBSERVERS

TURKEY

Mr. Mustafa BOROVALI, Permanent Representative accredited to the Council of Europe.

Mr. Melih AKBIL, Permanent Representative accredited to the Council of Europe.

REPRESENTATIVES OF THE UNITED NATIONS AND OTHER OFFICIAL INTERNATIONAL ORGANISATIONS

UNITED NATIONS

Mr. Clinton A. REHLING, Chief, External Relations Service, European Office of the United Nations.

HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY

Mr. MASSACESI, Director, Division of Labour Problems.

COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY[1]

Mr. Gust de MUYNCK, Director-General of Social Affairs.

Mr. GIRARDIN, Deputy Chef de cabinet to Mr. PETRILLI, Member of the Commission and President of its Social Group.

Mr. W. DOERR, Director of Social Policy.

Mr. L. LAMBERT, Director of Manpower.

Mr. J. VAN DIERENDONCK, Director of the Social Fund and of Vocational Training.

Mr. J.J. RIBAS, Director of Social Security and Social Services.

Mr. VAN ISTENDAEL, Member of the General Affairs Division.

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[1] This delegation also represents the COMMISSION OF THE EUROPEAN ATOMIC ENERGY COMMUNITY.

BUREAU OF THE EUROPEAN PARLIAMENTARY ASSEMBLY

Mr. NEDERHORST, President of the Social Affairs Committee.

Mr. RUBINACCI, Member of the Social Affairs Committee.

Mr. ANGIOY, Member of the Social Affairs Committee.

WESTERN EUROPEAN UNION

Mr. P.B. FRASER, Under-Secretary General.

Miss E.C. CORRY-SMITH, Chief p.i. of the Social Section.

INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION

Mr. Emilio BETTINI, Chief of the Plans and Liaison Services.

REPRESENTATIVES OF NON-GOVERNMENTAL INTERNATIONAL ORGANISATIONS

INTERNATIONAL FEDERATION OF CHRISTIAN TRADE UNIONS

Mr. A. VANISTENDAEL, General Secretary.

Mr. J. KULAKOWSKI, Secretary, European Organisation of the I.F.C.T.U.

Mr. G. EGGERMANN, Permanent Representative in Geneva.

INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS

Mr. W. SCHEVENELS, General Secretary, European Regional Organisation of the I.C.F.T.U.

Mr. L. WEBER, General Secretary, Bas-Rhin Departmental Union (Force ouvrière).

Mr. H. PATTEET, Representative in Geneva.

INTERNATIONAL ORGANISATION OF EMPLOYERS

Mr. G. EMERY, General Secretary.

Mr. R. LAGASSE.

OFFICERS OF THE CONFERENCE

PRESIDENT

Mr. DEHOUSSE, President of the Consultative Assembly of the Council of Europe.

VICE-PRESIDENTS

Mr. VEYSEY, Government delegate (United Kingdom).

Mr. FAUBEL, Employers' delegate (Federal Republic of Germany).

Mr. NIELSEN, Workers' delegate (Denmark).

SECRETARY-GENERAL

Mr. RENS, Deputy Director-General of the International Labour Office.

OFFICERS OF THE GROUPS

GOVERNMENT GROUP

Chairman: Mr. PURPURA (Italy).

EMPLOYERS' GROUP

Chairman: Mr. FENNEMA (Netherlands).

Secretary: Mr. EMERY (International Organisation of Employers), assisted by Mr. LAGASSE.

WORKERS' GROUP

Chairman: Mr. NIELSEN (Denmark).

Vice-Chairman: Mr. ALDERS (Netherlands).

Members of the Bureau:

Mr. NIELSEN (Denmark).
Mr. ALDERS (Netherlands).
Mr. BEERMANN (Federal Republic of Germany).
Mr. VENTEJOL (France).
Mr. WILLIS (United Kingdom).

Secretary: Mr. SCHEVENELS (International Confederation of Free Trade Unions).

SECRETARIAT OF THE CONFERENCE[1]

SECRETARIAT-GENERAL

Secretary-General:

Mr. RENS.

Assistants to the Secretary-General:

Mr. BORCH-JACOBSEN.
Mr. FORTIN.

Secretary:

Miss DERUYTER.

Deputy Secretary-General:

Mr. BLANCHARD.

Secretary:

Miss FRISQUE.

Legal Adviser:

Mr. WOLF.

Secretary:

Miss LANHAM.

Assistant to the President of the Conference:

Mr. BALOUP.

Chief of the Secretariat Services:

Mr. MOWAT.

Assisted by: Mr. DUREL.
Mr. HARDEWALL.

Secretary:

Mrs. GONNET.

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[1] The Secretariat of the Conference was provided jointly by the International Labour Office and the Council of Europe.

Clerk of the Conference:

Mr. HISLAIRE.

Public Information Service:

Mr. CARRICHE.
Mr. SINANOGLU.

Relations with Employers' Delegations:

Mr. von STEDINGK.

Relations with Workers' Delegations:

Mr. BELL.
Mr. GRINEVALD.

SECRETARIATS OF COMMITTEES

Steering Committee:

Secretary-General:

Mr. RENS.

Assisted by: Mr. FANO.

Secretaries:

Mr. MOORE.
Mr. PERSSON.

Committee on Substantive Clauses:

Secretary-General:

Mr. RENS.

Assisted by: Mr. VALTICOS.
Mr. TENNFJORD.

Expert:

Mr. LASSERRE-BIGORRY.

Secretaries:

Mr. SAMSON.
Mr. VAUDOYER.

Clerk:

Miss KROLL

Committee on Implementation Clauses:

Deputy Secretary-General:

Mr. BLANCHARD.

Assisted by: Mr. WOLF.
Mr. VON HAEFTEN.

Expert:

Miss MORGENSTERN.

Secretaries:

Mr. SOUMAILLE.
Mr. GRAZEBROOK.

Clerk:

Mrs. KONRAD.

INTERPRETATION SERVICE

Chief of Service:

Mrs. KERR.

Mr. AMACKER.
Mr. EBERSTARK.
Mr. GELEFF.
Miss HARRISON.
Mr. HERZENBERG.
Mr. KAMINKER.
Mr. LONGERICH.
Mr. RAPPEPORT.
Mr. ROOME.
Mr. SELESKOVITCH.
Mrs. SUTHERLAND.

CONFERENCE RECORD SERVICE

Chief of Service:

Mr. BOULAS.

Mr. HORSFALL-CARTER.
Mr. CHARITONS.
Miss DROMGOOLE.
Mrs. PARIS.

GERMAN TRANSLATION SERVICE

Translators:

Mr. PLAVEC.
Mr. SCHREGLE.

GENERAL SERVICES

Administrative Services:

Chief of Service:

Mr. PAPALEO.

Financial Service:

Mr. STRUTHERS.

Stenographic and Roneo Service:

Chief of Service:

Mrs. CACOPARDO.

Assisted by: Mrs. ROULET.

Verbatim Reporters:

English:

Miss ANDREWS.
Mrs. ROOME.
Mr. O'HUIGINN.
Miss PADBURY.

French:

Miss BOULAZ.
Miss GRANDJEAN.
Miss SONGEON.
Mr. FALAIZE.
Mrs. LAPALME.

Stenographers:

English:

Miss ALEXANDER.
Miss BAKER.
Miss BUNDOCK.
Miss FISH.
Miss FITZPATRICK.

Miss FRASER.
Miss HOFMANN.
Miss LE TISSIER.
Miss LYNCH.
Mrs. ROHR.
Miss SKINNER.
Miss STRUTHERS.

French:

Mrs. ADWENT.
Miss CHUARD.
Miss GAERTNER.
Mrs. KREISS.
Miss LAUGEL.
Mrs. LORENTZ.
Mrs. MARX.
Mrs. MOCH-KAIM.
Mrs. MUNIO.
Mrs. PERRIN.
Mrs. RENAUD.
Mrs. ROTHAN.

German:

Miss KELLER.
Mr. SEUM.

Distribution Service:

Chief of Service:

Mr. DOURNEL.

Assisted by: Mr. ZAEGEL.

Information and Reception Desk:

Mrs. ROTMAN.
Miss ROLANDO-RICCI.

Telephonic Interpretation Operators:

Mr. FRANGI.
Mr. WEISS.

STEERING COMMITTEE

MEMBERS EX OFFICIO

President of the Conference

Mr. DEHOUSSE.

Delegation of the Governing Body of the International Labour Office

Mr. BARBOZA-CARNEIRO, Chairman of the Governing Body, Government member.
Mr. KUNTSCHEN, Employers' member.
Mr. MORI, Workers' member.

Delegation of the Council of Europe

Mr. VEYSEY (Committee of Ministers).
Mr. STRASSER (Consultative Assembly).
Mr. BIRKELBACH (Consultative Assembly).

GOVERNMENT MEMBERS

France.
Federal Republic of Germany.
Netherlands.
Sweden.
United Kingdom.

EMPLOYERS' MEMBERS

Mr. BURTON; substitute: Mr. BELLINGHAM-SMITH (United Kingdom).
Mr. FAUBEL; substitute: Mr. SCHÖNE (Federal Republic of Germany).
Mr. FENNEMA (Netherlands).
Mr. LINDSTRÖM (Sweden).
Mr. WALINE; substitutes: Mr. LEBLANC, Mr. SAINTIGNY (France).

Deputy Members

Mr. BOCCARDI (Italy).
Mr. O'BRIEN (Ireland).
Mr. van LINT (Belgium).

WORKERS' MEMBERS

Mr. ALDERS (Netherlands).
Mr. BEERMANN (Federal Republic of Germany).
Mr. NIELSEN (Denmark).
Mr. VENTEJOL (France).
Mr. WILLIS (United Kingdom).

Deputy Members

Mr. GATTI (Italy).
Mr. BRAUN (France).
Mr. MEEDBY (Norway).
Mr. HENKELMANN (Federal Republic of Germany).

CHAIRMAN

Mr. GELLER.

VICE-CHAIRMEN

Mr. FENNEMA.
Mr. WILLIS.

COMMITTEE ON SUBSTANTIVE CLAUSES

GOVERNMENT MEMBERS

Austria: Mr. HEMPEL; substitutes: Mr. AUTENGRUBER, Mrs. CARMINE.
Belgium: Mr. VAN DEN DAELE; substitute: Mrs. GILON.
Denmark: Mr. VEJLBY.
France: Mr. RAMADIER; substitute: Miss LEGRAND.
Federal Republic of Germany: Mr. GELLER; substitutes: Mr. BECKER, Mr. HERBST, Mr. SPAHN.
Greece: Mr. TRIANTAFYLOU; substitute: Mr. PANARETOS.
Ireland: Mr. HONOHAN; substitute: Mr. AGNEW.
Italy: Mr. PURPURA; substitutes: Mr. MONTEVECCHI, Mr. RELLINI.
Luxembourg: Mr. van WERVEKE.
Netherlands: Mr. van RHIJN; substitutes: Mr. ELDERING, Mr. FAGEL, Mr. BAKKER, Mr. van RIEL.
Norway: Mr. ULSAKER.
Sweden: Mr. BEXELIUS.
United Kingdom: Mr. VEYSEY; substitutes: Mr. ROBERTSON, Mr. LARSEN.

Observers

Turkey: Mr. BOROVALI, Mr. AKBIL.

EMPLOYERS' MEMBERS

Mr. BOCCARDI; substitutes: Mr. GIOVE, Mr. MISSERVILLE (Italy).
Mr. BURTON; substitute: Mr. BELLINGHAM-SMITH (United Kingdom).
Mr. DUE (Denmark).
Mr. FAUBEL; substitute: Mr. SCHÖNE (Federal Republic of Germany).
Mr. FENNEMA; substitutes: Mr. KRAMER, Mr. SAMSON, Mr. van GORKOM (Netherlands).
Mr. LINDSTRÖM; substitute: Mr. HYDÉN (Sweden).
Mr. O'BRIEN (Ireland).
Mr. VAN LINT; substitute: Mr. BUCKET (Belgium).
Mr. MAUTNER-MARKHOF; substitute: Mr. TUTSCHKA (Austria).
Mr. WALINE; substitutes: Mr. SAINTIGNY, Mr. LEBLANC (France).

Deputy Members

Mr. HAYOT; substitute: Mr. FABER (Luxembourg).
Mr. KLEPPE; substitute: Mr. DIDRIKSEN (Norway).

WORKERS' MEMBERS

Mr. DE BOCK (Belgium).
Mr. GATTI (Italy).
Mr. HAZENBOSCH (Netherlands).
Mr. HENKELMANN (Federal Republic of Germany).
Mr. HOFFMANN (Austria).
Mr. NIELSEN (Denmark).
Mr. NORDENSKIÖLD (Sweden).
Mr. VENTEJOL (France).
Mr. WEINAND (Luxembourg).
Mr. WILLIS (United Kingdom).

Deputy Members

Mr. BAKELS (Netherlands).
Mr. BEERMANN (Federal Republic of Germany).
Mr. BEIRNE (Ireland).
Mr. BRAUN (France).
Mr. VAN HOORICK (Belgium).
Mr. SAVOINI (Italy).

CHAIRMAN

Mr. HAUCK.

VICE-CHAIRMEN

Mr. PURPURA.
Mr. FENNEMA.
Mr. HENKELMANN.

REPORTER

Mr. ULSAKER.

COMMITTEE ON IMPLEMENTATION CLAUSES

GOVERNMENT MEMBERS

Austria: Mr. HAMMERL; substitute: Mr. HEMPEL.
Belgium: Mr. TROCLET; substitute: Mrs. GILON.
Denmark: Mr. DREYER.
France: Mr. RAMADIER; substitute: Mr. DELAMOTTE.
Federal Republic of Germany: Mr. GELLER; substitute: Mr. THOMAS.
Greece: Mr. TRIANTAFYLOU; substitute: Mr. PANARETOS.
Ireland: Mr. AGNEW.
Italy: Mr. POSTERARO; substitute: Mr. MONTANO.
Luxembourg: Mr. WURTH.
Netherlands: Mr. PELLINKHOF.
Norway: Mr. KRINGLEBOTTEN.
Sweden: Mr. BJÖRK; substitute: Mr. BEXELIUS.
United Kingdom: Mr. ROBERTSON.

Observers

Turkey: Mr. AKBIL, Mr. BOROVALI.

EMPLOYERS' MEMBERS

Mr. BARDAS (Greece).
Mr. BOCCARDI; substitutes: Mr. GIOVE, Mr. MOCHI-ONORI (Italy).
Mr. HAYOT; substitute: Mr. FABER (Luxembourg).
Mr. KLEPPE; substitute: Mr. DIDRIKSEN (Norway).
Mr. VAN LINT; substitute: Mr. BUCHET (Belgium).
Mr. WALINE; substitutes: Mr. LEBLANC, Mr. SAINTIGNY (France).

Deputy Members

Mr. BURTON; substitute: Mr. BELLINGHAM-SMITH (United Kingdom).
Mr. FAUBEL; substitute: Mr. ZIGAN (Federal Republic of Germany).
Mr. FENNEMA; substitute: Mr. van GORKOM (Netherlands).
Mr. LINDSTRÖM; substitute: Mr. HYDÉN (Sweden).
Mr. O'BRIEN (Ireland).

WORKERS' MEMBERS

Mr. ALDERS (Netherlands).
Mr. GÜNTHER (Federal Republic of Germany).
Mr. HALL (United Kingdom).
Mr. MEEDBY (Norway).
Mr. MOUZIN (France).
Mr. SÖLVÉN (Sweden).

Deputy Members

Mr. KORTE (Netherlands).
Mr. KUMMER (Austria).
Mr. MACARIO (Italy).
Mr. WAGNER (Luxembourg).

CHAIRMAN

Mr. DREYER.

VICE-CHAIRMEN

Mr. LEBLANC.
Mr. ALDERS.

REPORTER

Mr. PELLINKHOF.

SECOND PART

VERBATIM REPORT OF THE PROCEEDINGS

VERBATIM REPORT OF THE PROCEEDINGS

FIRST SITTING

Monday, 1 December 1958, 3.15 p.m.

Presidents: Mr. Barboza-Carneiro, Chairman of the Governing Body of the I.L.O., and Mr. Dehousse

ADDRESS BY THE SECRETARY-GENERAL OF THE COUNCIL OF EUROPE

Interpretation from French: Mr. BARBOZA-CARNEIRO (Chairman of the Governing Body of the International Labour Office) - I call on the Secretary-General of the Council of Europe to address the Conference.

Interpretation from French: Mr. BENVENUTI (Secretary-General of the Council of Europe) - I have the honour and the great pleasure of welcoming you in the building of the Council of Europe, where we are to hold the first Tripartite Conference Convened by the International Labour Organisation at the Request of the Council of Europe.

The benches on which you are sitting are those of the first European Parliamentary Assembly. Here for nearly ten years we have seen the birth of many measures taken for closer co-operation between the Western European democratic nations. The Council of Europe, and particularly its Assembly, has paid the greatest attention to the social problems and to such action as might favour social and economic progress in Europe. But, as is stated in the Statute of the Council, participation of the States in these activities should not in any way impair their contribution to the work of the United Nations and the other organisations to which they belong. It is in this spirit that the Council of Europe has always striven not only to avoid in the social field any overlapping with the work of the I.L.O. but also to lay the basis for positive co-operation. As part of this co-operation the I.L.O. has been good enough to give the Council of Europe the benefit of its long and precious technical experience as regards international social co-operation.

At the beginning of 1951 an Agreement was concluded between the International Labour Organisation and the Council of Europe which enabled close and, for our Council, very fruitful relations to be established. As regards the links between the Consultative Assembly, which usually meets in this hall, and the I.L.O., I

should like to remind you that the I.L.O. sends a report to the Assembly every year on its activities in Europe; this report enables the Assembly to discuss in public the work done by the I.L.O. and to make recommendations to European governments, particularly as regards the ratification of international labour Conventions.

If I may speak personally, I am extremely glad that the Governing Body of the International Labour Office has agreed to convene here in Strasbourg a tripartite conference whose business it is to examine the draft European Social Charter and thus to make it possible for the Committee of Ministers and the Consultative Assembly to know what are the opinions of the professional bodies most interested in the Charter. Finally, may I, as Secretary-General of the Council of Europe, say how much satisfaction it gives me to see teams of officials of the I.L.O. and of officials of the Council of Europe together forming the secretariat of your Conference, this secretariat having at its head Mr. Rens, the Deputy Director-General of the I.L.O. This co-operation of our two teams is a symbol of the ideals which unite our two organisations. If today they are working as one team it is because they are inspired by the conviction that the world community and regional communities in process of being built are destined to conquer the hearts of the nations in dedicating with fervour a great part of their activities to the study of social problems. Thus the international institutions will succeed in fulfilling the deep-seated aspirations of millions of human beings and in translating into reality one of the fundamental tasks of all international co-operation.

I shall not, then, simply bid you welcome; I also express the sincere hope that your work will mark an important stage towards the achievement of this splendid task, and one of fundamental importance also in the tightening of the links between the International Labour Organisation and Council of Europe.

OPENING OF THE CONFERENCE

Interpretation from French: Mr. BARBOZA-CARNEIRO (Chairman of the Governing Body of the I.L.O.) - On behalf of the Governing Body of the International Labour Office, I have the honour and pleasure to welcome all members of the delegations to this Conference and I would like to thank the Secretary-General of the Council of Europe, Mr. Benvenuti, for the kind words which he has spoken.

In asking our Organisation to co-operate with it in the elaboration of the European Social Charter the Council of Europe has given a striking example of the co-operation which animates it, that same spirit which has always marked and continues to mark the activities of the International Labour Organisation. While making it an invariable rule to stay outside political controversy between the nations and groups of nations, the International Labour Organisation during its existence of almost half a century has always been at the disposal of its Members, one and all, to co-operate with them either directly or through their regional organisations in order to attain its permanent objectives: peace and social justice.

Faithful then to its vocation the International Labour Organisation responded to the request addressed to it by the Council of Europe, and this Conference is a new stage in the close co-operation which has been established for a long time between the Council and our Organisation. Thus, to give just a few examples, the technical services of the I.L.O. helped in the drafting of multilateral agreements on social security and the European Code of Social Security which the Council of Europe initiated. Similar co-operation was also established between the I.L.O. and all the European organisations dealing with social problems.

But the I.L.O. does not limit itself to co-operating with these organisations in the fields of joint interest. It has also undertaken on its own behalf the drawing up of European standards such as the agreement to bring into harmony the conditions of work of Rhine boatmen and to ensure the continuity of social benefits received by these boatmen, the agreement on social security of workers in international road transport in Europe and, in co-operation with the European Coal and Steel Community, the Convention concerning social security for migrant workers, the text of which constitutes a set of regulations forming part of the treaty instituting the European Economic Community.

At the request of the governments concerned, the I.L.O. itself has also helped certain European countries to study various problems and to improve government services in the field of vocational training, employment and labour administration by sending experts and granting a considerable number of scholarships for young people anxious to perfect themselves in their trade or profession.

Finally, it is generally recognised that the studies made by the I.L.O. on the social aspects of economic co-operation in Europe and on the comparative costs of labour in European industry have had considerable influence on recent developments in economic and social co-operation in Europe.

With this universal and regional experience, therefore, we are putting today jointly the resources of the Council of Europe and of the International Labour Organisation at your disposal, to draw up an instrument which will play a most important role in the social field.

It was the Council of Europe which took the initiative for a European Social Charter, a Charter which is designed to supplement the European Convention for the Protection of Human Rights and Fundamental Freedoms, and which, by recognition and protection of social rights, will complete the work accomplished in the field of social and political rights.

These studies undertaken by the Consultative Assembly and the Committee of Ministers have cleared the ground and paved the way for the establishment of the instrument the draft of which is before you today. It is to the Council of Europe that the views which you formulate will be addressed, and it is under the auspices of the Council of Europe that the Charter will be adopted and put into force.

Following a long historical evolution, the notion of human rights has progressively emerged and constitutes today not only a distant ideal but an objective which is recognised everywhere and of which only the concrete implementation represents a problem. But if the content of this notion has not varied, it has recently been enriched by new facts. While all the aspirations of the peoples and all the efforts of those who wish to satisfy them have been turned towards civil and political rights, the very success of this effort has revealed that it is incomplete and that these rights would lose a great part of their value if they were not exercised in an economic and social framework which would ensure them a real meaning.

To the idea that man lives by bread alone has been added the idea that liberty without bread is a vain word. These are the real problems of our time which have been brought about by immense political and social changes of which we today are realising the consequences.

Thus, the Council of Europe has sought to bring to the definition of the rights of man a sound and humane solution, giving their proper place to economic and social rights. The conquests of liberalism of the preceding centuries will thus be consolidated and completed, instead of being sacrificed to imperative needs, the pressure of which on the rights of human beings constitutes the great and dangerous temptation of our time.

Here, precisely, is the field in which the I.L.O. can and should supply the contribution of which I spoke. Not only may its long experience in the elaboration of social standards be of great technical assistance, but also the possibility of free and direct consultation between employers and workers will mean that the Charter will meet the aspirations and the possibilities of those on whom its implementation will have the most direct and the most wide effect.

Your Conference is composed in the same way as the International Labour Conference; thanks to its tripartite composition, the representatives appointed after consultation with the most representative organisations of employers and workers will meet in your debates on an equal footing with government representatives.

Such consultation does not merely extend the horizons, permitting employers and workers directly to present their point of view; it makes possible also the laying of bases for the agreement and collaboration necessary for the effective application of the provisions of the Social Charter.

For the draft Social European Charter to be satisfactory we must, of course, not lose sight of the interdependence throughout the world of economic and social problems, and it was useful to construct the Charter on the solid foundations of the universal standards of the I.L.O., in the elaboration of which the countries of Europe have indeed taken a very large and important part.

It is, then, the consultation of employers and workers alongside governments, and the comparison of European standards with universal standards, which constitutes the most important contribution of the I.L.O. in the drawing up of a European Social Charter. It is not for me to stress the value of this contribution; but I would like to underline this fact - that today the Council of Europe and the International Labour Organisation are showing their reciprocal confidence and esteem in undertaking jointly the examination of the draft Social Charter. It is not only a remarkable example of international collaboration but also, I am convinced, a factor in the success of the work which you are going to undertake here.

It is in this spirit that I have the honour to declare open the Tripartite Conference Convened by the International Labour Organisation at the Request of the Council of Europe.

ELECTION OF THE PRESIDENT

Interpretation from French: Mr. BARBOZA-CARNEIRO (Chairman of the Governing Body of the International Labour Office) - I will now ask you to proceed to elect the President of the Conference. I call on Mr. Hauck, Government delegate, France.

Interpretation from French: Mr. HAUCK (Government delegate, France) - Before submitting to the Conference the proposal which I intend to make regarding the choice of its President, I would like to say here, in the name of the Government of the French Republic, how happy my country is to welcome on its territory, in this ancient city of Strasbourg, the Conference which has been brought together here by the International Labour Organisation at the request of the Council of Europe.

This magnificent city of Strasbourg which, in the Middle Ages, was the point of contact and the junction between the Latin and the Germanic civilisations, this great city of Strasbourg, where the Marseillaise began to call the people to revolt against tyranny and poverty, this city of Strasbourg, finally, which is today, for all the peoples of Europe who are tired of and disgusted with war, the symbol of their reconciliation, is proud - and the Government of France is proud with it - to greet today a Conference such as ours.

It is precisely because we are at Strasbourg that I wish to propose to the Conference to elect as its President Mr. Fernand Dehousse, the President of the Assembly of the Council of Europe. Mr. Dehousse is a most distinguished European. He plays, in this building which welcomes us today, a role of the highest importance, steadfastly and with ability. May I add that, for the representative of France, Mr. Dehousse has particular virtues. We do not forget that, as Professor at the University of Liège and Member of the Belgian Senate, Mr. Dehousse belongs to a country which is particularly close to our hearts - close to us for geographical reasons also, and close to us in spirit.

I should like to remind you also that Mr. Dehousse has another claim to be the President of our Conference. Some years ago I had the privilege of meeting him for the first time. It was in 1945 at the International Labour Conference. Mr. Dehousse is an old and faithful friend of the I.L.O. We met, Mr. Dehousse and I, at a good many meetings and came together in many battles and I learned to know his courage, his clarity and his impartiality. I am certain therefore that, for this Conference, he will be the best President we could choose; and that is why I ask the Conference to elect him as its President.

Interpretation from French: Mr. WALINE (Employers' delegate, France) - I am here as the delegate of the Employers of France and I cannot help remembering a session of the Governing Body of the I.L.O. where, in the name of my colleagues of the Employers' group of this Governing Body, I supported the approval of the Agreement concluded between the Council of Europe and the International Labour Organisation. Here today is the first solemn realisation of this Agreement, after, of course, many valuable contacts between the heads of the two organisations.

I must say that, in the field of collaboration between international organisations, texts are essential but men also must co-operate in mind and in spirit. I am convinced that, in asking Mr. Dehousse to be President of this Conference, we are making an excellent choice because, as my compatriot, Mr. Hauck, has just reminded you, Mr. Dehousse knows our International Labour Organisation very well indeed, and that is a guarantee for us that we shall not have any difficulty with regard to the collaboration between the two organisations.

Also, may I remind you that I am a Frenchman myself and I associate myself warmly with everything that has been said by Mr. Hauck. It is symbolic, I think, that a Belgian citizen should be President of this Conference because Belgium has added to its international vocation a European vocation. In many respects it may be said that Brussels is not only a political capital now, an international capital, but also a trade union capital; and when I say trade union I am thinking of the employers' associations as well as others, because I do not forget that in 1919, in Washington, it was on the initiative of a great Belgian leader, Jules Carlier, that the International Organisation of Employers was set up, and this body also has a European as well as an international vocation.

Therefore, Mr. Dehousse, this is to say that we are very happy to support the proposal which has just been made, not only because you are Mr. Dehousse but also because you are a Belgian.

Mr. NIELSEN (Workers' delegate, Denmark) - The members of the Workers' group have not had time to meet officially during the day so I am not speaking on behalf of the Workers' group, but I think I am in agreement with most of the Workers in supporting the nomination of Mr. Dehousse.

Interpretation from French: Mr. BARBOZA-CARNEIRO (Chairman of the Governing Body of the International Labour Office) - I think that the proposal made by the Government delegate of France and seconded by the Employers' delegate of France and the Workers' delegate of Denmark has received unanimous assent.

I therefore consider that Mr. Dehousse is unanimously elected President of the Tripartite Conference Convened by the I.L.O. at the Request of the Council of Europe. I wish to extend to him my own warm congratulations and those of Mr. David Morse, Director-General of the International Labour Office.

I now invite Mr. Dehousse to take the Chair.

(Mr. Dehousse is unanimously elected President and takes the Chair.)

PRESIDENTIAL ADDRESS

Interpretation from French: The PRESIDENT - You have been good enough to elect me as the President of this Conference which is, I believe, the first of its kind, and which brings to the practical level the friendly relations between the International Labour Organisation and the Council of Europe.

I should like to say how happy I am that you have placed this confidence in me. I also thank you in the name of the Assembly over which I have the honour to preside, the Consultative Assembly of the Council of Europe. I am particularly glad that we should be meeting here in the hall of the Assembly, in the name of which I warmly welcome you all.

May I take this opportunity of paying a tribute to the International Labour Organisation whose activities, extending over the whole world, are appreciated by all and whose co-operation has always been welcomed by the Council of Europe. Our two institutions are linked by common objectives and ideals, and their alliance has already shown itself in a particularly tangible and practical form in the Agreement concluded between them on 23 November 1951. It is thanks to this Agreement that it has been possible to organise the present Conference and thus to derive the maximum advantage of the co-operation between the Council of Europe and the International Labour Organisation. I should like, in this regard, to remind you that it was the Consultative Assembly which, in resolution 69, adopted on 7 July 1955, was the first to propose that the draft European Social Charter should be submitted to discussion by such a Conference as this. From the decision taken by the Council of Ministers to co-operate with the International Labour Organisation there was born a specific orientation of the Charter.

The choice of the I.L.O. as guide has opened up a path, but has every opening been explored? The application of the Charter is to be based on the practice adopted for the application of international labour Conventions, a procedure which has often given good results. However, one cannot help thinking of the various proposals made by the Social Committee of the Council of Europe for the implementation of the Charter. Would it not be interesting for this Conference to take careful note of them? Thus we should have before us not only the comparison of the provisions of the draft European Social Charter with the corresponding I.L.O. standards as the sole working document but we should also have available the draft Charter submitted to the Council in October 1956 by various committees and, better still, the draft produced by the Social Committee a year earlier. These two documents, which I would like to see distributed, are numbered 536 and 403.

But, since I am now emphasising the keen interest which the Consultative Assembly takes in the Charter, I should like to cite lines from an opinion formulated by it in September 1953. "The Assembly accepts first of all the principle of preparing a European Social Charter. This Charter will define the social objectives of the States Members of the Council of Europe and serve as a guide for all the Council's future action in the social field. It is to constitute in the field of social policy a complement to the Convention safeguarding human rights and fundamental liberties. This Charter is to be drafted jointly with the Assembly, whose function it should be to re-define the principles."

The Committee of Ministers of the Council of Europe has described the Charter in similar terms. In May 1954, indeed, it said in a Special Message addressed to the Assembly regarding the programme of the Council of Europe, and I quote: "Our Committee will strive to prepare a European Social Charter the object of which will be to determine the social objectives which the Members will strive to attain and to guide the action of the Council in the social field. This Charter will then be a complement to the European Convention on Human Rights and Fundamental Freedoms."

There is no doubt, therefore, that as regards the object of our work this Conference is required to supply a technical contribution to the two organs of the Council of Europe.

I have read carefully the very interesting document which is to be the basis for our present work - the comparison between the provisions of the draft European Social Charter and the corresponding I.L.O. standards. I would like to make some comments on this matter, starting with Part II of the draft Charter.

The first 18 articles lay down principles which seem rather laconic perhaps when you compare them with the international labour Conventions. These are much more explicit, particularly regarding details of application of the principles laid down. This is due to the different character of the two instruments, the Charter and the Conventions, which pursue different objects. In general, the Conventions provide for the application of the principle laid down with a view to stricter application. They leave the appreciation of the application much less to the national authorities than does the Charter. Nevertheless, the Charter does not appear to be below the level of the Conventions. There are many similarities between the two texts. Indeed, it is evident that one is inspired by the other. Sometimes, though very seldom, the Charter goes beyond the Conventions. This is the case, for example, concerning vocational training, with regard to which the I.L.O. has hitherto only adopted Recommendations. In order to appreciate Part II of the Charter as a whole, one may say that it is equivalent to the total of the principles contained in the I.L.O. Conventions and - let us admit it - that it is only a minimum for the States Members of the Council of Europe.

As regards Part III, this is reduced to a single article (No. 19), which deals with undertakings to be assumed by the governments of States Members when they ratify the Charter. The governments undertake to regard themselves as bound by at least 10 of the 18 articles, or 45 paragraphs out of 62, whichever seems best. This system has been borrowed, as you know, from the I.L.O., but with simplifications - with extreme simplifications, I may say. In the I.L.O. there are similar undertakings in eight Conventions. This method is used, however, more strictly and in a more complex way either by enabling the contracting governments to reject part of a Convention, or by enabling them to make reservations regarding the application of the whole or part of a Convention to certain territories, or, lastly, by enabling the governments to accept only some parts of a Convention. The governments may perhaps choose these parts but they may only do so within the limits laid down by the I.L.O. Thus, the Conventions specify in advance groups of obligations so that a partial application of these Conventions may in the end amount to a coherent whole.

Let us see now how the application of the Charter is to be undertaken. Part IV proposes a procedure which is apparently very similar to that used for the I.L.O. Conventions: submission by governments of reports on the application of the provisions accepted and on the fate of those which have not been accepted, the examination of these reports by committees, in the supreme instance going up to the International Labour Conference in the case of Conventions and the Committee of Ministers in the case of the Charter. At

this last stage, we find the essential difference between the International Labour Conference and the Committee of Ministers. It is the Ministers who are required, in the last resort, to appreciate the manner in which the national authorities are or are not to give effect to the Charter in their respective countries. I confess that I am slightly sceptical regarding such procedures and their effectiveness, more especially as the Ministers may only make recommendations one to another, and this is the only force of the application system thus contemplated.

I would like to make two remarks here. It is regrettable in my opinion that the system of the I.L.O. was not copied completely - its procedure for complaints which are the subject of inquiries, reference to the International Court of Justice and recommendations to the International Labour Conference in order that it may decide on the appropriate action. Would it not have been possible at the same time to take heed of the control system applied with regard to the European Convention on Human Rights? Here is where we approach the heart of the problem.

We must in the social field elaborate an instrument having a scope comparable to that of the European Convention on Human Rights. This Convention, signed in Rome in 1950, is based on the Universal Declaration of the United Nations, but it relates only to civil and political rights. Nevertheless, in this precise field, it constitutes remarkable progress - I would even say revolutionary progress - because it is an instrument juridically binding the Contracting Parties and providing for a positive application of procedure, with a Commission - and soon a Court. The task before us, as defined by the Consultative Assembly and the Committee of Ministers, consists so far as possible in forging a similar instrument in the economic and social field. If I say "so far as possible", it is because regard must be had, of course, to the particular character of economic and social rights.

No doubt it may be hoped that all the States Members of the Council of Europe will agree to be bound by all the provisions of the Charter. However, in the interest of this "closer union" between Members, to which reference is made in the Statute of the Council of Europe, it would be very useful to provide at least for a certain common body of standards and obligations applicable to all. One might also contemplate having the general objective to be that of accepting the whole Charter within a reasonable period. In this connection one might provide for application by stages, in the sense that the standards of each stage and the time required to achieve them would be determined in successive programmes agreed on by the parties. This is the procedure adopted by the Six European Communities, and their example is being imitated.

My last point will be this. In its resolution of 15 December 1956 respecting the European Social Charter the Committee of Ministers expressly stated that the employers' and trade union organisations should take part in the supervision and application of the Charter. In our working document this association is mentioned only in article 22. This text provides that copies of the governmental reports on the application of the Charter should be communicated to such of its national organisations as are members of the international organisations of employers and trade unions, and provides that these national organisations may make observations on these reports. Once more the Social Committee established by the Committee of Ministers has faithfully imitated the procedure in force in the I.L.O., but this procedure, perfectly justified within a tripartite organisation, is quite insufficient in the framework of the Council of Europe, which has not this tripartite character at all. In order that the Charter may become an instrument of social progress it is necessary that the governments which have to apply it act in close co-operation with those who directly represent the various sectors of economic and social life. Consequently, the occupational organisations will have to be given, in the supervision of the implementation of the Charter, a role comparable to that which they have in the I.L.O. proceeding from the composition of this latter institution. Why, therefore, should we not re-examine the whole proposal of a European Economic and Social Council?

I leave these ideas to your reflection, and I confess that it is with some emotion that I do so. This, the first day of December 1958, coincides with the 20th anniversary of the death of an eminent man who was my predecessor and teacher at the University of Liège and who was, still more, a pioneer whose memory is still greatly reverenced in the International Labour Organisation. I speak of Ernest Mahaim, former member of the International Committee for Labour Legislation of the Peace Conference, former President of the International Labour Conference, and former Chairman of the Governing Body of the I.L.O. I was thinking of him particularly and of his policy when I accepted the mission with which you have entrusted me.

In conclusion, I should like to express the sincere hope that our Conference will reach constructive results. The Europe which we desire and for the building of which all of us must work must be a Europe of social progress and a Europe of security and peace.

I now pass to other duties. I have a file before me in which there is a telegram from Mr. David Morse, Director-General of the I.L.O., who asks the President of the Conference to address to the Conference in his name his wishes for its full success, and to assure it that the I.L.O. will always be ready to give its co-operation to the Council of Europe in order to promote social progress. Mr. Morse expresses the hope that the close links and fruitful co-operation between the two organisations will be strengthened as time goes on.

I would also like to thank, most particularly, the Chairman of the Governing Body of the International Labour Office, Mr. Barboza-Carneiro, who welcomed me so warmly just now. I would also like to say a word of welcome to the delegation of the Governing Body, as well as the Secretary-General of the Conference, Mr. Jef Rens, Deputy Director-General of the I.L.O. I would also like to welcome the observers who have been sent here by so many organisations with which the Council of Europe maintains friendly relations; these are the observers from the United Nations, the High Authority of the European Coal and Steel Community, the Commission of the European Economic Community, the Commission of the European Atomic Energy Community, the Bureau of the European Parliamentary Assembly, the Western European Union and the Intergovernmental Committee for European Migration. I would like to thank these organisations for the interest they are taking in our work and of which they are thus giving us such a striking example.

ADOPTION OF THE DRAFT STANDING ORDERS

Interpretation from French: The PRESIDENT - Our next item is the adoption of the draft Standing Orders of this Conference. You have before you the draft Standing Orders, based essentially, on the one hand, on the arrangements made by the Committee of Ministers of the Council of Europe and the Governing Body of the International Labour Office, and on the other hand, on the rules and practice followed in the meetings of the I.L.O.

I will now call upon the Clerk of the Conference to read out to you certain errors in the English and German texts of the draft Standing Orders which should be rectified.

THE CLERK OF THE CONFERENCE - In the English and German texts of the draft Standing Orders paragraph 8 of article 10 should read as follows: "No motion or amendment shall be adopted if an equal number of votes are cast for and against."

Moreover, corrections should be made to the text of paragraphs 1 and 2 of article 7, paragraph 8 of article 8, paragraphs 3, 5 and 8 of article 10, and paragraph 2 of article 12, but only in the German version of the draft Standing Orders. The German interpreters will now give the corrected texts on the interpretation system.

Interpretation from French: The PRESIDENT - I only have to suggest to you one change in the draft Standing Orders. This is a change that has become necessary because of your election of me as President of this Conference. As a member of the Council of Europe delegation I take part in the deliberations of this Conference, as is the case also for my colleagues on this delegation

and for the members of the I.L.O. Governing Body and O.E.E.C. delegations, without the right to vote. Therefore paragraph 2 of article 2, which states that the President shall have the right to take part in the discussions and to vote, must be deleted. I propose simply to add to paragraph 1 of the same article the following words: "The President shall not vote." Paragraph 2 being deleted, paragraphs 3 and 4 of the same article would become paragraphs 2 and 3.

If the Conference approves of this change, and if there are no other observations, I declare the Standing Orders of the Conference adopted.

Mr. FENNEMA (Employers' delegate, Netherlands) - I am not coming to this rostrum to raise objections to the Standing Orders, but I am asked by my colleagues to indicate that in our view these Standing Orders are for the most part made up of articles concerned with motions, amendments, voting, etc.

You have clearly indicated, Mr. President, in your speech, that this Conference is of quite a special character, and we will not proceed with our work in the same way as we do when we are deciding concerning the content of an international Convention. We are asked to give our views on a draft which has been placed before us by the Committee of Ministers of the Council of Europe, and therefore our work must be to frame a report about the views of the different delegates participating in this Conference, views which they will put before the Conference here in this hall.

Although, therefore, in our view the Standing Orders do not reflect quite clearly the special character of the Conference, we are of the opinion that if they are used in the proper way they will not hinder the accomplishment of our task.

Mr. SÖLVÉN (Workers' delegate, Sweden) - The delegates and advisers belonging to trade union organisations affiliated with the International Confederation of Free Trade Unions have requested me to raise three points with regard to the draft Standing Orders.

The introduction to the report prepared by the I.L.O. (document C.S.E.1958/I) contains a chapter concerning the composition of this Conference.

It is stated there, quite rightly, that advisers may act as substitutes for their delegate, only with the latter's formal authorisation, notified to the President of the Conference. The adviser will then have the rights of the delegate with regard to speaking and voting. This provision is, however, not contained in the Standing Orders. Indeed, article 7 of the Standing Orders

only refers to the fact that no participant may address the Conference without having asked permission of the President. In order to make things clear right from the beginning, we are proposing that both in the plenary sittings and in the committees advisers should have the right to speak without requiring formal authorisation from their delegates. This formal notification should only apply in case of a delegate who wants to transfer his right to vote to one of his advisers and only for votes taken in the plenary sittings. An adviser can therefore be appointed as a titular member to a committee with the full right to speak and vote. Since we do not want the Standing Orders to be too rigid on this point, we are not proposing a formal amendment to the Standing Orders, on condition that our interpretation be accepted by the Conference.

The same chapter of the Introduction to the report also states that the members of a tripartite delegation of the Governing Body of the International Labour Office, and the members of a delegation of the Council of Europe and of the O.E.E.C., "may participate in the work of the Conference but without the right to vote". This is, in our view, a very normal procedure, since, in fact, this Conference should advise these international organisations. But in article 4 of the draft Standing Orders provision is made for the tripartite Governing Body delegation and the delegation of the Council of Europe to be members of the Steering Committee. It is not clear whether the general provision concerning the consultative capacity of these delegations also applies to the Steering Committee. It should be clarified, in our view, that whilst we can see many reasons for these two delegations to participate in the Steering Committee, they should not have the right to vote; we feel that throughout this Conference the decisions should be taken only by the national delegates.

Finally, we learn from the document that a number of inter-governmental and non-governmental organisations have been invited as observers; but the Standing Orders are silent as to the right of these observers to participate in the work of the Conference and its Committees. We suggest that, in accordance with the usual I.L.O. practice, these observers should be allowed to participate in the debate, with the agreement of the Officers of the Conference in the case of plenary sittings and of the technical committees' Officers respectively.

I repeat that, if the Conference agrees with this broad interpretation of the rules, we do not propose to submit formal amendments to the draft Standing Orders. If that were not the case, we suggest that our observations be submitted to the Steering Committee. In the meantime, we could give provisional approval to the draft Standing Orders.

Mr. NIELSEN (Workers' delegate, Denmark) - I am very sorry that at this early stage of the Conference I must disagree with Mr. Fennema, but his remarks were very surprising to me because I remember that it was decided that some rules must be laid down, and we have them in the document before us. There it is said in the first chapter of that document that in the report there will be recorded the views of each particular group of participants regarding the provisions contained in the draft European Social Charter. It might be necessary in certain cases, in order to bring out clearly the views of those participating in the Conference, for the Conference to formulate its own opinion by suggesting texts which could take the form of new draft provisions of the Charter. It seems to me that Mr. Fennema was wrong in saying that at this Conference we do not have to put amendments to a vote. Since we are considering texts there is the right to put amendments, and there may sometimes be the necessity to vote on them. I hope that we can take that matter up also in the Steering Committee.

Interpretation from French: The PRESIDENT - No one has so far, I am glad to say, suggested any formal amendment. What the speakers have asked for really is an interpretation of the present text of the draft Standing Orders.

One of the questions put relates to the right of advisers to speak (article 7, paragraph 1). I gladly take note of what has been said by the Swedish Workers' delegate, and my intention will be to interpret article 7, paragraph 1, in a very liberal way.

With regard to the right to vote of the members of the delegation of the Governing Body of the I.L.O., the members of the Council of Europe's delegation, etc., I would draw your attention to the fact that article 4, of which mention was made, deals only with the membership of the Conference. The question of the right to vote is dealt with elsewhere. It is dealt with in the document relating to the arrangements made by the Council of Europe and the Governing Body of the I.L.O., paragraph 4 of which reads as follows:

"The following may also participate in the work of the Conference but without the right to vote:

(a) the members of a tripartite delegation of the Governing Body of the International Labour Office;

(b) the members of a delegation of the Council of Europe;

(c) the members of a delegation of the Organisation for European Economic Co-operation."

Therefore I think that there can be no misunderstanding, as long as one combines both texts, that is, in so far as one interprets article 7 in the light of the arrangements concluded between the Council of Europe and the Governing Body of the I.L.O.

If the Conference shares this view, I think that all that will be necessary will be to include in the record the remarks I have just made. I think that this will give satisfaction to those who have spoken on the point.

There still remain the remarks made by Mr. Fennema. They do not imply a formal amendment but relate rather to a flexible way of conducting the debates by the President of the Conference when we come to any question of voting. It is clear that we shall have to vote on the report finally, and the adoption of that report implies, by definition, votes which, even though they are not votes on resolutions, motions, etc., are still votes.

Interpretation from French: Mr. SCHEVENELS (Representative of the International Confederation of Free Trade Unions) - There is a third point, Mr. President, on which you have not said anything. A question was put by Mr. Sölvén on the subject of the right of the non-governmental delegations to speak.

Interpretation from French: The PRESIDENT - I may perhaps reply to Mr. Schevenels by basing myself, as I intended, on the principle embodied in paragraph 1 of article 7 of the Standing Orders, where it states that permission to speak is granted by the President. Are there any other observations?

I take it that the small amendment to article 2 which I suggested is adopted. Are there any other observations? Since there are no further comments, the amendment to article 2 is adopted, as are the draft Standing Orders as a whole, with the explanation that I have given.

(The Standing Orders, as amended, are adopted.)

COMMUNICATION CONCERNING THE COMPOSITION OF THE STEERING COMMITTEE

Interpretation from French: The PRESIDENT - I will now call upon the Clerk of the Conference, who is to make a statement regarding the composition of the Steering Committee.

Interpretation from French: THE CLERK OF THE CONFERENCE - In accordance with article 4 of the Standing Orders just adopted by the Conference, the Steering Committee will be composed of the following persons:

(1) the President of the Conference;

(2) three members of the Governing Body delegation of the International Labour Office, appointed by that delegation;

(3) three members of the delegation of the Council of Europe, appointed by that delegation; and

(4) an equal number of representatives of each of the three groups, fixed by the Conference.

Therefore, it is suggested that the Steering Committee should be composed of the President of the Conference, three members of the delegation of the Governing Body of the International Labour Office, three members of the delegation of the Council of Europe, and five Government members, five Employers' members, and five Workers' members, and that the groups, when they make their nominations, keep to these figures.

Interpretation from French: The PRESIDENT - Are there any objections to the communication which has just been made? As there are none I take it that the suggestions are adopted.

(The proposals are adopted.)

(The Conference adjourned at 4.30 p.m.)

SECOND SITTING

Monday, 1 December 1958, 5.30 p.m.

President: Mr. Dehousse

ELECTION OF THE VICE-PRESIDENTS

Interpretation from French: The PRESIDENT - We shall now proceed to the election of the Vice-Presidents of the Conference. The Clerk of the Conference will read out the proposals made by the groups.

Interpretation from French: THE CLERK OF THE CONFERENCE - The proposals made by the groups for the Vice-Presidents of the Conference are as follows:

Government group: Mr. Veysey (United Kingdom).

Employers' group: Mr. Faubel (Federal Republic of Germany).

Workers' group: Mr. Nielsen (Denmark).

Interpretation from French: The PRESIDENT - If there are no objections those proposals are declared adopted.

(The proposals are adopted.)

APPOINTMENT OF THE STEERING COMMITTEE

Interpretation from French: The PRESIDENT - The next item on the agenda is the appointment of the Steering Committee. The Clerk of the Conference will read out the proposals submitted by the groups.

Interpretation from French: THE CLERK OF THE CONFERENCE - The ex officio members of the Steering Committee are the following: the President of the Conference; three members of the delegation of the Governing Body of the International Labour Office: Mr. Barboza-Carneiro, Mr. Kuntschen and Mr. Möri; three members of the delegation of the Council of Europe: Mr. Veysey, Mr. Strasser and Mr. Birkelbach.

As regards the Conference groups the following nominations have been made:

Government members:

France.
Federal Republic of Germany.
Netherlands.
Sweden.
United Kingdom.

Employers' members:

Mr. Burton; substitute: Mr. Bellingham-Smith (United Kingdom).
Mr. Faubel; substitute: Mr. Schöne (Federal Republic of Germany).
Mr. Fennema (Netherlands).
Mr. Lindström (Sweden).
Mr. Waline; substitutes: Mr. Leblanc, Mr. Saintigny (France).

Deputy members:

Mr. Boccardi (Italy).
Mr. O'Brien (Ireland).
Mr. Van Lint (Belgium).

Workers' members:

Mr. Alders (Netherlands).
Mr. Beermann (Federal Republic of Germany).
Mr. Nielsen (Denmark).
Mr. Ventejol (France).
Mr. Willis (United Kingdom).

Deputy members:

Mr. Gatti (Italy).
Mr. Braun (France).
Mr. Meedby (Norway).

Interpretation from French: The PRESIDENT - If there are no observations on the proposals which the Clerk of the Conference has just read I declare these proposals adopted unanimously.

(The proposals are adopted.)

NOMINATION OF THE OFFICERS OF THE GROUPS

Interpretation from French: The PRESIDENT - The next item on the agenda is the nomination of the Officers of the groups. The Clerk of the Conference will read out the nominations made.

Interpretation from French: THE CLERK OF THE CONFERENCE - The following nominations have been made by the groups:

Government group:

Chairman: Mr. Purpura (Italy).

Employers' group:

Chairman: Mr. Fennema (Netherlands).
Secretary: Mr. Emery (International Organisation of Employers), assisted by Mr. Legasse.

Workers' group:

Chairman: Mr. Nielsen (Denmark).
Vice-Chairman: Mr. Alders (Netherlands).

Members of the Bureau:

Mr. Nielsen (Denmark).
Mr. Alders (Netherlands).
Mr. Beermann (Federal Republic of Germany).
Mr. Ventejol (France).
Mr. Willis (United Kingdom).

Secretary: Mr. Schevenels (International Confederation of Free Trade Unions).

Interpretation from French: The PRESIDENT - The Conference takes note of these nominations.

STATEMENT BY MR. STRASSER, CHAIRMAN OF THE SOCIAL COMMITTEE OF THE CONSULTATIVE ASSEMBLY OF THE COUNCIL OF EUROPE

Interpretation from French: The PRESIDENT - Mr. Strasser, Chairman of the Social Committee of the Consultative Assembly of the Council of Europe, would like to address the Conference. As Mr. Strasser has to leave tonight for Vienna, where he has to attend an important debate in the Austrian Parliament, I will give him the floor immediately.

Interpretation from French: Mr. STRASSER (Consultative Assembly of the Council of Europe) - I thank you for having provided me with an opportunity of expressing the great satisfaction of the representatives of our Assembly at the opening of this Conference. I have no intention of making a long statement but there are some specific points to which I would like to refer.

Two years ago - and here I am fully authorised in saying so - during the discussion of the Social Charter I expressed the hope that the day would come when experts, real experts, would deal with the difficult subject of this Charter. I am very happy that this day has now come. The Assembly is very well aware of the great value which the views of the Tripartite Conference will have, for it is a conference that brings together so many specialists on social questions. It is with the technical advice of this Conference that the Consultative Assembly and the Social Committee will be in a position to undertake a final and political examination of the text of the Charter.

We are very conscious of the fact that social problems are exceedingly complex, and the delegation of the Council of Europe - I can reassure you on this point - does not intend to interfere in any details of your Conference. I merely wish to communicate to you here a few opinions and views that are shared by all the members of the Social Committee of the Council of Europe - I repeat, by all the members, irrespective of nationality or tendencies.

You will forgive me if the three points I wish to make in this connection are not technical points but political ones. It is a political assembly that generally meets here and it is quite in order that we should raise political issues - of this you may be aware.

First of all, it is the unanimous wish of our Committee that this Charter which is about to be created should be a strong one. We cannot conceive that this Charter could in any way form part of what is commonly known as the "social defence of democratic Europe" if its standards are not higher or, at any rate, equal to the standards of the International Labour Organisation. I do not think that it is necessary for me to go into this in detail.

Secondly, this Charter will have no value at all unless there are a number of articles - may I say a "nucleus" of articles - the ratification of which is compulsory for governments, as well as other articles chosen freely by them.

Finally, the remaining articles of the Charter should be ratified by all within a reasonable and definite period.

With regard to the question of this "nucleus", after long deliberations the Social Committee unanimously found that it should comprise articles 1, 2, 5, 6, 12 and 18. Speaking before so many specialists I need not explain what these articles are.

I would like, however, to make a few remarks about them. Firstly, the Committee was of the opinion - and this was the prevailing opinion - that full employment should be one of the objectives of the Contracting Parties. The Committee also unanimously agreed that the right to strike should be explicitly guaranteed either in article 5 or in article 6 of the Charter. I draw your attention also to article 12, paragraph 2, where the draft Charter recommends that the minimum standards should be the same as those of the Social Security Code which is now being prepared by government experts. The Committee would, no doubt, agree if the text of the Code were known to it. We do not know its provisions and that is a fault in this Charter. I think technical experts could help us to solve this question.

Secondly, with regard to the 40-hour week, this was discussed at length in our Committee, which was unanimous in its opinion that the 40-hour week would be one of the aims to be achieved. However, we did not give a definite ruling as to whether it should or should not be inserted directly in the Charter.

As to our third point, last but not least, the Committee feels quite definitely that the application of the Social Charter should be the subject of parliamentary control. Indeed without such control in the implementation of the Charter workers cannot be offered guarantees and the very purpose of the Charter is endangered. That is why the Social Committee has considered a certain number of provisions of which the following are essential: governmental and national reports should also be sent to the Consultative Assembly; the Committee of Ministers should receive national and governmental reports and also reports from experts, and then it should transmit all these reports to the Consultative Assembly with its comments. A copy of all these reports should be transmitted to the Consultative Assembly and likewise to the Social Committee. The governmental reports would then be sent to the Secretary-General and distributed by him to the Committee of Experts. The Committee of Experts would then send its conclusions to the Governmental Subcommittee and to the Assembly. The Subcommittee and the Assembly

would send a report to the Committee of Ministers, and the Committee of Ministers would reply to this report. The Assembly would receive then the conclusions of the Experts and it would give its opinion so that it would be able to influence the Committee of Ministers. It would, in addition, receive the decisions of Ministers and submit recommendations.

In listening to me you may think this procedure rather complex; an organigramme would show more simply what I have tried to make clear.

I wanted to put before you these few ideas. I repeat this is the unanimous opinion of the Social Committee of the Council of Europe. I thank the Conference in advance for the valuable co-operation it gives to the Council of Europe and for the enlightened advice which it will give on the text. Thanks to this advice we will be able to study the text from the political point of view with full knowledge of the matter.

(The Conference adjourned at 6 p.m.)

THIRD SITTING

Tuesday, 2 December 1958, 3 p.m.

President: Mr. Dehousse

FIRST REPORT OF THE STEERING COMMITTEE: SUBMISSION, DISCUSSION AND ADOPTION

Interpretation from French: The PRESIDENT - The first item on our agenda this afternoon is the first report of the Steering Committee. Mr. Geller, Chairman of the Committee, will now submit this report.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany; Chairman of the Steering Committee) - I have the honour to present to the Conference the first report of the Steering Committee. The first thing the Committee did was to elect its Officers. They are as follows:

Chairman: Mr. GELLER (Government member, Federal Republic of Germany).

Employers' Vice-Chairman: Mr. FENNEMA (Netherlands).

Workers' Vice-Chairman: Mr. WILLIS (United Kingdom).

The Committee also discussed the setting up of technical committees of the Conference, and considered how many would be necessary. After discussion it reached the conclusion that, in view of the importance and scope of the questions to be studied and also of the limited amount of time available, it was appropriate to recommend the establishment of two committees:

(1) Committee on Substantive Clauses.
(2) Committee on Implementation Clauses.

The first of these committees would in practice be dealing with Parts I and II of the draft European Social Charter, and the second would concern itself with Parts III to V of the draft Charter

Lastly, it was suggested that before the committees began their deliberations a general discussion of the draft Charter should take place in plenary sitting. It is accordingly proposed that this afternoon's plenary sitting be devoted to this general discussion.

May I ask the Conference to approve this report?

Interpretation from French: The PRESIDENT - Does any delegate wish to comment on the first report of the Steering Committee?

Mr. KRINGLEBOTTEN (Government delegate, Norway) - I wish to state that we are not very happy at the decision of the Steering Committee to set up two committees. I wish it to be recorded that I personally am against it. In my opinion it would be better for the Conference to discuss the whole Charter in plenary sitting. I understand that it has been proposed by the I.L.O. to divide the Conference into two technical committees, each to take part of the Charter and to discuss it in detail.

In my view a better procedure would be for the whole Conference to discuss the draft Charter altogether in the plenary sitting. There is a very great difference between an International Labour Conference and this Conference here.

This Conference cannot take final decisions such as are taken by an International Labour Conference. At the International Labour Conference naturally committees have to be set up to discuss the subjects and a vote is taken to get a result, and the result is final. But this Conference cannot make final decisions. The fact is that here we have a draft European Social Charter upon which the Consultative Assembly of the Council of Europe has been working for several years. It has presented several drafts and now the Social Committee of the Committee of Ministers has discussed in detail all the provisions which are before us today. They have discussed it very carefully, they have consulted with their governments and the draft Charter is the result of this work of several years.

I understand that the governments, on the whole, have accepted, in principle, and mostly also in detail, the result of this work, and I have the impression that this Conference was convened in order to hear the views of the representatives of the workers' and employers' organisations, to register their opinions and then to send the text back to the Committee of Ministers so that the Social Committee of the Committee of Ministers could have their views for their further consideration of the Charter.

The object of this Conference should be to have the views of the representatives of the employers' and workers' organisations, and in my opinion it would be most desirable to hear those views in this Conference. If we set up technical committees, I, for my part, want to have the benefit of the arguments for amending the Charter. The Conference is not bigger - in fact, it is practically an ordinary committee set up by the International Labour Organisation. It would not be difficult to state the views and to benefit from the arguments which will be brought forward here. Therefore, I wish it to be recorded that I am against this division of the Conference into two committees.

Interpretation from French: The PRESIDENT - The views of Mr. Kringlebotten will, of course, be recorded.

Mr. FENNEMA (Employers' delegate, Netherlands) - I should like to point out that we on the Employers' side fully agree with the statement of the Norwegian Government delegate. We stated our point of view yesterday in the Steering Committee but we received no support at all from the other groups. Therefore, we had to accept the solution of the majority of the Steering Committee but we asked for a general discussion this afternoon; I am grateful that the Steering Committee was willing to accept that. If there is no support from other quarters for the viewpoint of the Norwegian Government delegate, we are prepared to accept the decision of the Steering Committee.

Interpretation from French: The PRESIDENT - Since there are no further remarks, I declare the first report of the Steering Committee adopted.

(The first report of the Steering Committee is adopted.)

SECOND REPORT OF THE STEERING COMMITTEE[1]: SUBMISSION AND ADOPTION

Interpretation from French: The PRESIDENT - The next item on our agenda is the second report of the Steering Committee. I ask Mr. Geller, Chairman of the Steering Committee, to present the report.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany; Chairman of the Steering Committee) - The Steering Committee under its terms of reference had to make proposals for the membership of the two committees. Its proposals are as follows: the first committee, which will deal with the matters of substance, will be composed as follows: 13 Government members, and 10 members each of the Employers' and Workers' groups. Furthermore, there will be an observer representing Turkey. The second committee will be composed as follows: 13 Government members, and six members each representing Employers and Workers, plus an observer representing Turkey.

The list of the members of the committees will appear as an appendix to the report.

Interpretation from French: The PRESIDENT - Does any member of the Conference wish to comment on the second report of the Steering Committee? If not, I take it that the report is adopted.

(The second report of the Steering Committee is adopted.)

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[1] See below, Appendix I.

GENERAL DISCUSSION ON THE DRAFT SOCIAL CHARTER

Interpretation from French: The PRESIDENT - As a result of the adoption of the first report of the Steering Committee, the Conference is now called upon to proceed to a general discussion of the draft European Social Charter. This discussion should be completed this afternoon. I would ask members of the Conference whether they would agree to the list of speakers for this discussion being closed at 4 p.m. If there are no objections I take it that it is agreed.

(It was so agreed.)

Interpretation from French: The PRESIDENT - The first speaker on my list is Mr. Veysey, Government delegate, United Kingdom.

Mr. VEYSEY (Government delegate, United Kingdom) - I was called in my capacity as Government delegate of the United Kingdom, but I am here in another capacity also - as a member of the delegation of the Council of Europe. I do not know whether I can best speak in one or other of these capacities or in both at this time, but I do not think it matters which, and perhaps you will treat it as coming either from a Government delegate or a Council of Europe member, as you may prefer.

I thought it might be helpful to the Conference if, as a member of the Governmental Social Committee - and for some time its Chairman - I tried during the general discussion, and preferably at the outset as I now do, to give some indication of the way in which the draft of the European Social Charter, which is at present before you, was drawn up.

I think it may be said that the Governmental Social Committee had in mind two main principles which guided their discussions. The first was a need to keep a balance between the idealistic and the realistic. Nothing is easier than to think up ideal provisions to be incorporated in the Charter. Anyone can do that. But if there are to be obligations binding on governments, they must be cast in a form which is realistic, otherwise the Charter will not be acceptable to governments which are responsible for carrying out its obligations.

The second principle we had in mind is one which is laid down in the Statute of the Council of Europe. It could not be expressed better than in the words of article 1 of the Statute, which says:

"The aim of the Council is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and for facilitating their economic and social progress."

Thus, the attempt made in the Social Committee was to draft a Charter which would be widely acceptable among members of the Council of Europe.

If we had provisions which were acceptable only to a few, this would promote division between members instead of the unity envisaged by the Statute.

With these principles in mind, the Committee proceeded to a very careful and detailed examination of the legislation of member countries, as the representative from Norway just said. We went through the legislation very carefully. We knew what the countries could do. We had in front of us also the drafts prepared by the Consultative Assembly. We also took note of the provisions of relevant international labour Conventions. With all these documents before us, we were assisted in drawing up a draft which we hoped would be realistic and acceptable to as many as possible of the members of the Council of Europe.

The structure of the draft Social Charter is explained in the document submitted to us. It may assist the Conference if I give just a brief review of its main features.

In asking the Governmental Social Committee to draw up a Social Charter the Committee of Ministers asked the Committee to consider whether, in addition to general principles, it should contain some more definite provisions binding upon the signatories. The Ministers contemplated, therefore, that there should be a statement of general principles, in any case, whether or not there were to be binding obligations as well. The Committee drafted these general principles and they form Part I of the draft. But they are more than just principles set down at the beginning of a document and tucked away in a preamble to be forgotten afterwards. There is an obligation written into the Charter, for all Members who ratify it to make a declaration that these rights and principles are rights and principles which they accept as aims of their social policy.

In Part II there is a whole series of obligations placed on ratifying governments. This Part, which contains provisions corresponding to each of the principles laid down in Part I, has set out the requirements in some detail for securing the effective implementation of each of the principles.

When we drafted those provisions in the Committee we had regard both to the suggestions made by the Consultative Assembly and to the provisions of relevant international labour Conventions; but, in a general charter covering so wide a field, the obligations must of necessity be set down in general form and not be too detailed. Had they been put down in detail they would have filled an enormously large volume. In a general charter of this kind something briefer and more general is obviously required.

I think the provisions were yesterday described as laconic; but are they any the worse for being that? There are plenty of respectable documents with laconic provisions. We can quote the document embodying the Human Rights Convention of the Council of Europe which contains some nice succinct provisions; and, if you want to go back further into antiquity, what about the Ten Commandments? Some of those provisions are cast in very laconic form, and I venture to say that the fourth one, which is the longest, is the least widely respected! At any rate, the proper instrument for the detailed working out of social obligations is not a charter of this kind but the international labour Conventions of the International Labour Organisation.

Well, having drafted a series of obligations, our next business was to consider to what extent the Charter should require their acceptance as a condition of ratification, and that is where article 19 comes in. The draft could have said that all obligations were to be accepted by ratifying governments, but if that had been said we should have been going far beyond what the I.L.O. requires. Does the I.L.O. require all its Conventions to be accepted? No, not at all. There is no obligation on member States to ratify all of the I.L.O. Conventions or indeed any of them, and, out of more than 100 Conventions adopted by the Organisation, the ratifications by the Members of the Council of Europe range from, I think, 73 for the country that has ratified most to nine for the country that has ratified least.

Or we could have made it optional for the governments to accept as many of the obligations as possible. That would have been much more in line with what the I.L.O. does about its Conventions; governments have the option to ratify, where they can, as many as they wish. But what the draft does is to go further than this and require a certain proportion to be accepted - 45 provisions out of 62. This is a high proportion, over 70 per cent.; and if that were applied over the whole range of international labour Conventions it would require ratifications to an extent exceeding the performance of most of the member countries of the Council of Europe. I do not think any of the governments of the Council of Europe has ratified as many as 70 per cent. of the international labour Conventions; we certainly have not in the United Kingdom. It is requiring quite a considerable obligation, you know, to expect countries to ratify 70 per cent. of the obligations of the Charter.

It has been said - I heard it said yesterday - that some provision should be made for the acceptance of certain minimum obligations in common; that is to say that certain of the provisions should have been selected as being compulsory for ratifying Members to undertake. I think two comments can be made on that: first, that if certain provisions are to be selected as being compulsory for countries to undertake one has to be very careful in the choice of the obligations. You choose a number of obligations. One of them, one paragraph of them, one phrase of them is unacceptable to one country; therefore it cannot ratify the Convention. Another article, another paragraph, another phrase is unacceptable to another country, a different one; that country cannot ratify the Charter. And eventually you peel off one country after another as you peel the leaves off an artichoke, and there will be none left to sign in the Charter at all.

Then another comment to make on this is that in fact there is a fairly wide area of common obligation between member countries who ratify the Charter. States which accept the minimum of 45 provisions out of 62 must of necessity have an area of common ground with other States accepting 45 out of 62. It is mathematically inevitable that there must be a large area of common ground between ratifying States.

Well, to get away from article 19, which is an important one, just a brief word on the remainder of the draft Charter.

Turning now to Part IV, dealing with implementation, the Committee had conceived this task to be an executive function to be entrusted to the bodies with which the responsibility lies. After an initial examination by experts, the reports would eventually pass to the Committee of Ministers. Naturally, the Ministers would want to refer the reports at some stage to the Consultative Assembly, but the supervision of the implementation of obligations is hardly a political function; it is an executive function properly resting on the Committee of Ministers.

There seemed to be some suggestion by one speaker yesterday that a recommendation by the Committee of Ministers would not carry as much weight as a Recommendation of the International Labour Conference. I venture to think that is a mistaken view. A formal recommendation of the Committee of Ministers of the Council of Europe is surely something that carries a good deal of weight with any Member to whom it is addressed. I cannot believe that we need depreciate the weight of a recommendation of the Committee of Ministers.

In this part of the Charter, too, you find provision for the association of employers' and workers' organisations with the machinery for implementation. The Committee of Ministers asked

for this to be done, and the provisions say that the organisations come in at two stages. The first stage concerns national organisations at the time when reports are first made by governments, which send them copies for any comments they wish to make: and then, at a second stage, international organisations join the Governmental Social Committee in its work of supervision by their presence in a consultative capacity when the reports come before them.

The last part of the Charter contains some formal and final provisions. Some interest was displayed in the Steering Committee yesterday and was mentioned today, I think, about article 31, which relates to the procedure for giving effect to obligations by means of collective agreements. This provision was included at the suggestion of the Committee of Ministers which said that we should not overlook the fact that obligations can be undertaken by means of collective agreements. It was put in to meet the position of countries where some of the matters dealt with in the Charter are matters for settlement between employers and workers in accordance with long-established traditions of good industrial relations. In these countries governments would not be prepared to underwrite what is settled between employers' and workers' organisations, nor would those organisations be willing that they should do so. The provision is cast in an essentially practical form by providing that compliance shall be effective if the collective agreements are applied to the great majority of the workers concerned.

The reason for this is because, if the obligation were to be stricter, the governments would have either to supervise the operation of collective agreements in order to make sure that no small part of the field was left uncovered, or they would have to legislate in order to achieve the same effect, and I suggest that such a course would not be acceptable to the governments any more than it would be to employers' and workers' organisations in countries where industrial relations are based on collective agreements.

It is, I think, agreed that it is the task of this Conference to examine the draft Charter from the technical point of view. It is not the occasion, I think, for raising political points; no doubt such an occasion will arise later on when the draft is the subject of formal reference to the Consultative Assembly, which will then be able to give its political opinion on the Charter. At this stage, the Conference is, I think, called upon to give technical advice and to make a technical contribution for the assistance of the Council of Europe.

At the beginning of my remarks I mentioned two principles which had guided the work of the Governmental Social Committee in drafting the Charter. I suggest that in the examination of it this Conference would do well to keep the same principles in mind,

that is to say, the desirability of having a charter which is realistic and one which is capable of acceptance and ratification by as many Members as possible of the Council of Europe, thus preserving and helping to achieve greater unity between Members which is one of the aims of the Council.

Mr. van RHIJN (Government delegate, Netherlands) - The Netherlands Government will be pleased to co-operate towards the realisation of a charter for fundamental social rights. To my Government, the attribution of such rights is a corollary of its democratic mindedness. In the totalitarian countries there is no room at all for fundamental rights. There it is the State which claims all rights for itself. The subject has to obey unconditionally, no matter what the State dictates and without any regard for the infringements thus made on the freedom of the individual. The Communist countries set a significant and deterrent example of the situation to which such despotism is bound to lead.

Democracy admits the value of personality. Man is not looked upon as an object but primarily as a subject. He is the bearer of a value which has to be respected. Hence the idea of granting rights to him. Throughout the ages this whole range of ideas has taken an ever wider scope in European history. Christianity, which saw man as a creature of God and therefore as an entity of high value, has exerted a beneficial influence here.

Actually, there are a great many examples in European history of charters by which rights were granted to man. At the beginning those fundamental rights were rather of a political character. This holds good in particular for the charters of the seventeenth and eighteenth centuries. And this is quite logical. In those days social problems were not yet in the forefront of interest. It was the time in which the citizens opposed the possibility of high-handedness on the part of the ruling sovereign. That is why guarantees were required for impartial administration of justice, orderly taxation, etc. Rights of this kind may be found in the British Bill of Rights of 1689, when the Netherlands Prince and Princess of Orange came to the throne in Great Britain. As regards the United States of America, I would refer to the Declaration of Independence of 1776. Here, too, the fundamental rights were of a political nature. Equally well known is the French Déclaration des droits de l'homme et du citoyen of 1789. Freedom like that of the press, of religion, and the like, incorporated in it, are found back in the nineteenth century in many constitutions of European countries.

The social constitutions date in particular from more recent years, for it was only then that social problems began really to agitate mankind. The freedom from want and the freedom from fear, laid down in the famous Atlantic Charter by President Roosevelt and Prime Minister Churchill, when they met in August 1941, form a striking example of this. Later several further efforts have been made to lay down social fundamental rights in articles, for instance in articles 23 to 25 of the Universal Declaration of Human Rights, which was adopted in 1948 by the General Assembly of the United Nations.

Now, a draft Social Charter of the Council of Europe lies before us. From what I have just said you will already have learned that we are witnessing an evolution, which should fill us with joy when we think of the problems that are thus to be solved. Still, I would like to make some remarks in this connection.

When I look at the draft now before us I cannot help fearing that the articles have often been couched in ampler terms than is desirable to ensure a favourable implementation. Of course I admit that rights once granted should not be restricted again in such a way that what is given with one hand is taken back with the other. Yet, in the interest of the Charter we must be careful to see that the wording should not become too ample. For in that case the article concerned would only be important as a toast or a slogan, and not for practical application. Allow me to illustrate what I mean with reference to two examples.

Article 1, paragraph 2, grants the right to work. In it, the obligation is imposed "to protect effectively the right of the worker freely to choose any available occupation". You see how ample the formulation actually is. My query would now be: does the article prohibit the requiring of particular diplomas? Another question: does this article admit of qualifications for the establishment of undertakings? And what about efforts in regard to planning for the labour market to curtail unemployment as far as possible? Can the government limit the number of candidates in such a case, if required? These are a few of the questions to which I am unable to give a satisfactory reply offhand.

Let me give another example. Article 6 recognises "the right of workers and employers to collective action in case of conflicts of interest". Here, too, doubts will arise. I assume that "collective action" includes strikes and lockouts. But now there are countries that restrict this right and impose compulsory arbitration. This restrictive regulation may relate to all workers, but it may also bear on part of them, viz. to those who work in industrial branches vital to the community. When this article is put into practice, will such compulsory arbitration then be possible? This is another query which, in my opinion, is of outstanding importance.

Under the circumstances I would insist on a careful analysis of the formulations. No doubt we must try to bring about an important charter of fundamental social rights. But at the same time we should avoid ambiguous formulations, for they keep the countries of the Council of Europe from ratification and in practice cause disappointment and bitterness among the workers concerned.

I have still several other questions in my mind but I have to be brief, so I will limit myself to making only three more observations.

The first one is in regard to article 13. This article proposes a right to social and medical assistance. Social and medical assistance are combined in one article only. We think it is better to separate these two subjects from each other, as they do not belong to the same field. Moreover, social assistance is an important subject that needs to be mentioned specially. Therefore, one of the members of my delegation is considering a proposal to mention social assistance in a special article to emphasise the importance of this right.

Another article I should like to mention is article 19. According to that article a country can ratify the Social Charter if it binds itself by not less than ten of the articles, or by not less than 45 of the numbered paragraphs, and articles containing only one paragraph of Part II of this Charter, to be selected by it. Now, I have heard of a suggestion to make ratification more difficult, by making these conditions heavier. I think we have to be careful here, as the Government delegate who spoke before me has said. At a conference like this we are all in danger of being too optimistic and not realistic enough. That means that Conventions which are approved here may well not be ratified by the governments. We have in this respect, in my opinion, to make a choice. We can make a reasonable Convention and then we may expect many ratifications. But if we put our aims too high now then we shall only get a few ratifications, or even no ratifications at all. I prefer the reasonable Convention with many ratifications.

Finally, my third observation concerns articles 20 to 27. These articles mention the procedure for the reports. Many authorities have a task to perform here; governments, the Secretary-General, committees of experts, a Subcommittee of the Governmental Social Committee of the Council of Europe and the Committee of Ministers. That is a very long way, too long a way; I am afraid the reports will disappear from view from time to time, and that it will be very difficult to pick them up again. Therefore, one of the members of my delegation is considering a shorter procedure, one which is likely to be more efficient.

In conclusion, the Netherlands Government sincerely hopes that an important Social Charter will be approved, that this Charter will be ratified by all the Members of the Council of Europe and that it will be an example not only for Europe but also the whole world.

Interpretation from French: Mr. VAN DEN DAELE (Government adviser, Belgium) - First of all, I should like to say how much the initiative taken by the Committee of Ministers of the Council of Europe to convene this Conference seems a useful and a helpful one to the Belgian Government. For the past ten years we have seen a number of European institutions created, either political or economic, with a common social denominator, namely an improvement in the standard of living of the populations of the countries which are partners in these institutions. It is true that this social objective is clearly brought out in the various treaties, but it must be admitted nevertheless that these same treaties are noticeably reticent on the subject of the specific social means to be adopted in building up the society of tomorrow. In those European circles concerned with social affairs this reticence is considered - and, we think it is rightly considered - as a gap, and those who consider it necessary to go a step further are more and more numerous. The social future of Europe cannot be left to the automatic play of economic forces or even to the existing machinery of the Common Market.

It was therefore quite natural that the social wishes of Europe should be voiced in the Council of Europe which, ever since it was set up, has always endeavoured to put man in the centre of its preoccupations.

That is why the Belgian Government is particularly pleased today to see this very Council of Europe, within a framework of joint action with the I.L.O., convening this Conference with a view to preparing a European Social Charter. The Belgian Government believes that the pursuit of such an aim is justified both from the social and from the European point of view. While as European citizens we consider ourselves world citizens, it nevertheless seems necessary to impart to the developing European structure not only common objectives but a common ideology. In fact, the Council of Europe trod this path already when it prepared the European Convention on Human Rights and Fundamental Freedoms. That Convention rests essentially on individual rights, whereas the European Social Charter should stress the rights granted to man as a result of his place in society, rights, that is to say, which it is the business of the public authorities, the State, to secure and sanction.

To sum up, then, one might say that human rights aim at defending man against the State, while social rights demand the intervention of the State in order that the individual may enjoy his freedom. To my mind, human rights and social rights reflect the effort to achieve a balance in the social and political evolution of Western Europe, and more particularly the significant development of our concept of freedom. I would say, further, that the social rights which the workers should enjoy constitute the prerequisite of any true freedom; human freedom can be achieved only if there are certain minimum standards for the workers and their families.

It is because of that fundamental requirement that the Belgian Government is resolved to support fully the broad lines of this draft European Social Charter. Of course, the draft prepared by the Social Committee does not correspond entirely to the views of the Belgian Government, but I think that I can say that the compromise formula which has led to the present draft constitutes a good basis for discussion.

Having said this, I would like to insist on the following points. Firstly, in respect of the level of social rights, the Belgian Government endorses the position taken by certain previous speakers, namely that the level of social rights should be at least equal to the standards laid down in the legal instruments prepared by the International Labour Organisation. But that is - and I insist on this - a minimum requirement. I think that we must embark on the discussion of this part of the Charter without too much timidity, trying to find out what is the exact stage of development of social legislation while at the same time endeavouring to promote further social progress in the future. Europe, we must recognise without any complex of superiority, but also with no sense of shame, is in the vanguard in this field. This must be reflected in our Charter. We must also show clearly and precisely our determination that the European economy shall develop along the lines of a human economy so as to show workers that the solutions which we propose correspond to the declarations of intent so often made in this hall.

Secondly, the level of standards is linked with the complex problem of applying certain provisions of the Charter by way of collective bargaining and not only through legislation. We can settle this question only if we take account of the evolution in Europe of social law. In certain countries conditions of employment are usually settled by direct negotiation between employers and workers; in other countries the use of collective bargaining within the framework of social legislation is spreading slowly. For this reason, we have to find a solution which will permit of the ratification of certain rights traditionally covered by

collective agreements, while taking into account the technical difficulties which prevent the insertion in the Social Charter, purely and simply, of the formula laid down by the International Labour Organisation. Collective bargaining can cover virtually every aspect of the rights laid down in general terms in the Social Charter. It is for this reason that the Social Committee decided to make it possible for member States to ratify certain rights and to consider them binding provided that the provisions in question are applied to the great majority of workers through collective bargaining or by any other means.

Nevertheless, this solution does not fully satisfy the Belgian Government. In fact, States whose obligations based on law will be not only stricter but also more easily supervised, because of the public character of the law, will find themselves in a more difficult position, but it has seemed necessary to pay this price for the mandatory compulsory character of the Social Charter.

Thirdly, since the Charter assumes the form of a statement of principles encased in a compulsory Convention, embracing practically the whole field of social policy, the problem arises of ratification of such an instrument by the largest possible number of States Members of the Council of Europe.

The only possible way out is to make partial ratification possible. Is this system compatible with the requirements of social integration? The Belgian Government does not think so. It considers that this system can be possible only if ratification, even partial, is based on a minimum compulsory number of rights considered as essential because of their social importance. This essential minimum, for example, as Mr. Strasser suggested yesterday, would include such fundamental rights as trade union rights, the right to social security and the right to collective bargaining.

I will conclude what I have to say by emphasising the importance of supervision of the implementation, which must be based on effective co-operation between organisations of employers and workers. It is clearly indispensable that the parties concerned should have a say in the matter and that the governments should, within the European framework, provide for procedures which are used in other universal institutions.

It is certain that the European Social Charter which will be drawn up must necessarily be a synthesis of different tendencies and trends. It is none the less true that these must be progressive and realistic, if we do not want to lose our prestige in European opinion and, what would be more serious, in world opinion. We must remain alive, at every stage of our work, to the fact that our responsibility, both social and political, is fully committed at the present Conference.

I hope that very soon we will be able to have a definite text of the European Social Charter, that this instrument will constitute one of the important elements in European reconstruction, and, in particular, that the new communities which are being set up will be able to bring into harmony social policy and social legislation. The European Social Charter will help these efforts by providing a framework for action, machinery for supervision and a definite objective.

In the view of the Belgian Government this is one more reason for wishing the present Conference every success.

Interpretation from French: The PRESIDENT - It is now just after four o'clock. With the agreement of the Conference, if nobody else now wishes to add his name to the list, I shall declare the list of speakers closed.

(The list of speakers is closed.)

Interpretation from French: The PRESIDENT - I now call on Mr. Eggermann, representative of the International Federation of Christian Trade Unions.

Interpretation from French: Mr. EGGERMANN (Representative of the International Federation of Christian Trade Unions) - This short general debate gives me the opportunity, in the name of the International Federation of Christian Trade Unions, to express, first of all, both to the Council of Europe and to the I.L.O. our great satisfaction and our gratification that the present Conference has been called. The I.F.C.T.U. has asked all along that the Council of Europe should enjoy the experience of the I.L.O. and that in this way a direct collaboration of the workers, and the employers too, should be substituted for the consultative status mentioned in the draft of the European Social Charter.

The former Secretary-General of the I.F.C.T.U., Mr. Serrarens, acting both in the European Consultative Assembly, through the Social Committee over which he presided, as well as in the Governing Body of the I.L.O., as deputy member of the Workers' group, fought hard - we can use this word - seven or eight years ago so that we could be here today. The secretariat of the I.F.C.T.U. neglected nothing, in spite of difficult conditions both in the Council of Europe and in the Governing Body of the I.L.O., to secure co-operation in the drafting of the instrument which is before us today. This fidelity to a cause which we consider as essential is a proof of the good will of the Christian trade unions who are seated among you to produce the most satisfactory possible result.

What results do we want to achieve?

(1) to lay the foundations and to draw the main outlines of a European policy in the field of social progress, the need for which has been deeply felt;

(2) to obtain a progressive harmonisation of legislation and of social practices at the highest possible level;

(3) to make a concrete gesture to demonstrate to the workers that Western Europe is not working against their interest;

(4) to associate closely the workers in the implementation of this policy.

The Committee of Ministers has submitted to us a draft European Social Charter. We have many times said what we think about this, both as a whole and about certain details of it. We have said that certainly there was no excess of boldness. We even regret to note that here and there it falls below the universal standards laid down by the I.L.O. Now, is it possible that countries with old industrial civilisations can still question the standards conceived to take account of the possibilities of countries so different in regard to both economic and social development as the 80 States Members of the I.L.O.? Is it not an imperative task of the countries of Western Europe to seek higher standards? But what exactly are we required to establish and proclaim to the world by the report with which we have to deal? The minimum standards established by the I.L.O. in its Conventions have not yet obtained a satisfactory number of ratifications from the countries represented here. It goes without saying that if the countries of Europe had made an effort to ratify those Conventions our task would, of course, have been greatly facilitated. What is more - and this is only one example - at a time when all the States of the Council of Europe, with the exception of Greece and Turkey, have ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), we have before us a text which admits an exception for the personnel of a State administration, which is contrary to commitments undertaken elsewhere. And, in a related sphere, this draft makes no effort to introduce the right to strike, the moral and political force of which is particularly important in the face of the persecution of peoples striking in the Soviet Union, in the People's Democracies, in Franco's Spain, and in certain of the Latin American countries. Has Western Europe not another reply to give to the social bankruptcy of communism and the régimes of the dictatorships of the Right?

I will not here go into other details which will be the work of the committees of the Conference. We shall review and complete, in the Workers' group, the points which were brought out by us during the preparatory work. But, once decent and really higher standards are laid down, there should be no question of making only statements of principle and solemn declarations of intention. What must be adopted is a set of compulsory measures binding, under certain conditions, the States Members of the Council of Europe. We must repeat that a text may be excellent if considered as a compulsory measure and ridiculous if it is no more than a gratuitous affirmation.

The workers of these countries will not permit of any hypocrisy. Freely and democratically they have appointed governments, from which they demand the fulfilment of commitments for the true freedom of responsible human beings and total democracy, both in the political and in the social and economic spheres.

You will understand in the circumstances that not only must the European Social Charter be conceived as a compulsory convention, but it must be given a form of implementation which cannot be falsified. How can the workers accept in the framework of the Council of Europe a situation inferior to that which they acquired more than 40 years ago, and with an incontestable success, within the framework of the I.L.O.? The direct participation of the workers in the translation into practice of the Charter must be secured by a tripartite body, about which we will make proposals later on, and with the closest possible collaboration of the I.L.O. We have already said this several times but perhaps it is advisable to say it yet again in this general debate in the presence of the Employers' group, so that they may know our determination and may be more aware of their responsibilities and, need we point out to them, of their own interest, indeed perhaps of their last chance. I am convinced that they will not misunderstand what I am saying; to collaborate there must be at least two parties, and we are already present.

Before concluding, may I make one last important remark. The draft Social Charter envisages application in non-metropolitan territories "taking into account local needs". We do not doubt that these clauses have been inspired by a generous and disinterested movement, but we are afraid that, just because there is not, at this Conference, any representative of the peoples of the territories mentioned, this good intention may be suspected by those peoples. In any case, it is with them and their authentic representatives that questions concerning them must be discussed, and we must no longer treat them as minors. So we are against this part of the draft, although we are convinced of the obligations which Europe has towards the countries needing social development as well as economic development, and that there are more appropriate means to attain this.

My last word will be to carry out a task which is particularly agreeable to me. The President of the I.F.C.T.U., Mr. Gaston Tessier, and the Secretary-General, Mr. Auguste Vanistendaël, both Europeans possessing a wealth of culture, of generosity, of intelligence, such as characterise the civilisation of this continent, convinced of its vitality animated by the flame of Christian tradition, being both unable to follow our work here because of their duties, are only too anxious to know that in Strasbourg a new fight is being waged and will be won on the front of justice, liberty and peace, and they have asked me to transmit to you their warmest wishes for complete success.

Interpretation from French: The PRESIDENT - I am sure that I interpret the views of the Conference in asking Mr. Eggermann to thank Mr. Tessier and Mr. Vanistendael for their good wishes.

Interpretation from German: Mr. BEERMANN (Workers' delegate, Federal Republic of Germany) - I am particularly happy that this Tripartite Conference has been convened by the International Labour Organisation at the request of the Council of Europe with a view to settling a social problem which is indeed a very urgent one. The aim is to reach a co-ordination of efforts so that the population of each State Member has a minimum of social rights. This task is the more important as it will contribute to social peace in Europe. We must not forget that fulfilment of this task will also have its political importance vis-à-vis the peoples of the Eastern European countries. It will also be an encouragement to the underdeveloped countries.

The effects of this European Social Charter must spread both inwardly and outwardly. But in that case it must be equipped for doing so. To my mind it would serve no purpose if general provisions of a gratuitous nature were the only ones to be included The Charter must be positive. It must constitute a clear obligation, undertaken by the countries of Western Europe, to guarantee to their citizens the right to work and to social security. In view of the present form of the Social Charter, we must take account of the need for it to have an immediate effect. This objective, to my mind, has not been attained as things are at present. The form of the Social Charter must be such that it is based not on the minimum standards obtaining in general in Western Europe, but, on the contrary, on aims which could soon be realised in this region. By that I mean - as has already been said by certain Government delegates - that we have reached in Europe a social level on which we may already congratulate ourselves. But this should be our basis, our starting-point. It is from this point that we seek to fix for ourselves fresh targets, and so the Social Charter must deliberately go beyond the Conventions we already have, in order to reach common standards more advanced than

those generally existing in Western Europe today. Only in this way can we exercise a political and social influence on all countries, even countries outside Europe. In this same spirit the Charter must constitute an obligation for all the countries of Europe, and we must not be satisfied with making compulsory a certain number of provisions only. If we were to adopt such a position only a few paragraphs would be compulsory, and, in that case, I think it would be better to give up the whole idea. We in Europe will fight for the complete realisation of this European Social Charter.

It is obvious that the harmonisation of social standards calls for a transitional period, however short it may be. This transitional period can certainly be contemplated.

It seems to me important to achieve greater clarity in regard to the question of the right of association. I do not think that it is possible, in so far as civil servants are concerned, to refuse them the complete right of association as provided under article 6. A progressive Europe cannot envisage having two categories of workers enjoying different rights. The provisions of the Charter are so general that progress, which is essential in this respect, is in no way guaranteed.

A more exact definition of the working week and working day is also desirable. These are just two examples which I quote. Generally speaking, when one looks carefully into each of the articles of the Charter, these turn out to be a mere statement of intentions. If we are not more precise in defining the objectives in view, then I am afraid we shall not be able to attain them. Therefore, I think we ought to draft each of the articles of the Charter in much clearer and positive terms. I am sure that this is the only way in which we shall achieve the results which, without doubt, everyone of us wishes to attain.

We in Europe have here a great opportunity. Europe is part of the free world; this opportunity must not be wasted.

Mr. FENNEMA (Employers' delegate, Netherlands) - We from the Employers' side come to this Conference with a most sincere wish to co-operate and to make it possible for a European Social Charter to come into existence and be ratified by a great number of countries. But with all the wishes expressed in many quarters dealing in social matters, we think that some moderation should be exercised. One of the most serious social evils of the post-war period, in my view, is the problem of the decline in the purchasing value of the currency of several countries. I should like to take this opportunity to draw the attention of this Conference to the

very interesting article in the November issue of the International Labour Review which is entitled "The Declining Value of Money". In this article, you will find lists of statistics giving the annual percentage increase in consumer prices in the countries which belong to the Council of Europe. If you take the period of 1953 to the latest month of 1958 for which these figures are available, you will find that the increase in consumer prices in Austria during this period is 14.2 per cent.; for Belgium, only 8.1 per cent.; for Denmark, 16.9 per cent.; for Finland, 28 per cent.; for France, 22 per cent.; for Germany, 10.2 per cent.; for Greece, 31 per cent.; for Iceland, 29.9 per cent.; for Ireland, 17 per cent.; for Luxembourg, 7 per cent.; for Italy, 22 per cent.; for the Netherlands, 15.8 per cent.; for Norway, 19.5 per cent.; for Sweden, 19 per cent.; for Switzerland, 7.5 per cent.; and for the United Kingdom, 18.6 per cent. I should have omitted Finland from this list because it is not a Member of this Council of Europe.

This list shows how differently the consumer prices have developed in our countries and that there is a great difference between countries like Greece on the one hand and Switzerland, Luxembourg and Belgium on the other. It seems to me that quite a lot of so-called social progress in the past has been brought forward at the expense of the purchasing value of money and I think that is a social evil which is of interest to all the members of our societies. Therefore, I regret that in the draft Social Charter which is before us no attention is paid to this problem and I think it is very important that the six countries which belong to the European Economic Community have adopted an article in their Treaty - article 104 - which could be followed with great advantage by all the countries who belong to the Council of Europe. This article 104 reads as follows: "Each member State shall pursue the economic policy necessary to ensure the equilibrium of its over-all balance of payments and to maintain its confidence in its currency while ensuring a high level of employment and the stability of the level of prices".

This was the first point I wanted to raise, and the second point concerns article 19 of the draft Charter which is before us. We from the Employers' side in Geneva, when the I.L.O. Conventions were under discussion, showed our dislike for partial ratification. We think that all countries in accepting international obligations should accept identical obligations. We think it is wrong that some Conventions have adopted the principle of partial ratification, which, as I understand, has been born in diplomatic Conventions. Therefore, in the past in Geneva, we have opposed the idea of partial ratification and we have every intention of continuing our opposition. But we are aware that here in this Conference we have

other problems before us. In Geneva we have separate Conventions for several groups of workers. We have Conventions for seafarers, for agricultural workers, for industrial workers, for office employees and intellectual workers, and the special problems for all these categories are taken into account when these Conventions are drafted. But here in the draft Social Charter we find all workers covered by the same provisions. Some of these provisions are rather specific while others are rather vague. Therefore, I think we have to take a realistic attitude in regard to these problems. We must co-operate and make it possible for governments to ratify the Charter on this basis and we are therefore prepared to accept article 19 as it is presented in the draft before us. But I think we have to consider this as an exception because the draft Charter as it is before us is also an exception as compared with the Conventions of the I.L.O. to which we are accustomed.

Interpretation from French: Mr. VENTEJOL (Workers' delegate, France) - Before tackling the subject which brings me to this rostrum, I should like, without wishing to start a polemic of any kind, to state that it is not correct to say, for example, that owing to social progress either in the contractual or legislative field prices in France have increased 20 per cent. since mid-July 1957. I think it is necessary to make this statement to dissipate any confusion which may have arisen in your minds.

Now I would like to say, to start on the subject which led me to ask for the floor, how glad we are to examine today in this plenary sitting, and how satisfied we will be tomorrow to examine in all its details, the European Social Charter which is put before us. We have - and other speakers before me have emphasised this - a great task to carry out here in these two weeks. We must succeed, but I would say that we must not succeed at no matter what cost. We must not have a Social Charter which would be empty, which would be practically without substance. It must correspond, in the European field, to the wishes of the workers. I would say that this Charter must have an exemplary value, that is to say, that the countries represented here, Members of the Council of Europe, should not be satisfied with a Charter which would contain provisions inferior to those contained in the international labour Conventions or Recommendations of the International Labour Organisation. I insist on this. We must give to our work an exemplary value and we must demonstrate that our countries - as someone said just now, "these countries of ancient civilisation" and I would add also that economically they are more advanced than others - should have the primary care of ensuring, during our work, a close parallel between economic expansion and social development. This is the example we must give, I think, to the world, and I have a feeling that we must try in this Conference to work for the rapid

ratification of those Conventions which have not yet been ratified in our respective countries. We must base ourselves on the Recommendations adopted by the International Labour Conference. On all these points we must make a real effort, and in order to give an exemplary value to our work, to show the guiding lines which we should follow, we should exceed these standards and thus demonstrate that social development corresponds to economic expansion. That is why the Conference should ask that clear commitments should be made. It has been said here that we are not alone. We have the duty to ensure parallelism for the countries which we represent here, but we have also the duty to realise that certain other countries are watching and judging us, and in these circumstances we should be extremely careful, extremely vigilant, and I would say even extremely ambitious in the social field. There are other countries - and those are the countries which are called "economically underdeveloped" - which are watching us; we should show these countries that, in our tradition of developed countries, we can provide a true social charter with real social meaning.

That is why, for all these reasons, for ourselves, and for others, it is our duty not to limit ourselves to a simple declaration of intentions which, I might say, even if it were insufficient in its text, might be still more so in regard to the ensuing ratifications. In these circumstances there is no question of establishing a different standard for marginal countries but to establish a Charter with objectives that could be reached progressively to meet modern needs of social progress. This is what we must keep in mind, I think, and that is why the result of this discussion and the practical technical work we will be doing here in the next few days in the technical committees must be a determination to reach, in the European field, important decisions which demonstrate our desire to go ahead in the social field and to give hope to those who are watching us, those who expect us to show a very valuable example during this Conference.

These ideas are not new. They are the guiding principles which should direct our work during the coming days, but I also would like to say a few words on possible ratifications of our text. Suppose that tomorrow we have a text that satisfies us, suppose that the amended provisions permit us to say: "Now, here is a suitable Social Charter", let me warn you against the possibilities open to governments to choose ten articles out of 18. That would allow them to ignore the essentials, to pass over in silence the clauses on which the mass of the workers place most value. It would thus be possible, in the near future, to see the ratification of provisions which, within our countries and outside them, would not give the workers the feeling that their interests had been really kept in mind here, and would not give them the hope and the certainty of a better future in the social field.

There are undoubted dangers here, and we must be extremely vigilant in the technical committees which will start work from tomorrow.

There is another article on which something should be said. It is when mention is made of the possibilities for each of the countries to ensure either legislative development or a contractual obligation. We shall discuss this later. I think that the crux of the matter is that whatever the instrument be, legislative or through industrial relations, that is, by means of collective bargaining, it is essential, in our view, that the provisions of this Charter be applied, and applied to everyone. Or else - there are in it most important provisions which it is the duty of trade union organisations to implement but which it is also the duty of the State to see respected - we would run the risk on certain vital points (articles 2, 7 and 10) of not being able to cover the maximum number of workers in our respective countries.

Finally, a last point, which I think an important one, is that of workers' participation.

Today we are called upon to discuss and to draft a European Social Charter which, as I said, must be the best possible one. I think that we shall have to make one other request - to ask very firmly that, when this Charter becomes final in the letter, it shall be applied in spirit in that sense. In order that this may be so we must work on the tripartite basis, we must draw up the Charter, we must implement it, and we must supervise its implementation on that basis. I do not know in what body it will be possible to do this. It does not matter what its name may be; what matters is that the trade union movement should have a full right to have a say in the drawing-up, the implementation and the supervising of the Charter.

I think we have come to an important turning-point in the history of Europe, at a time when free countries - while others are not free - are uniting, at a time when economic efficiency is being sought. I think that the great message which we should send out, not only within our own borders but also to the world outside, is that we must progress and progress as fast as possible in the social field.

(The sitting was suspended at 4.45 p.m. and resumed at 5 p.m.)

Interpretation from French: Mr. ALDERS (Workers' delegate, Netherlands) - The draft Charter now before us has been under discussion for the last four-and-a-half years. This clearly shows that it is a difficult, complex and delicate task. However, if this work has been undertaken, it is because we believe that it corresponds to a need, the need to give our continent a Social Charter which will extend the benefits of social progress to the whole of its population.

In this chaotic world Europe must seek social progress. With Eastern Europe and the underdeveloped countries as onlookers, we cannot satisfy ourselves by merely listing pious hopes. We must build a social policy of the free countries of Western Europe, a social policy which must resolutely fit into our European economy. In most of the 18 countries of our old continent there is a prosperous and competitive economy. Our continent has found it possible to create a European Economic Community, an Organisation for European Economic Co-operation, a European Payments Union, and a Coal and Steel Community. Of course, the workers still try to improve these institutions and they will look for an ever greater efficiency from them, but they cannot prevent the placing of the Social Charter in this context. Therefore, they emphasise that for political as well as for economic reasons the Social Charter will only have meaning if it contains standards which are higher than those already contained in the Conventions of the International Labour Organisation.

But to affirm this principle is not enough. We are obliged, since we have been consulted by the Council of Europe, to say to it: the workers can only subscribe to a Charter which gives a lead, and, at the same time, the different European countries should ratify the Conventions adopted by the I.L.O. up to the present.

The Social Charter will only be of value if it contains the following provisions: the right to work, the constant improvement of the well-being of the inhabitants of Europe by a continuous increase in the standard of living, and a better distribution of resources as well as of charges in order to ensure the dignity of man.

A high standard of living and full employment imply economic conditions leading to large-scale production obtained by sufficient investments. Consequently, the workers consider that the economic policy is not an end in itself but a means of attaining the social objectives listed in the Social Charter. These objectives have been defined in relation to the spiritual and moral values which are the common heritage of the European peoples. The right to culture, to social security, and to strike are imperative for us. If we are exacting in the field of social objectives, we feel that we must be exacting too on the question of the machinery for implementing the Charter. We cannot agree to articles 19 and 31 as contained in the draft Charter. To us, what is important is to bring about a social policy which will be common to our European countries. It is significant that up to now the only Ministers who have not met at the European level are those in charge of social affairs. In the last few years Ministers of armaments, of economic matters, of agriculture, have met, but never Ministers of social affairs. We consider that, as regards the implementation of the

Charter, the European countries should adhere to it and pledge themselves to apply it. As regards practical implementation we think that each country should be free to choose the best way of doing so, whether by collective bargaining between employers and workers or by legislation.

This procedure presupposes that the Social Charter must be accompanied by European institutions. That is why we feel that it is indispensable that, as well as the Committee of Experts, there should be a tripartite committee entrusted with the supervision of the Charter, and which can make recommendations to countries which do not yet apply the Convention or which do not apply it well.

These, I think, are the indispensable principles and arrangements for the implementation of the Social Charter.

In conclusion, I appeal to all of you to see that the Social Charter is not just an illusion for the workers but a reality. It will be for us the only means of ensuring social peace in Europe which guarantees peace as such, and the only way too of respecting the dignity of man.

Mr. BURTON (Employers' delegate, United Kingdom) - The basic document before this Conference involves comparisons with the International Labour Organisation. It involves comparisons with the texts of Conventions adopted through the machinery of the International Labour Organisation. I suggest that we should make our comparisons on a somewhat wider basis if we are fully to profit by the experience of the International Labour Organisation over the 40 years of its existence.

Coming here, we start with certain advantages which could make our task somewhat easier than is the task of arriving at common conclusions at International Labour Conferences. Europe, so far as it is represented here, has a common heritage. It has a common attachment to many basic ideals. We must not underestimate the importance of those advantages with which we start. To that extent it is easier to get common ground than it is in the world as a whole. However, we must not underestimate the difficulty of the task merely because we start, as I say, with certain advantages. This draft Charter contains simple formulas. Simplicity of formulas is often very deceptive; they are not as simple as they seem. Mr. Fennema has already referred this afternoon to the fact that under international labour Conventions separate and different provisions have been made for various classes of workers. I want to point out that the international labour Conventions also split up the field of industrial relations and the related subjects according to subject matter. The Charter which we are considering here today attempts to deal, within one document, with a range of questions which covers the subject matter of a large part of the hundred or so Conventions of the International Labour Organisation.

Several speakers have referred to international labour Conventions as if the adoption by the International Labour Conference of international labour Conventions meant that general application flowed from the mere act of adoption. Experience shows that this is not the case and this is where we want to start to look at the experience of the International Labour Organisation. If we confine ourselves to applying only the test of the numbers of ratifications we see at once that the mere adoption of a Convention has not been followed in many cases by any very large number of ratifications - certainly not for the world as a whole nor, as the document before us shows, even for the limited number of European countries which start, as I have already said, with certain features in common. If we go a little further and consider what happens to ratified Conventions, we find from the reports on the application of Conventions that too often countries which have ratified Conventions do not apply them properly. These are the lessons from the experience of the International Labour Organisation which we should bear in mind in considering the document which is now before us. Do not let us assume in too facile a way that merely because an international labour Convention has said something then the countries of Europe have got to add something to it or put these standards somewhat higher. It does not follow at all. We must be realistic. Just because the International Labour Conference may on some occasion have adopted a Convention, which may not in fact be implemented in the vast majority of countries - not only of the world, but of Europe - it does not mean to say that this Conference should recommend the Council of Europe to follow the same course. Provision is made in the Charter for ratification on the basis of collective agreements. As far as the International Labour Organisation is concerned, there is one important field in which it has had experience of ratification by collective agreements - the field of the maritime Conventions. There is much greater possibility, I submit, of ratification on the basis of collective agreements where we are concerned with only one industry. When we are talking about all industries, we have got to watch very carefully what we are doing.

This brings me to the whole question of voluntary collective agreements. Many of the matters which are dealt with in the Charter now before us are the subject of voluntary collective agreements in my own and other countries which are here represented. We attach the greatest importance to voluntary arrangements in industrial relations. We believe that the moral obligations which flow from agreements freely entered into are stronger for the fact that they are moral obligations than they would be if they were legal obligations. This contributes to development in a democratic society of that sense of responsibility on which alone I think democracy can be founded. I attach the greatest importance therefore to the document which ultimately comes from the Council of

Europe having nothing in it which would in any way upset the voluntary collective agreements to which in my own country we attach so much importance. I believe I am right in saying that the workers and the Government no less than the employers are concerned to preserve these arrangements. It is common ground between us. Of course, in dealing with these matters by voluntary collective arrangements, one party or the other does not always get all it wants, but the parties develop in the course of time mutual understanding of each other's position. It seems to me that when we are conducting our industrial negotiations in the way which is wisest neither party tries to press the other party beyond the point to which it discovers that party is prepared to go at any particular point of time. We always entertain the hope that circumstances, and the views of the other party, will in the course of time so change as to enable us to get a little more of our own way than we got on the previous occasion. I am not saying, of course, that parties sacrifice any principles in doing this, but they regard industrial peace as essential to industrial efficiency and to the well-being of the country.

The consequence of voluntary collective bargaining is that there is considerable variety in the treatment of any particular subject. In my own country I would find it difficult, in regard to many subjects which are dealt with by voluntary collective bargaining, to formulate a summary provision which would subsume within itself the essence of the collective agreements in the various industries. That means to say that as regards this Charter, in so far as we are dealing with matters which are the subject of voluntary bargaining, it would be difficult for us in many cases to find formulas which would be satisfactory even, in some cases, for all the industries within a single country. Therefore, let us not underestimate the difficulty of the task of devising such formulas. It is not, of course, our task, I am glad to say, but it will be that of the Council of Europe to say what the formulas shall be. It is merely our task to point out the circumstances which the Council of Europe will need to take into account in drafting this Charter in its final form.

This brings me to another point to which I attach importance. We do not want to find that, through the desire to ratify this Charter, governments in particular countries are made to put pressure on various industries to secure the necessary degree of conformity and thus to undermine the voluntary arrangements I have described. There are, of course, in any country broad trends affecting all industries. But if in this Charter we seek to be too specific or too detailed, I am sure that those countries which rely on voluntary collective bargaining about many of the subjects covered by the Charter will experience difficulty subsequently.

I wish to say just a few words on two other aspects of this matter. First of all, I want to speak about the question of the machinery of supervision. Let us not assume that efficiency of supervision is in any sense proportionate to the quantity of machinery which is set up for the purpose of supervision. We have had enunciated in my country in the last year or two a fundamental law of politics and government to which I would draw the attention of the Conference in this connection. It is known by the name of its discoverer - Parkinson's Law.

Let us bear in mind, too, in considering the provisions of this Charter, that the Council of Europe is not legislating for all time. We must keep our eyes on the future which is just in front of us; and there is no use in our producing a document which no one at this time could ratify. We have heard a lot about the prestige of the Council of Europe. It is most important that an organisation which deals with those countries which have the common heritage and common ideals to which I have referred should maintain its prestige in the world; but it will not maintain its prestige by producing from this Conference and from the subsequent deliberations a Charter which, in fact, is incapable of widespread ratification. That, I submit, is the real test to apply. That is where the prestige of this organisation will really be found. It will be found if it is able to produce a document which is capable of widespread ratification throughout the countries that are members of the Council of Europe.

Interpretation from French: Mr. HAUCK (Government delegate, France) - I have listened with careful attention to the general discussion which has taken place during this afternoon's sitting. I do not know whether I am unduly optimistic in saying that, all things considered, the points of view expressed do not seem to me to be so divergent that we cannot hope to reach a satisfactory solution.

We have come here at the request of the Council of Europe, convened by the International Labour Organisation, to study the draft European Social Charter which defines a certain number of principles of social policy, and it is social policy in the widest sense of the term which is meant. It is precisely because social policy involves not only governments but also employers and workers that the Council of Europe quite rightly felt it to be necessary, with the help of the I.L.O. and thanks to its well established procedure, to study here all the possible repercussions of the principles laid down in the Social Charter. What we have to do, then, is not only to take stock of the efforts made by the Social Committee of the Council of Europe, to which we pay a tribute here, but also to examine as a whole the problems raised in this Charter,

to examine them as a whole and also in their context. A number of the speakers who have taken the floor before me - Mr. van den Daele, speaking in the name of the Belgian Government, my friend and compatriot, Gabriel Ventejol, speaking in the name of the French workers, and Mr. Alders, speaking for the Netherlands workers - have demonstrated very clearly what this context is.

Is our Europe, the Europe of which we are so proud, Europe which has been the cradle of universal civilisation, this Europe of ours which gave expression to the highest human values at times when other countries were still, so to speak, stammering, this Europe of ours which launched the rights of man throughout the world, this Europe which was the initiator of social justice, this Europe, thanks to which the people of the underdeveloped countries have achieved today a certain social progress, is this Europe of ours, I say, going to abdicate, to admit, as some have said, that it is imperialistic, it is retrogressive, it is at the end of its tether? We are here to affirm our pride in Europe. We are here to state that Europe has not fallen back in the race for progress. We are here to say that Europe has the right to survive because it represents something greater, higher, deeper than other civilisations which venture to challenge it, whether they be certain countries intoxicated by a newly-won independence, or those countries behind the Iron Curtain which claim to give lessons in democracy to Western Europe but which do not even apply at home the principles which they vaunt.

That is the problem which we have before us today, and I should like the Conference not to forget this. We are, as Mr. van den Daele said, at the turning-point in the development of social legislation. Perhaps, as the employers fear, there is a certain danger in forging ahead towards a more audacious social policy. Remember that, though there may be a danger, every effort towards social progress, every advance made by one continent, even in advance of the others, is a kind of suction process which sweeps along social progress in other continents, in other parts of the world.

There is an even greater danger in forgetting this role of Europe. That is the problem before us now. Certain of our countries have made considerable effort in innovating and have taken a risk in creating between themselves a Common Market, a European Economic Community. In setting up this European Economic Community, the Federal Republic of Germany, France, Italy, Belgium, the Netherlands and Luxembourg have shown that this Common Market and this Economic Community would mean nothing if it did not imply also social progress for the peoples of these countries. These six countries are among those which have ratified most readily the

international labour Conventions. How, then, could it be that other countries which are not associated in the Common Market but which, in Europe, have often given the signal for social progress, how then could countries like Great Britain or the Scandinavian countries remain behind and not associate themselves with the countries of the Common Market in the advance towards social progress, towards the bringing into harmony of social charges and social policies which are among the aims of the Social Charter that we are discussing today?

A European social policy must be brought about, said Mr. Alders just now, speaking for the workers of the Netherlands. That is what we have to do here; that is the task before us, and that is what we must do successfully. To do this successfully there is one thing at least we must do. It is impossible to accept a kind of selective ratification, taking articles here and there in the European Social Charter which we shall have established. There must be at least a minimum, a common nucleus, a minimum of points the ratification of which must be compulsory.

What European country worthy of the name could refuse to accept articles, for example, like article 5 concerning trade union rights, or article 6 concerning the right to bargain collectively? Is there a single one of our countries which could say that it did not accept those articles? Certainly not. How could we protest daily against the régime imposed upon the peoples of the Soviet Union and the satellite countries, raise our voices in protest against the treatment inflicted on the Hungarian workers when they revolted against dictatorship, if we hesitate to affirm that all our countries are ready to ratify articles 5 and 6 of our Social Charter? If we did that nobody would understand; and we should be discredited throughout the world.

But it is not only a question of articles 5 and 6. Is it possible that we should refuse, in Europe, where the economy is developing, in Europe where each of our countries is seeking technicians and skilled workers to increase its productivity, is it possible that a single one of our countries should refuse to say immediately that it is ready to ratify articles 9 and 10, which concern the right to vocational guidance and to vocational training? Can it be admitted that we should refuse to accept the principle of the right to social security, of the right to work and the right to equitable conditions of work? In reality we must realise that if we want to do a serious job we must accept this common nucleus of compulsory ratifications without which the European Social Charter would only be the laughing-stock of thinking people, of those who, throughout the world, understand social problems.

If we want to remain in the vanguard of the world, at the head of modern civilisation, we must contrive to guard against excessive prudence. There are times when it is foolish to be too prudent and when it is wise to be foolhardy. If so, for us, then, this moment has come. In our debate we must weigh carefully the prudence which certain wish to preserve against the danger of not remaining faithful to what is the most noble of our traditions.

That is why the French Government asks you to reflect on the task which is before you today; it asks you, during the debates which are going to take place in our Committees, to bear in mind the responsibility which rests today on the men of Europe and so to proceed that our continent shall remain always and all the time in the vanguard of liberty and social progress.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany) - In accordance with the order of the list of speakers, I am placed in a rather embarrassing position because I have to speak after my friend, Henry Hauck, to whose exceptional eloquence I cannot hope to aspire. Perhaps it is better that I speak on a different aspect of the matter.

I have followed this general debate with close attention, which you will easily understand because I am a member of the Social Committee of the Council of Europe. I have even had the honour of being its Vice-Chairman without, fortunately, having to do any excessive work in that capacity. I therefore know very well all the difficulties which have accompanied the birth of the Social Charter. I think I can say here - and I am sure that my friends on the Social Committee will agree - that I feel somewhat like a father who is taking his child to school, to present him for the entrance examination. After the general discussion which has taken place up to now, I have the impression, as was indicated by my friend Henry Hauck, that the child will be accepted for the examination. During the coming week we shall have to face this examination.

Among the arguments which have been put forward I would like to mention two points only, and I apologise if, on those two points, I repeat what has been said by the excellent speakers who have taken the floor before me.

It has already been mentioned that the draft Social Charter submitted to us has been largely patterned on the I.L.O. Conventions. The provisions of certain Conventions drawn up by the I.L.O. have been taken up, sometimes word for word. This is inevitable because, in the field of social policy, whatever you may set out to do you will always be brought back to the admirable work, of world-wide

import, that has been done in the International Labour Organisation, for that Organisation, whose activities extend all over the world, has considered it its main task to establish standards of social policy, to further their application and to widen their scope.

Mr. Burton very clearly indicated that when we speak of a Convention or Recommendation of the I.L.O. being adopted, that is by no means all there is to it, because there is then the question of ratification. With every respect for the remarkable piece of work which has been achieved by the I.L.O., namely the Comparison of the Provisions of the Draft European Social Charter with the Corresponding I.L.O. Standards, we are compelled to recognise that a large number of these Conventions have not been ratified, even by the restricted group of the Council of Europe countries. Therefore, even though some elements from Conventions have been inserted in the Charter, this is all to the good, but only if the largest possible number of Members of the Council of Europe ratify them. We must take into account the fact that the standards of I.L.O. Conventions are not always minimum standards, but represent a certain amount of social progress. They thus afford a starting point for further advance.

The Social Committee has always borne this in mind - it has already been stressed here, but I would like to repeat it once more. Its purpose has been to produce an instrument capable of maximum ratification and of as wide an application as possible. If we do this we shall, of course, see that this same point of view underlies many of the provisions in the draft Charter. One of the points raised by Mr. van Rhijn, namely that many of the provisions are rather vague, is due to this very circumstance. Also the machinery for supervision is rather flexible and ratification may be either entire or partial. Indeed, flexibility is the underlying characteristic which can be explained by the objective which we have uppermost in our minds, namely to create an instrument which is capable of wide ratification. Were we to fail in this, there would be repercussions that we should not underestimate.

This really is the reason why I asked for the floor. I would implore this Conference always to bear this overriding consideration of ratification in mind in its deliberations beginning tomorrow. You will have seen from what I have said so far that on this occasion - and it is a rare occasion - I have ventured to disagree with my friend, Henry Hauck, when he says that sometimes it is necessary to be bold. I think we are, however, really complementary in our views; I would only put in a plea for prudence.

Interpretation from French: Mr. SCHEVENELS (Representative of the International Confederation of Free Trade Unions) - I shall follow the example of the preceding speaker, Mr. Geller, in invoking the arguments already presented by those speakers who have preceded me, and therefore I will limit myself to a few observations in order to complete the arguments and observations put forward on behalf of the free trade unions.

We subscribe 100 per cent. to what my friend and colleague, Mr. Ventejol, said, and we could not say it better than he did, for he put it so eloquently. We could say the same thing in regard to certain other speakers, in particular the representative of the French Government, who with even more eloquence, defended the role and the mission of Europe, not only as regards Europe proper but also vis-à-vis the civilised world, the world which is determined to remain free and to institute a political and social régime guaranteeing to every individual freedom and the assurance of peace and a life of dignity as a human being.

The reason why I asked for the floor was mainly to express surprise at not having heard the arguments of the Employers' group in this general discussion. Yesterday, in the Steering Committee our colleagues on the Employers' side insisted that we should have this general debate in order to shed some light on articles 19 and 31, for they thought that necessary before they could take part in the discussions in the committees on the substance of the articles contained in Part II, that is, dealing with minimum standards. But we have not heard one single word concerning the reasons which led them to insist on this general debate. We have heard certain statements of a very general character on the Conventions of the I.L.O. to which I shall return in a moment. But no light has been shed so far on the reasons for calling for a general debate on articles 19 and 31, and we are still wondering if the idea which occurred to us last evening that the real reason of the Employers' group was to make us lose a day's or half a day's work in the Conference in an utterly useless debate was so wrong after all. We think that this debate could more advantageously have taken place in committee. If we had known yesterday afternoon what Mr. Fennema's motive was, we would have supported him fully, for we, too, are in favour of the obligations of the Charter being accepted and applied by all the countries which ratify it. I intentionally do not speak of governments, but the countries, the parliaments and the peoples who will ratify the Social Charter and apply it.

Mr. Burton, in particular, sought to invoke as an argument the absence of ratification of international labour Conventions. But whose fault is this? Whose fault is it that these Conventions have not been ratified if it is not in the main the influence of the Employers' group in the national parliaments? If it depended, in a large number of countries, on the government, the trade unions or the political parties of the Left, these Conventions would have been ratified long ago. I do not think that the Employers' group has been very well inspired in invoking non-ratification as a reason for not going too far in the articles and provisions in this Social Charter.

Mr. Burton was astonished also, apparently, that provision is made in the Social Charter for a complicated machinery of supervision. On this point I would like to make two remarks. What is the object of the Social Charter? To establish measures of protection for whom? For governments? For employers? No, they are sufficiently powerful at present to defend themselves; they do not need any special legislation. Those who need social protection in our present society are the workers. Therefore, it is up to the workers to say whether or not the Social Charter corresponds to the aims which they would like to see implemented. It is up to the workers to say here to this Conference, "This Social Charter improves our situation, opens up prospects of improvements in our conditions of life and work."

Further, when we speak about the complexity of the machinery for supervision, I would like to ask: who is most interested in supervising the implementation of the Social Charter? It is, again, the workers. But they are more or less associated with this supervision under conditions which are not at all satisfactory to the trade unions or to the workers whom they represent.

I should like to say to Mr. Fennema, incidentally, that he was mistaken in mentioning Switzerland which is not a Member of the Council of Europe and therefore is absent from our debates, though Switzerland occupies an honourable place among the countries which have made efforts for social progress.

I do not think it necessary to lay too much stress on the actual substance of the Charter; we shall have an opportunity to do this in the committees. But when people speak about international labour Conventions, is it really appropriate to invoke the argument that, because these Conventions have not yet been ratified by certain European countries, there should not be an improvement in the social standards in this continent, in these countries which claim to be not only the most civilised, the most advanced and the richest countries, which would be able to ensure to workers most favourable living and working conditions but must also serve as an example to the countries in other continents? I think therefore that, if this Social Charter does not meet these essential conditions, it can no longer be of interest to the workers of Europe, and we might be better off without a Social Charter than with one which marks a step backwards in relation to what already has been obtained in most of our European countries.

I now come to the last argument put forward both by certain Government representatives and certain Employers' representatives: we must have a charter which is likely to be ratified by the largest possible number of countries. We agree. But one cannot

help wondering whether there are in Europe countries which can really, on the basis of the Social Charter which is now submitted to us and which we consider in certain respects insufficient, claim to belong to Europe, to civilised Europe, while refusing by subtleties of procedure or parliamentary expedients to accept such standards? I refuse to believe it. Those countries do not have their place in the Council of Europe or in the I.L.O. According to the Preamble of the Constitution of the I.L.O. and the present Preamble of the Statute of the Council of Europe, these countries have accepted for 10, 15, 20, 30 or 40 years obligations of such a nature that, if they were to refuse to ratify this Charter, they would give flagrant proof that they have never been sincere in becoming members of these two institutions.

Interpretation from French: The PRESIDENT - The list of speakers is now completed, and the general discussion is closed.

May I say how glad I have been about the character and the high level of the debate we have just heard.

(The Conference adjourned at 6 p.m.)

FOURTH SITTING

Thursday, 11 December 1958, 11 a.m.

President: Mr. Dehousse

THIRD REPORT OF THE STEERING COMMITTEE[1]: SUBMISSION AND NOTING

Interpretation from French: The PRESIDENT - The first item on the agenda of this morning's sitting calls for the consideration of the third report of the Steering Committee. I call upon Mr. Geller, Chairman of the Committee, to present this report.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany; Chairman of the Steering Committee) - I may perhaps remind you that, in conformity with article 5 of our Standing Orders, one of the tasks of the Steering Committee is to examine the credentials of delegates. We have duly carried out that task. The third report of the Steering Committee dealing with the question of credentials has been distributed to you.

I ask the Conference to take note of this report.

Interpretation from French: The PRESIDENT - The Conference is asked to take note of the third report of the Steering Committee.

(The Conference takes note of the third report of the Steering Committee.)

FOURTH REPORT OF THE STEERING COMMITTEE[1]: SUBMISSION AND NOTING

Interpretation from French: The PRESIDENT - The next item on the agenda is the fourth report of the Steering Committee. I again give the floor to Mr. Geller, who will present the report.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany; Chairman of the Steering Committee) - The fourth report of the Steering Committee, which deals with the protests made against the credentials of the Workers' delegations of France and Italy, has been distributed to you. I ask the Conference to take note of it.

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[1] See below, Appendix I.

Interpretation from French: The PRESIDENT - The Chairman of the Steering Committee has just submitted the fourth report of the Steering Committee dealing with the protests against the credentials of certain delegations. This report is unanimous, and its conclusion is that any consideration of the two protests in question would be purposeless. There is no need here to have a discussion on the matter and I declare that the Conference takes formal note of the fourth report of the Steering Committee.

As this, I believe, is the last report of the Steering Committee, I wish to avail myself of this opportunity to thank the members of the Committee, and more particularly its Chairman, Mr. Geller, for their admirable assistance.

(The Conference takes note of the fourth report of the Steering Committee.)

REPORT OF THE COMMITTEE ON IMPLEMENTATION CLAUSES[1]: SUBMISSION AND DISCUSSION

Interpretation from French: The PRESIDENT - The next item on our agenda, which is the main dish, so to speak, is the report of the Committee on Implementation Clauses. I call on the Reporter, Mr. Pellinkhof.

Mr. PELLINKHOF (Government delegate, Netherlands; Reporter of the Committee on Implementation Clauses) - It is my privilege, and it gives me great pleasure, to submit to this Conference the report of the Committee on Implementation Clauses, the text of which has been distributed to you.

This Conference is a tripartite one, and the great majority of its participants are used to the procedure and Standing Orders of the International Labour Conference. Therefore it may be useful to point out at the beginning that the report which is herewith submitted for your consideration has a character somewhat different from those which usually come before the International Labour Conference in Geneva.

In Geneva a report is always accompanied by a draft Convention or draft Recommendation representing the results and deliberations of the committee concerned. Here you will find the deliberations of the Committee in the report itself, while no separate draft recommendation is attached.

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[1] See below, Appendix III.

It took the Committee nine sittings to deal with articles 19 to 35 of the draft Charter, embodied in Parts III, IV and V. The discussions in the Committee were not always without complications, particularly with regard to the following articles: 19, concerning the measure of compliance with the Charter required for ratification; 26, concerning supervision and application of the Charter; and 31, application of the Charter by collective agreements.

Time is pressing, so I will not take up the time of the Conference. The report, which was adopted unanimously by the Committee, is now before the Conference, and I sincerely hope that you also will adopt the report unanimously.

Interpretation from French: The PRESIDENT - I open the general discussion on the report. When that is finished we shall examine the various sections of the report.

Interpretation from French: Mr. ALDERS (Workers' delegate, Netherlands) - I should like, before I start on the substance of the debate, to express on behalf of my colleagues our warmest thanks to all those who helped in the work of the Committee. I think, first of all, of our Chairman, Mr. Dreyer, whose chairmanship was both firm, impartial and objective and who has done so much to further our work. I would next like to thank our Reporter, my compatriot, Mr. Pellinkhof, and, finally, I thank the collaborators from the Secretariat who have been so helpful, whether from the I.L.O. or from the Council of Europe, from the representative of the Secretary-General down to the kind commissionnaire in the hall who has watched us at work during these ten days.

We have yet to see what is going to happen to the provisions contained in the two first parts of the Charter. But, whatever the results may be, their true scope will be determined by what we shall decide about their application.

There are two points that form the keystone of this application: first of all, the obligation binding upon the Contracting Parties to subscribe to a joint nucleus, as it were, of fundamental standards, and, secondly, the supervision of the implementation of the Charter, with the effective participation of workers and employers.

With regard to article 19, which to us is of the most outstanding importance, the implementation clauses present, for the workers, a guarantee that the Charter is not just going to be a catalogue of pious hopes but an active means of progress in the social field.

In so far as the Workers' group is concerned, in order that the Charter may give us satisfaction we consider it absolutely essential, as I said in the Committee, that the Contracting Parties should be bound by the Charter as a whole within a reasonable period of time.

The Workers feel that at the outset all member States should be bound by at least articles 1, 2, 5, 6 and 12. But if the countries accept articles 9 and 10 outright, then, of course, we shall be quite satisfied. These demands on our part seem to be acceptable by all Governments and all Employers represented at the Council of Europe.

Those of us who are assembled here are representative of countries which have a developed economy. We recognise that Greece and Turkey have certain difficulties, but we cannot easily allow this to be regarded as a pretext for doing nothing, or just making a statement of intentions. We find it difficult to accept a negative attitude the effect of which might well be to seek solution of a problem by making exceptions a general rule: exceptions should be reserved for particular cases. We think also that this method is not, for us, a method of discrimination against anyone whatsoever but, on the contrary, a positive attitude, inasmuch as our first duty, which arises from our traditions and the spirit in which we work, is that of solidarity. To that end the European peoples, those countries which wish social peace to prevail upon this continent - this being an indispensable condition for universal peace - have one duty only and that is, without any political strings attached, to give the necessary aid to those countries whose economic conditions are still underdeveloped.

I should like to add that what seems to us essential is also to reiterate that this Charter should find its place in a political context which we cannot pass over in silence.

We are being watched here, and the Social Charter, or at any rate the record of our work, will come before the Governing Body of the I.L.O., where we know that Eastern European countries are represented, as are also the underdeveloped countries. We must not hold out any possibility for them to rejoice in the thought that, in this old Europe, there is any danger that communism will be able to progress undisturbed, in view of the division of men among themselves and of peoples among themselves. Let us say to those peoples who are groping their way ahead that communism is not a solution but that democracy, as we see it, is capable of doing very much better than communism.

Now, with regard to the second point, which is absolutely essential to the workers, arguments both of form and of substance were put forward.

Is the governmental structure of the Council of Europe really an obstacle to the setting up of a tripartite body? That is the question we have to ask ourselves in order to meet the first of the objections raised.

We note that in its resolution No. 25 of 15 December 1956 the Committee of Ministers itself asked that the supervision of the implementation of the Social Charter should be ensured with the participation of workers and employers alike, which, to us, cannot mean anything else but full participation. Moreover, I may remind you that the group of countries associated with the Agreements on the Rhine Boatmen has set up tripartite bodies for the application of those particular agreements.

We therefore consider that, on the legal plane, there is nothing to prevent the Contracting Parties bound by a Convention from providing for tripartite bodies for the application of the Convention. Article 22 cannot be sufficient for us. Consultation, and no more, with this or that organisation is not sufficient.

We cannot possibly accept that the only instrument for the application of the Charter should be one consisting of the same persons as those deputed by the Committee of Ministers and who are therefore judge and jury at the same time.

As to form, the number of the participants is less important for the Workers than the fact of full rights of participation and in equitable proportion. Neither is it a question of making the machinery provided for by the draft more unwieldy. The amendment submitted by the Workers is for something to be inserted between the Committee of Experts and the Committee of Ministers. If this proposal were to be rejected as a matter of principle, then you must expect complete opposition from the Workers.

After these fundamental objections, I should like to say a few words on certain points which may not be so broadly significant, but which are none the less very important.

In article 21 we find a weakness in regard to the obligation devolving on States in respect of provisions that are not accepted. We feel that a stricter supervision will have to be arranged on this point.

In article 22 certain Employers' delegates have suggested the introduction of the notion of the "most representative" organisation, without perhaps realising that this was to open the door to the worst detractors of the building-up of a free Europe. We leave to them the responsibility for this negligence.

Further on the Workers sought to strengthen the co-operation between the Council of Europe and the I.L.O. They were not always listened to. It is hoped that the efficacy of this co-operation, as concerns the present Conference, will encourage the Ministers to leave no stone unturned to benefit, in the future, from the aid and assistance of the Geneva organisation, which has proved its worth and has the confidence and trust of the workers.

I shall not refer at length to the question of the implementation by means of collective agreements. The report deals in detail with the proposal of the workers concerning the modification of article 31. The advice of the International Labour Office would be of help in the redrafting of the present phrasing, which, as it stands, is not satisfactory to us.

The same holds good for article 32, which deals with non-metropolitan territories. Let us not be accused of having maintained anything in the way of a "colonial clause" in the Charter. But, as this article was drawn up some time ago, we are confident that it will not appear in the definitive Charter, or, at any rate, that it will appear in a new form such as would take account of the rights of peoples to have the full and loyal co-operation of those who have had, before them, the benefit of the progress of modern civilisation.

That brings me to the last point I want to make. Is it really possible that a Social Charter should not be put in the hands, at the governmental level, of the Ministers who are responsible for that particular sector of politics? Mention has been made of meetings of other Ministers dealing with specialised questions. But let me remind you that in the Council of Europe Ministers of Economic Affairs are accustomed to work closely together, and such co-operation could be very happily backed up by joint effort on the part of the Ministers of Labour and Social Welfare in regard to the Social Charter. We very much insist upon this point.

That is in fact the essence of what the Workers wish to say in regard to the report which is now before you. We did not wish the Conference to take up again a discussion which has already been lengthy enough in Committee. We have confined ourselves to submitting to you suggestions on questions which we regard as vital for the Charter, for the workers and for Europe.

If you wish that tomorrow the world of European labour, and the world altogether, should have faith in us, then you will approve this report in accordance with the most progressive proposals and you will vote unanimously in favour of the suggestions submitted by the Workers' group, which relate to articles 19, 26 and 29.

Interpretation from French: Mr. LEBLANC (Employers' adviser, France) - My first words will be to associate myself with the thanks which Mr. Alders extended to our Chairman, who knows very well all the admiration we have for the way in which he has conducted our work. Our thanks are due also to the Reporter who submitted to us a text so clear that in an hour and a half we managed to adopt this report in Committee, and to the various services of this building, who very often worked very late for us - and I include the commissionnaire on duty at room 401 who saw the Employers' group at work. I should also like to thank all the members of the Committee. We, the Employers' representatives, had an opportunity of putting forward our point of view with the feeling that it was listened to attentively and, even if it did not convince everybody - that would have been too much to expect - at least it was given careful consideration.

We came here to Strasbourg in order to do useful and realistic work within the framework of the Council of Europe. With this in view, we joined the Committee on Implementation Clauses; in the course of the nine sittings we have had we have done important work and I think that we have obtained appreciable results. Nevertheless, these results have been criticised. We have been told that we did not seem to want to do a useful job. The Workers' Vice-Chairman of our Committee, Mr. Alders, said this to us with conviction and very firmly in the course of our meetings. He has said it here again, but with a moderation which calls for respect. That is the reason why we have to consider his opinion with the closest attention.

Mr. Alders has just recalled that in his view and that of his Worker colleagues it is up to us to go further than what has been achieved by other countries and further than what is done at the I.L.O. In the opinion of the Workers, it should even have been possible to ratify - the proposal now before us is a little different - all the provisions to be found in the Social Charter.

Yes, it is a fact that the countries of the Council of Europe are socially advanced. There can be no doubt on this, and the little folder which the I.L.O. has put at our disposal here shows this abundantly. The 15 countries, which would represent about one-fifth of the membership of the I.L.O., have deposited 601 ratifications out of a total of 1,851, that is, about one-third. Therefore, we can say that the member States of the Council of Europe have a very liberal social policy.

However, one has to pay careful attention to another point which emerges from this same folder. Out of the 103 Conventions adopted between 1919 and 1952 - I do not take into account those adopted after 1952 - only one has been ratified by all the 15 member States of the Council of Europe. Three have been ratified by 14 States and five by 13 States. But, on the other hand, you will find 70 Conventions which have not been ratified by half of the member States of the Council of Europe.

Setting aside the mass of detail which often slows down the ratification of the Conventions of the I.L.O., if a very large number of the principles contained in this Social Charter are accepted by all or most of the member States of the Council of Europe, then I would say we had done a useful piece of work.

However, in order to do useful work, one has to be realistic. We have 18 articles and, if I am not mistaken, 62 paragraphs in Part II of the Social Charter, dealing with a number of questions which are very varied. We know - and the example of the I.L.O. bears this out - that ratifications are difficult to obtain because of this, that or the other obstacle which a State cannot overcome, whereas other States may find it extremely easy to adopt such standards. If the States were obliged to ratify all the clauses of the Social Charter, we should block the system. On the contrary, what we want to do - we have said this in the Committee and we want to repeat it here - is to obtain ratification of the Charter as quickly as possible by all or nearly all the member States of the Council of Europe.

That is the reason why, after considering the texts very closely, and after having heard the remarks of the Government delegate of the Federal Republic of Germany with regard to the work of the Council of Europe, we have accepted the system of ratification submitted to us in the draft Social Charter, although, as Mr. Fennema told you at the first or the second plenary sitting of this Conference, it is not really satisfactory to us. We think that for the Charter to be a success it is necessary to adopt a system somewhat on the lines of that which is contained in the draft Charter.

It has been suggested that there should be compulsory clauses which ought at any rate to be among the articles ratified by the various member States. That, moreover, is the subject of one of the proposals to which Mr. Alders has alluded and which we have just received.

In the Committee we discussed this particular point at great length. Taking account of the assurances given us to the effect that the matter might be taken up again by the Council of Europe, we did not object to the suggestion that the Committee of Ministers should be asked to re-examine the question in order to see whether certain texts could be made compulsory for ratification by the States which wished to ratify the Social Charter. But we have made reservations as to the way in which the matter was ultimately presented because, in the text communicated to the Committee of Ministers, the idea was to draw attention to 14 of the articles contained in the Social Charter, leaving aside only three or four points, including, if my memory serves me right, those relating to the protection of the family and of the child, and that rather disturbs me as a father.

Mr. Alders also mentioned a little while ago the question of collective agreements and that of the implementation of the clauses of the Social Charter by way of collective agreements. We did not object to this point because here, too, we wished to be realistic and that is the reason why we intervened in the way stated in the report, pointing to the necessity of respecting the free negotiations which must take place between workers and employers and of preventing any kind of pressure being exercised in this regard.

Finally - and this is the last point on which I should like to give some explanations - there is the question of the supervision of implementation. We have achieved a system according to which the trade union organisations will be called upon to present their comments at the national level first; the international organisations in consultative status with the Council of Europe will then have the right to discuss the matter before a subcommittee; and finally the report of this subcommittee will be transmitted to the Committee of Ministers. Here I wish to insist once more on a point which, to my mind, leaves no room for doubt: the subcommittee, having received the opinions of the employers and workers, must take account of these opinions and set them out in detail before the Committee of Ministers, so that the latter may be fully conversant with the observations which have been made.

Some would have liked to go further, and a proposal to which Mr. Alders alluded a while ago does actually go further. I think that there is some confusion here with the procedure followed in another place - a place that I know well because I myself have attended several sessions of the International Labour Conference. But in the International Labour Organisation we find ourselves faced with a body which is essentially a tripartite one and in which, naturally, the supervision must be tripartite. Here in the Council of Europe we have an intergovernmental body where the meetings are not, as in the I.L.O., public, but are on the contrary private, and where it is stated in the Statute that the organisations of Category A or B - I am not quite sure of the right letter - may be consulted by the organs of the Council of Europe and that, exceptionally, they may be called upon to sit in a consultative capacity on certain bodies of the Council of Europe.

I think the draft submitted to us has done the maximum possible since at the Subcommittee it has been stated that the international organisations would be convened systematically and that, consequently, their opinions could be heard.

These were the essential points on which I wanted to speak very frankly and to put the Employers' point of view to all the members of the Conference, as I did, I believe, in our Committee. We think that the result of our work will not be useless and that soon, in the countries about which Mr. Alders spoke a while ago, we shall be in a position to show that we have done something constructive, since we have a charter which is ratified by all the member countries of Western Europe.

Interpretation from French: Mr. RAMADIER (Government delegate, France) - I, too, associate myself with the thanks paid to all those who have collaborated in the work of the second Committee, but I wish to add further thanks and congratulations particularly to the Council of Europe itself to which this meeting is due. It shows that they have not forgotten the world role which Europe plays, and must continue to play, and which, really, is the essential object of the activities of the Council of Europe. The Council was set up not only, not even specifically, to settle internal matters on our continent but rather to promote, through the forward movement in each of our countries, the general forward march of humanity. It is very important that the Council of Europe should have thought of this role of being the prime mover in social matters, which is the part played by our different countries for at least the past 150 years. Not merely have we had thinkers who have set before us a social ideal that has inspired our Governments and the trend of our ideas but, gradually, in Europe there has sprung up a body of social practice which may be held up as an example to most social legislations or practices applied in other continents. Shall I try to define this body of practice? That would be an extremely bold thing to do in the course of a speech of a few minutes. I shall merely note three fundamental points that are definitely European in origin and that bear the stamp of European conditions and trends of thought throughout the years.

First of all, there appears the idea of the necessity for social legislation regulating a certain number of points which are regarded as fundamental and indispensable in any truly human civilisation. This idea implies a restriction of the employer's authority, which was founded essentially on an absolute conception of the right of property but which has gradually evolved into a social concept, wearing a different complexion according to different schools of thought. Today this concept is unanimously accepted, implying recognition of the fact that the head of an enterprise has certain functions and consequently enjoys the necessary powers to exercise those functions, but also that those powers are subordinate to the notion of social utility, the social role which the enterprise has to play. Social legislation is designed to mark, on behalf of the public interest, of public order, the limit beyond which these functions cannot be exercised without exceeding their rights.

And then, when this first wave of measures had cleared the ground, as it were, there came into being something which was fundamental and new, which was the outcome of the development of trade union organisations in the different countries. This evolution created everywhere forces grouped together, drawing their

strength from the fact of their being united and confronting each other freely and peacefully. When these trade union organisations reached a certain degree of maturity they arrived at the concept of free negotiation, of collective agreements, which, side by side and apart from social legislation, have created a body of labour law which is infinitely more varied and detailed than the legislation itself. These agreements relate to problems of less general importance but nevertheless, being closer to reality and more detailed, in the end came to envelop the whole of industrial life and to guide it into this concept of the social function which industry has to fulfil.

Then there is the third fundamental idea, the idea of social insurance and social security, which, too, saw the light on the continent of Europe. Was not the first complete body of social insurance legislation that of Germany? Starting from that foundation, every country of Europe, one after another, either imitating or opposing the German model, with ideas and principles that sometimes clashed, nevertheless after some decades managed to evolve a social security legislation, differing no doubt from one country to another but organised around a certain number of principles, of pivots around which everything gradually came to revolve.

Those, then, are three ideas which have emerged in this very brief and incomplete analysis. These ideas have been all round the world, sometimes with signal success, sometimes, however, more apparently successful than in actual fact. But Europe may flatter itself that in this way it has given a sort of Holy Writ to the social movements of all countries, and we are greatly indebted to the Council of Europe for having remembered this and for having recalled that in this field also Europe can be and still remains the world's teacher.

And now, having thus sung the praises of Europe, may I say that at times I have been somewhat disappointed by the work in which I have participated?

I have taken part in a number of conferences - continental and regional conferences, organised by the International Labour Organisation in Asia, in America, all over the world. I have found that these conferences were perhaps rather immature, rather callow, but that they were springs of enthusiasm from which the young countries which were still trying to find their way could draw inspiration. These continental conferences play their part in particular because of the warmth and ardour with which their deliberations are carried on. Perhaps they aim at ideals rather than at achievement immediately commensurate with the possibilities of the countries participating, but they do provide a force for the future, a sort of matrix, if you like, from which one day all this seed may become fruitful.

Is it perhaps because Europe has already achieved so much, or because, leaving the heights, it travels through the undergrowth of reality and gets somewhat caught up in it, that I had the impression that our work was imbued with a somewhat restrictive spirit? Do you not think that, in taking this attitude, Europe risks appearing to the world as though its face is marked with premature old age? Do you not think perhaps it might be well for there to be more ardour and more youthful spirit? They exist in our countries. And it is not because I am perhaps the doyen of this Conference that I say this. I was hoping when I came here to be able to warm my old bones in the glow of a European social youth looking forward to new progress, conquests and ideals. I have found much interesting discussion, very scholarly, very orderly, very exact and detailed, but somewhat restricted, and I wonder, not without anxiety, whether our Conference will have the necessary repercussion that is expected of it.

We must remember that our European social ideal, as I tried to define it earlier, is not alone in the world. There are others which we for our part reject in fear and trembling. I do not think that fear and trembling is enough to constitute an effective defence against them. What is necessary is that the ideals and the fire which come from elsewhere must be countered by us with the counter-fire of our ideals, not declining but continuously going forward.

I do not wish to say any more on this. I merely desire to express the wish that, in this Convention proposed for the signature of the countries of Europe, we must not simply set down a codification of realities as they are today. Earlier, Mr. Leblanc enumerated the international labour Conventions which had been ratified by European countries. It seems to me that there are quite a respectable number of them, but when we add to that achievement the national social legislations which, in principle, are in conformity with this or that rule laid down in the Conventions, and when you add all the host of collective agreements that have just been added to the legislation, well then I think we may say that old Europe is still in the vanguard.

But I am not very sure, looking at the Convention proposed for our ratification, for our consideration, that we have always gone as far as we could possibly go in regard to reality. Above and beyond that reality I would like to see us opening up new perspectives, pointing out the way and indicating certain trends and possibilities, which, at the moment, are not entirely open to us without limit. Perhaps there may be certain ratifications that will fail to come along - that is possible. They will come in the end, but they will come only on one condition, and that is that we have really proved that we are moving forward.

That is what I wish to contribute to this general discussion. Let us perhaps look a little less at the past and towards legal realities; let us rather look forward, let us look to the future, let us blaze a trail. That is the duty of Europe.

Interpretation from French: The PRESIDENT - Thank you, Mr. Ramadier. The Conference will understand that I should be particularly grateful for the very kind words that you have spoken about the Council of Europe. Further, the applause following your concluding words shows how right you were in this general debate to sketch a description - a description which will not be forgotten of the specifically European social idea. Personally I am most indebted to you for this as well.

Interpretation from French: Mr. TRIANTAFYLOU (Government delegate, Greece) - I did not intend to speak in the general debate. Other speakers, more experienced and more eloquent than myself, have already spoken about the scope of the work carried out in this Conference. Nevertheless, Mr. Alders, the Netherlands Workers' delegate, spoke about my country in his speech, stating that Greece and probably Turkey, owing to certain difficulties, might not be in a position to ratify the Charter.

I believe that Mr. Alders - at any rate, so far as my country is concerned - is not correct in his statement. I can assure you at this moment that my Government will do all in its power to ratify the Charter and to accept its obligations.

I should also like to say that Greece has been through a war that has lasted for eight years. That war has created great difficulties in the country, difficulties which cannot be overcome in five, six, seven or eight years. If Greece has not yet ratified the Conventions on freedom of association, it will do so very soon, since the machinery of ratification has already been set moving. I hope that in a few months, at any rate before the next International Labour Conference, Greece will have ratified these two Conventions. Greece has already to its credit a great number of ratifications, and I can assure you that Greek legislation does not differ much from the legislation of other European countries. I do not know what the position of Turkey is but, at any rate, the position of my country as regards the obligations resulting from the Charter is as I have just told you. Greece is certainly the poorest of the countries which are Members of the Council of Europe. It is not its fault if it waged a war which has caused so much destruction and if it had to fight another war against communism, since Russia was at its gates. That was not its fault either; it was not a civil war although the international press considered it as such. It was a war conducted by Russia and supported by Russia, because the Communists of Greece - who only amount to 10 or 12 per cent. of the whole population - could not have carried on a war which caused so much destruction.

That is the statement I wished to make. I also wish to tell you that we are full of optimism with regard to our national future, and I can assure you - this is my personal view and does not bind my Government - that the Charter will be ratified by Greece.

Interpretation from French: Mr. VENTEJOL (Workers' delegate, France) - It is difficult to speak after Mr. Ramadier, who has raised the level of this debate and has told us that we have a duty at this Conference - to plan Europe's future and to say what social progress we want. Our task is not only here at this Conference; we must put into permanent form what already exists; we must give hope, as I have already emphasised.

I wish to reassure you immediately that I shall not speak on what the contents of this Charter might be. That will come at another point of our agenda. Nevertheless, it is quite obvious that it is difficult to dissociate these two points, and if we are to have contents which are acceptable it is evident still more that these contents must be implemented.

That is why I think that, on this problem of implementation, we must be extremely vigilant and speak very frankly - all of us - on what we want to do. I have read the document which has been circulated. The report, unfortunately, contains only a record of the work which has been done; it contains no text which could have been commonly accepted, and takes no common position on article 19 which would have enabled us to say that a very definite undertaking, with regard to implementation of the points which are of interest to all of us, had been given.

I think it is necessary that in this Conference - and quite apart from the contents to which I alluded a while ago - we should have the certainty that the text will be implemented. It is not just a recommendation which we want. It has been stressed in this report that the Charter would lose all its value if we did not have an assurance - and, in particular, if we, the Workers, did not have an assurance - that there would be effective implementation of these provisions.

We have been told that the Charter ought to contain objectives, and this was also stressed by Mr. Ramadier. The ratification of these objectives, however, should not be optional and liable to be revoked at any time. That could give the impression that we have merely an "empty envelope", that there are no precise undertakings and the Charter would, therefore, run the risk of remaining a dead letter without any real implementation. This is a danger that is facing us now and to which I should like to draw the attention of

the Conference. It is essential that we should be cognisant of the fact that the Charter must be implemented and implemented under good conditions. I can assure you that, in the proposal which is submitted to you with regard to what is called the "compulsory minimum", we have made an effort - I personally have made an effort - to achieve this text. In fact we would have liked the 18 provisions, each one as important as the other, to be ratified - and we ask moreover that they should be.

The French Employers' delegate took the floor to say that he was disturbed because one of the provisions could not be applied. We must say, too, that we cannot accept that a choice be made which would permit the essentials of this Charter to be evaded. That is the reason why we feel that what we propose, what this Conference decides, should be compulsory for all the countries.

Personally, I do not know how I could defend a Charter, whatever the contents may be, while stating that there are loopholes, and especially that in article 19. There are loopholes in other articles also, for example article 29, which may mean that we will not be able, in our countries, to say for certain that the Charter will be rigorously applied in the spirit in which it was drawn up.

I shall be interested, during this Conference, to hear the Employers explain to us their attitude and the reason why they would like to apply so restrictively the provisions of this Charter, and thus to be opposed to the common compulsory nucleus to the greatest possible extent. I therefore think that we must be very clear on this point. The Workers will not accept loopholes which would strip the clauses which we have before us of all their meaning and value.

I shall mention rapidly a few other points, since that one has already been pointed out to the Conference during the discussions, particularly in connection with ratification and denunciation. The retrograde character of these questions has been stressed. Even in the case of international legislation it would not be possible to proceed in this way. I would add that at the social level we are at present endeavouring to build Europe socially. That would not be possible if everyone who has contributed his stone to the building is able to take it away again at any time and thus compromise the construction of that building. I mentioned this a few days ago.

There is one point which is of great importance to us, namely whether, after this consultation here and after visualising what the Social Charter of tomorrow would be, the governments are conscious that we must go further and that we must be permitted both to apply and supervise that Charter so that it may become a joint achievement.

I have read in the report - I must say with great surprise - a sentence in which it is stated that tripartism is neither desirable nor wise. Taking up the words spoken at this rostrum by my fellow countryman and friend, Mr. Hauck, I think that wisdom of this sort would be folly at the present. What! In the world there would be tripartism, even if it did not give full satisfaction; there would be tripartism at the level of the International Labour Organisation; and yet when it is a question of announcing an important message to the workers this would not be the case. When I say "workers" I am of course thinking of those in Europe, but I think also of others - of those who are hostile to us, of those who believe that free Western democracy is incapable of economic progress. For how should we look if, having drawn up a charter, we, the workers, are not allowed full rights in its implementation and supervision? I also think of those who are watching us, who are asking themselves which régime has the best economic and social standards. Is it not up to us to say that it is indispensable to have this tripartite co-operation without which it would not be possible to do useful work and to bring to the fore the prospects to which Mr. Ramadier alluded a while ago?

That is the meaning of the proposals we have submitted to you, proposals which constitute a minimum so far as we are concerned, proposals which are perfectly acceptable and which are intended to show the way in which we should like Europe to be built. That is why we feel that we must have full co-operation and it must be effectively applied, for the common social standards as well as for the tripartite form of the consultation, for the preparation of texts and for implementation and supervision.

I apologise for perhaps speaking a bit fast and perhaps passionately. That is due perhaps to my partly southern temperament but it is mainly due to the fact that I believe in Europe and in its exemplary importance. At this present juncture, if we cannot give Europe this exemplary importance our position will be a difficult one in various European countries and untenable vis-à-vis our enemies. Here, by way of parenthesis, I should like to say that we were often told, when at a conference of the I.L.O. that if only we could confront one another as free men and discuss the essential problems of the moment, we could no doubt achieve better results in the social field and we would open better prospects and, leaving aside the enemies of freedom, we should be an example to the world. Well, it is for us today and tomorrow to give this example. Let us see to it that the substance of our Charter is good but let us also see to it that there is efficient implementation of the text.

Interpretation from French: The PRESIDENT - The general discussion is closed.

We pass on now to the consideration and adoption of the report of the Committee, paragraph by paragraph. But first I would draw your attention to one specific detail. Any part of the report that deals with an article on which certain members of the Conference may wish to express reservations until they have read the report of the Committee on Substantive Clauses will, of course, be adopted only provisionally this morning. To specify, I allude to those parts which deal with articles 19 and 31. I think that after this statement there can be no misunderstanding and we can continue with our work.

I am going to ask you first of all to speak on the introduction to the report, that is to say, the first five paragraphs. If there are no observations I declare these five paragraphs adopted.

(Paragraphs 1 to 5 are adopted.)

Interpretation from French: The PRESIDENT - We now come to Part III of the draft European Social Charter. We will start with article 19. On this article I have a proposal submitted by the workers' group, which suggests the insertion in article 19, paragraph 1(b) after the words "less than 10 of the articles" of the words "which shall necessarily include articles 1, 2, 5, 6 and 12".

Further, the same proposal asks that at the end of the same sentence the following should be added: "but necessarily including article 1, paragraph 1, the five paragraphs of article 2, the sole paragraph of article 5, the four paragraphs of article 6, paragraph 4 of article 8 and the four paragraphs of article 12".

Does any member of the Workers' group wish to speak on this proposal?

Interpretation from French: Mr. ALDERS (Workers' delegate, Netherlands) - There is no need for me to explain at length the reasons why the Workers have put this amendment, because it has already been explained earlier both by myself, by Mr. Ventejol and by other speakers.

I should like to say that the text of the proposal is very clear: the articles and the paragraphs mentioned in this proposal are very important for the workers and are fundamental ones. Without the obligation to ratify these articles the European Social Charter would have practically no value for the Workers' group.

The PRESIDENT - Does anybody else wish to speak on this proposal? If not, I am going to put it to the vote.

Interpretation from French: Mr. RAMADIER (Government delegate, France) - I should like to voice a preoccupation which must no doubt be that of all governments. The Social Charter which is suggested to us is, if I may use a legal expression, a synallagmatic Convention, in which reciprocal undertakings are assumed by the various countries. Of course, it is essential before entering into an obligation to know what the other party is going to undertake to do. If there is an infinite variety of obligations, if it is even possible to make the choice so that the obligation could be extremely light, then it is probable that a government will tend to reserve its ratification until the weight of the obligation becomes sufficiently heavy to balance its contribution.

Now, I ask you, how could there not be such hesitations when every country has the choice of ten clauses, whatever they are, drawn from the whole of the Social Charter? One runs the risk of seeing each of the countries reserve its position until it knows the ratifications of the others. How far is that reserve going? How long will it last? As has often happened in the case of certain I.L.O. Conventions, will it not be necessary to convene a new conference in order to come back to the problem and try to deal with it on a practical basis?

I am looking at the matter here only from the governmental point of view. I consider that an undertaking which is not clearly defined does not tempt any government. I ask you to think this over and to consider whether it would not be necessary to determine a certain number of essential, fundamental points on which ratification is compulsory.

Mr. KRINGLEBOTTEN (Government delegate, Norway) - I do not know if it is intentional but it occurs to me that in this proposal there is not a good correspondence with the draft Charter as to which articles shall be included as compulsory and which paragraphs shall be included. As to articles, article 8 is not mentioned; but as to paragraphs, paragraph 4 of article 8 is mentioned. I should like to know if that has been done intentionally or if there is an error in the proposal.

Interpretation from French: Mr. ALDERS (Workers' delegate, Netherlands) - I think that the position of the Workers is quite clear. We first of all asked that all articles be made compulsory. But it clearly appeared from the discussion in the Committee that it was not possible to arrive - in the Committee and in consequence in the Conference - at an agreement whereby the objective would be achieved. That is why the Workers' group reduced the number of

articles which, in their opinion, should constitute an absolute compulsory minimum. That is why the number of articles now appearing in the proposal is even smaller than that suggested earlier, for example in the proposal submitted by the Government delegates of France, Belgium and other countries.

Therefore, this constitutes a minimum and we very much hope that the Conference will declare itself in agreement with this minimum.

Interpretation from French: Mr. SCHEVENELS (Observer representing the International Confederation of Free Trade Unions) - I wish to point out that in the report of the Committee on Implementation Clauses there still remains this statement of the Governments which, I think, meets the point expressed by Mr. Ramadier.

What the Workers' group asks of you is that the Committee of Ministers, when it comes to determine the common social basis (and in its choice it is to be left entirely free in order to facilitate ratification of the Charter by the largest possible number of governments), can go beyond the five articles proposed by the Workers' group and can add others in order to obtain a common social basis and balance in the obligations to be undertaken by the different countries, which will enable all countries to undertake tasks a little more balanced between them. They will have the opportunity of doing so in the Committee of Ministers.

What the Workers wish is that among the articles selected by the Committee of Ministers there shall be, in any case, the five included in our proposal.

Interpretation from French: Mr. LEBLANC (Employers' adviser, France) - I should like very briefly to refer to the position of my Employer colleagues.

In the course of the debate in the Committee it appeared very difficult to agree on a common text. A certain number of Government delegates took part in the debate in order to state that it might be advisable to have this article, someone else thought that it would be advisable to have another article, and so on and so forth; so much so, that it was finally decided to retain 14 articles. I think that it appeared from the debates in the Committee that it was impossible, within the few days at our disposal, to find these common points which are spoken of here. That is the reason, in my view, why the Government delegates came to submit the recommendation which you will find in paragraph 10 in the report which has been submitted to us.

In this paragraph the Committee of Ministers is asked to look once more at the question to see whether it would not be possible to find a common minimum and on this point we have no objections. But we do not find it possible to go any further and we do not think that in the present state of affairs it is possible to say to the Committee of Ministers that it must be, in particular, this, that or the other point which should be retained, the more so as we do not know what will be in the report of the first Committee; nor do we know what will be the content of the Charter when the Committee of Ministers have examined the report.

Therefore, it is really up to the Committee of Ministers to make this choice, if it considers that it is possible, provided that this choice is made in such a way as to permit of the widest degree of adherence, in accordance with the declaration of the member governments.

Mr. FENNEMA (Employers' delegate, Netherlands) - I think I heard you say, Mr. President, "if there is no other speaker, I will put the proposal to the vote". I doubt, Mr. President, whether that is the most desirable procedure. Up to now, in this Conference, I think we have taken no votes, and I quite understand that it is the wish of the Workers' group to point out to the Committee of Ministers those articles which they think are the most essential, but I think that could be done in another way also, namely that the proposal be included in the report, and that it be left to the Committee of Ministers, when they have received the whole of our report of this Conference, to make a choice and to decide which articles have to be of an obligatory character. But I would regret it very much if, on this proposal, at this stage, the Conference should be asked to vote; we would regret from the Employers' side very much that in that case we would be placed in the position of voting against the proposal.

Interpretation from French: The PRESIDENT - First of all I wish to reply to Mr. Fennema that the possibility of voting is definitely provided for by various articles of the Standing Orders which were adopted by this Conference; article 8, in particular, describes in detail the way a vote on motions and amendments is taken. In fact, there is a whole procedure which lays down the exact powers of the President. Therefore, if we wish to vote, we can do so. As to the right, there can be no doubt. But there is a question of expediency, and that is something which does not rest with me to settle; it is for the Workers' group. If this group wishes its proposal to be put to the vote I will do so.

Interpretation from French: Mr. ALDERS (Workers' delegate, Netherlands) - We maintain our proposal.

Interpretation from French: The PRESIDENT - I therefore put this proposal to the vote.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany) - In this case, if I had to vote, I would not be quite clear what I was voting upon. The terms of reference of the Conference have been explicitly stated in the agreement between the International Labour Office and the Council of Europe. They are to draw up a report embodying the suggestions and views of the Tripartite Conference. In other words, this report is to furnish material for the Committee of Ministers which has to adopt the final text of the Charter.

The report before us states clearly the wishes of the Workers' group. We have already spoken at some length on this subject in the Committee, where I said that my Government was in a position to follow these proposals to a fairly large extent, but that, of course, the final decision rested with the Committee of Ministers.

As regards the proposal before us, I do not think it really bears on the report. As it stands, the proposal could give the impression that it is on an amended text as such that we must vote. That is a thing I could not do, because I believe that would be going beyond the terms of reference of the Conference.

If the Workers' group suggests that a declaration be included in the report, that, of course, would be a proposal that we would accept. That is what the Conference is here for. But we cannot go further.

It is for you, Mr. President, to settle the matter. If, however, this proposal were put to the vote, I should have to abstain from voting.

Interpretation from French: The PRESIDENT - I am surprised at seeing a discussion of this kind starting up at this stage of our work, because the point that Mr. Geller has just raised is definitely settled, not in the Standing Orders but in the arrangements that were made between the Governing Body of the I.L.O. and the Committee of Ministers of the Council of Europe. Subparagraph (2) of paragraph 8 of these arrangements reads as follows: "In the report /that is, the report of our Conference/ will be recorded the views of participants or groups of participants regarding the provisions contained in the draft European Social Charter. It might be necessary in certain cases, in order to bring out clearly the views of the Conference, for the Conference to formulate its opinion by suggesting texts which could be presented in the form of provisions of the draft Charter."

Consequently, the proposal of the Workers is entirely receivable. If it is not accepted by the Conference then it will be mentioned in the full record of our deliberations. On the other hand, if the proposal is carried, then, in my view, it will not be necessary to modify the contents of the report we have before us. The proposal can then be regarded as a recommendation of our Conference to the Committee of Ministers of the Council of Europe. That is the procedure which I propose to follow. It seems to me to be entirely in conformity with the rules and regulations and the arrangements to which I have referred.

Is a record vote asked for on the Workers' proposal? I must point out that in order to take a record vote at least ten delegates must ask for it.

Mr. ROBERTSON (Government delegate, United Kingdom) - I wish to speak on article 19.

Interpretation from French: The PRESIDENT - The debate on the substance was closed by my statement, which was made at a time when no one else wished to speak. I was invited by the Conference to take a decision as your President, and I have done so. If I again give the floor it can no longer be on the substance raised by the proposal of the Workers' group but only on procedure. On several occasions I asked the Conference if certain of its members wished to speak again; and since nobody replied that he wanted to speak, I replied to the procedural point put to me, and this statement closed the debate, the President having supplied the necessary explanation.

Mr. Robertson may speak after the vote to explain his vote. We shall now have a vote by a show of hands.

(A vote is taken by a show of hands. The proposal of the Workers' group is rejected by 19 votes to 25, with 4 abstentions.)

Interpretation from French: The PRESIDENT - Mr. Robertson, I now call on you to explain your vote.

Mr. ROBERTSON (Government delegate, United Kingdom) - In explanation of the vote of the United Kingdom delegation against this proposal, I should like to make it clear that this does not mean that we would necessarily object to particular articles or paragraphs of articles amongst those suggested for inclusion in the final instrument. But we do think, as we thought in the Committee and as we agreed with so many other governments in the Committee, that it is, in fact, a matter for the Committee of Ministers to decide; and for that reason we support the original recommendation which is found in paragraph 10 of the report.

Interpretation from French: The PRESIDENT - Is there any objection to the text of paragraphs 6 to 13 of the report submitted to us?

(Paragraphs 6 to 13 are adopted.)

(Paragraphs 14 to 25 are adopted seriatim.)

Interpretation from French: The PRESIDENT - As regards article 26, which is dealt with in paragraphs 26 to 32 of the report, I have, first, a proposal submitted by the French Government delegation, and secondly, a draft amendment to that proposal submitted by the Workers' group. As the hour is late, the Conference will perhaps agree that we adjourn the further consideration of the report until tomorrow.[1]

(The Conference adjourned at 1 p.m.)

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[1] See below, Fifth Sitting.

FIFTH SITTING

Friday, 12 December 1958, 10.30 a.m.

President: Mr. Dehousse

REPORT OF THE COMMITTEE ON IMPLEMENTATION CLAUSES[1]: DISCUSSION (concl.) AND ADOPTION

Interpretation from French: The PRESIDENT - The agenda this morning calls in the first place for the continuation of the discussion on the report of the Committee on Implementation Clauses. The general debate was closed yesterday morning and we then went on to examine and adopt the report part by part. This led us up to article 26, that is, to paragraph 26 of the report.

On article 26 I have a proposal submitted by the French Government delegation. This proposal reads as follows:

"It is suggested that the Conference should recommend that paragraphs 1 and 2 of article 26 be drafted as follows:

1. The reports of the Contracting Parties and the conclusions of the Committee of Experts shall be submitted for examination to a Working Party composed of two representatives of each of the Contracting Parties and, for each country, one representative of such employers' organisations and one representative of such workers' organisations as are members of an international employers' or workers' organisation having consultative status with the Council of Europe. These representatives shall be appointed by the Government, which may, after consulting the organisations concerned, arrange for rotation among them. The Working Party's report shall be attached to that of the Committee of Experts.

2. These reports shall be submitted for examination to a Subcommittee of the Governmental Social Committee of the Council of Europe. This Subcommittee shall be composed of one representative of each of the Contracting Parties."

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[1] See above, Fourth Sitting.

One amendment has been submitted to this proposal. It comes from the Workers' group and reads as follows:

"Delete the last sentence of paragraph 1 /that is, the words 'The Working Party's report shall be attached to that of the Committee of Experts'/.

Delete paragraph 2 and replace by the following: 'The Working Party shall submit to the Committee of Ministers a report containing its conclusions and shall append thereto the report of the Committee of Experts'".

To simplify matters I shall put to you simultaneously the French Government proposal and that of the Workers' group.

I shall first call on the author of the proposal and then on the author of the amendment; then I shall give the floor to those members of the Conference who may wish to speak. I therefore now call on Mr. Ramadier to explain the French proposal.

Interpretation from French: Mr. RAMADIER (Government delegate, France) - It seemed to the French delegation that it would be really impossible, without giving the impression of a retreat, not to introduce somehow the principle of the representation of the employers and workers into the process of supervision to be undertaken annually by the experts and subsequently by the Committee of Ministers. That is a principle which has been accepted in the International Labour Organisation since its creation. It is a principle which is provided for in a great many organisations, particularly certain European organisations. Today's meeting is a further application of this principle. Is it really conceivable that provision may be made for the establishment of international labour regulations and for supervising the implementation of these regulations without the employers and workers taking part both in the drafting of the regulations and in supervising their enforcement? To introduce the contrary principle would be taking a backward step as compared with the practices and principles which are now universally accepted.

That is why we have introduced the proposal now before you. I realise that there is a particular difficulty as regards the Council of Europe because it is not, like the I.L.O., a social organisation with a clearly defined objective. It is essentially a political organisation and no one will deny that the tripartite principle has no part to play in a political organisation. I understand, and the French Government understands perfectly well, the strength of this objection and we have no intention of introducing the tripartite principle into the Council of Europe as regards the treatment of problems which are not, strictly speaking, social. In order not to set up a precedent, and in order to keep

entirely outside the political mechanism, we propose the establishment of a working party only. There would have been a disadvantage in introducing the tripartite principle into the Social Committee or into the Subcommittee appointed by it. It would be, to some extent, going outside the province of a political organisation to introduce a principle which should not be incorporated in it. That is why we wished to place the tripartite principle and its operation in the supervisory procedure entirely outside the existing bodies, and we have proposed to you the setting up of a working party within which there will be a Workers' delegation and an Employers' delegation from each country as well as Government representatives.

That is the framework of the proposal. It is a problem on which I ask you to reflect. The decision which will be taken on this point is one of the greatest importance, not perhaps only by reason of its repercussions on the implementation of the Social Charter but because it might constitute the first set-back to the tripartite principle and might - and that would be unfortunate - mean that Europe was initiating a downward trend in the development of international social policy.

Interpretation from French: The PRESIDENT - Does anyone wish to present the amendment of the Workers' group?

Interpretation from French: Mr. ALDERS (Workers' delegate, Netherlands) - I am in full agreement with what has just been said by Mr. Ramadier. For the workers, this is mainly a question of principle, namely to include in the machinery for the implementation of the Social Charter a supervisory body on a tripartite basis. The form is another matter, but it is more particularly on the principle that I should like to insist on behalf of the Workers' group.

We fully agree with the arguments put forward by Mr. Ramadier. On the other hand, when we suggested an amendment to the French Government's proposal this was done only for the reasons explained to the Committee when we discussed article 26. In the Committee several Government members called on the members, and particularly on the Workers' group, not to make the supervision machinery too unwieldy. In the draft there are already three bodies to deal with the implementation and supervision of the Charter - the Committee of Experts, the Subcommittee of the Governmental Social Committee and the Committee of Ministers. In considering the proposal submitted by the French Government delegation we note that there is a fourth body to deal with the implementation and, more particularly, with the supervision of the Charter. It is exclusively for that reason that we have introduced our amendment, with the object of reducing the number of bodies to deal with the implementation and, above all, the supervision of the Charter.

Mr. NIELSEN (Workers' delegate, Denmark) - It is perhaps unnecessary for me to speak, because Mr. Alders has spoken on behalf of the Workers' group as a whole; but I want to associate myself with the words of Mr. Alders and I want to have it on record that the workers from the Scandinavian delegations support the principle laid down in the French proposal and also support wholeheartedly the suggestions made by the Workers' group.

Mr. WILLIS (Workers' delegate, United Kingdom) - I also want to add to what has been said already in support of the French proposal. Whilst associating myself fully with the decision of the Workers' group to introduce the amendment, I wish, as the United Kingdom Workers' representative, to have it on record that we associate ourselves with the proposal.

I would say just this: that the experience of the last two weeks, in which both the Employers and the Workers have taken a very full part in the debates on the drafting of this Charter, shows us that the complexity of the problems as they affect industry, quite apart from politics, indicates, in my view, the need and the necessity for the participation of employers and workers at some stage in the work of the Council of Europe.

Interpretation from French: Mr. LEBLANC (Employers' adviser, France) - The attitude of the Employers' group has already been described several times in the Committee itself. I also referred to it yesterday, as you may remember.

We have before us a proposal from the French Government delegation, which has been supported by the Workers. Mr. Alders pointed out that the French Government proposal would mean that there would be four supervisory bodies, which would be too much and that, therefore, one should be suppressed. I agree with Mr. Alders. The proposal of the French Government would result in the supervisory machinery for which the draft Charter provides becoming too cumbersome. What Mr. Ramadier wanted to avoid was the reproach, against which he defended himself in advance, that in the Social Charter a system was introduced which was not justifiable in a governmental body.

Despite what Mr. Ramadier has said, I think that indeed this would be the beginning of a system which, in a governmental body like the Council of Europe, should not be introduced.

Having said this, I would draw the special attention of all our colleagues in the Conference to the fact that there is no elimination of supervision by the employers' and workers' organisations over the implementation of the Charter. Indeed, to the extent that such supervision is proper in the Council of Europe,

it is provided for, first of all, at the national level, because nationally the organisations may intervene and will be consulted on the manner in which the Charter is applied, and they would fail in their duty if they did not intervene; and secondly, at the international level, because in the Charter itself it is stated that international organisations must be invited to take part in the meetings of the Subcommittee which will be required to examine the reports submitted by each State on the implementation of the Charter.

I said, and I repeat, that I do not doubt that the observations put forward in this way must be transmitted by the Subcommittee to the Committee of Ministers, which will thus be aware what observations have been made. In this way we still remain within the framework from which, in my opinion, we cannot escape and I do not think this can be regarded as a step backwards. We are in a certain framework, and we must remain there.

Interpretation from German: Mr. BRANDT (Workers' adviser, Federal Republic of Germany) - The present drafting of article 26, which enables the international employers' and workers' organisations having consultative status with the Council of Europe to send an observer to the meetings of the Subcommittee, is not satisfactory to us. There must be participation, a thorough participation, in the implementation of this Charter on the part of the employers and workers, and particularly of the workers. This is not the case in this article. I speak as a citizen of a country in which social security has for 70 years been linked to the system of self-responsibility and self-management by the parties concerned. This system has proved its worth. We believe that there can only be effective supervision if employers and workers are able to co-operate effectively. In Germany, when speaking of self-management, we mean participation in the administration by those under its jurisdiction: that is a political definition, but I have no doubt that we can apply it here. It must be stated that the parties directly concerned should be enabled to participate in the application of this international instrument. Mr. Leblanc has said that in most countries represented here there was already the possibility at the national level of discussions between the parties. This possibility must be extended into the international instrument now under discussion. Any other method of applying measures of social policy is, in our view, quite inconceivable in a group of democratic States. Let us not be told that this is not technically applicable, for I should reply that in the international field there are already several instruments in which provision is made for such tripartite supervision and co-operation. In the Agreement concerning the Social Security of Rhine Boatmen and the Agreement concerning the Conditions of Employment of Rhine Boatmen, which are in force in some of the countries represented here, including the Federal Republic of Germany, there is provision for

a tripartite committee. The committee provided for in the latter Agreement has been working since 1950 and has proved its value. It has done good work and no criticism has been levelled at it. In the application of European Economic Community arrangements there are also tripartite bodies, for example in the European Social Fund and the European Social Committee. I should like to add here that the workers of Europe are prepared to co-operate in the political and more particularly in the social field, and to emphasise that the ability of the workers of Europe to do so should not be underestimated.

Interpretation from French: Mr. SCHEVENELS (Observer representing the International Confederation of Free Trade Unions) - I should like to make two comments on this problem. In the first place, I would like to reply to those who claim that the tripartite principle has no place in the Council of Europe, that for four years we have discussed within the Council of Europe, and without any objection whatsoever on the part of the Committee of Ministers or of the Governmental Social Committee, the possibility of setting up an Economic and Social Committee to be entrusted with the implementation and supervision of the Social Charter.

At that time we met with no objections and nobody said that the tripartite system contemplated by the Council of Europe was contrary to its Statute. We are therefore surprised that this argument is now being put forward.

In the second place, I should like to point out that in the Charter which we are now preparing there is an important part dealing with collective agreements and which is, therefore, the exclusive concern of the employers and the workers. Now, you wish to exclude the effective participation of these two elements in the implementation of this very important section of the Charter. I do not understand.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany) - I ask to speak not because I think that there is anything new which could be added to what has already been said on this important subject, but because I think that the authors of this proposal are entitled, after having heard the very impressive reasoning of Mr. Ramadier, to know whether other members of the Conference maintain their previous position. You know what mine is and I must, with regret, state that this has not changed. In the Social Committee of the Council of Europe there has never been any doubt as to the necessity for the active participation of the employers' and workers' organisations in the implementation and supervision of the Charter. Naturally, they can give many indications with a view to the fullest and the best implementation of the Charter. There is no doubt whatever about that. What we have to determine is what is the best form of participation of the employers' and workers' organisations.

In the draft Social Charter we have based ourselves on two principal considerations to which reference has been repeatedly made and which have been mentioned by Mr. Ramadier. Firstly, we considered that in no circumstances should new organs be established at a time when both in the Consultative Assembly and elsewhere there have been complaints about the multiplicity and growth of new organs. For this reason we came to the conclusion that we must have recourse as far as possible to the existing organisations, and, therefore, to a procedure as simple as possible, thereby avoiding the setting-up of any new organ. Of course, we must have regard to the need for participation of the employers' and workers' organisations in supervising the implementation of the Charter from the earliest stage possible at the national level.

The second consideration to which reference has been made in this discussion was that it was felt that the introduction of a tripartite organ would be in conflict with the very structure of the Council of Europe. I must stress once more that I believe the matter is legally impossible. The setting-up of such a body is possible but it would be contrary to the structure of the Council of Europe and it would be better to refrain. Why? Because, as this tripartite organ which would be set up would only be a patch, so to speak, on the garment of the Council, it could never be integrated into the actual structure of the Council.

I think that the co-operation which is desirable, and which some believe can only be obtained by means of a tripartite body, can be achieved without this body. The Statute of the Council of Europe precludes the introduction of the tripartite system at the level of its highest organs, and I think we should not try to superimpose an institution which would not be in harmony with the whole.

We are convinced that the most effective method will be to ensure the active participation of employers' and workers' organisations, and not merely in an advisory capacity, in the work of the Subcommittee. In any case it is the Committee of Ministers which will ultimately decide, and I believe that the arguments advanced up to now in favour of a small body will carry much more weight than those in favour of a deliberative body of 60 members, where votes would have to be taken, resulting in majority decisions of less value than the carefully considered proposals of a small body.

These are the reasons which have led us to defend the original draft Charter. These are the reasons why I must perforce, to my great regret, vote against the French proposal. That will be my attitude if this proposal is put to the vote.

May I take this opportunity, Mr. President, of saying that, in replying to my speech of yesterday, you expounded valid legal arguments which entirely convinced me. Yesterday you had every right to ask for a vote to be taken, whether it was a good thing or not. You said yourself that it was a question of expediency In any case if we do come to a vote on this point I shall unfortunately be obliged to vote against the proposal.

Interpretation from French: Mr. VENTEJOL (Workers' delegate, France) - I shall not repeat the explanations I gave yesterday on the point we are now debating but it is my impression that at this sitting there is some confusion in the minds of certain members, in particular in those of certain Government members, and I should like to dispel it.

There is no question of infringing the political rights of the Council of Europe. We are not speaking of an integration which would make this political character lose all its meaning; and we would be suspected by workers of wishing to introduce great reforms into the Council of Europe. The problem before us is to know whether, after the difficult drafting we have done during these last few days, it will be understood that provision will be made for a serious exchange of views, not in the political sphere but in the social sphere which concerns us, as workers. A moment ago I had the impression that some of us were afraid of an exchange of views. Why? It was feared at first that there would be too many members of the working party, that differences of opinion would be expressed. But that is life itself; I would even add that it is a social necessity. For myself I would prefer, in the framework of this European social structure which we are now dealing with, that this exchange of views should take place in a body which would be set up after careful consultation rather than in a stormy social atmosphere inside the different countries. We should not fear this exchange of views. On the contrary, it should give governments precise data; it should enlighten them on social evolution; and it would enable the workers to say what have been the results of the adoption of the Social Charter, what are its possibilities, the progress made in putting it into practice and the difficulties encountered. For the governments, this happy co-operation would be a very tangible and permanent sign of this European structure without which nothing can be done. The arguments put forward by certain Government members do not enlighten me on the reasons for their opposition when, I repeat, there is no problem of a political nature. I think I have said enough about this.

Mr. Ramadier and Mr. Geller himself have cited an example. How would it be possible to introduce, at a European level, social legislation which one would try every day to put into practice through free co-operation between workers and employers, as well as by better collective agreements, if there did not exist a

possibility of free co-operation between the three parties concerned? I do not understand why this should be refused us; I think it is simply a question of efficiency. If we were to meet, even if we were to have differing opinions, we would know each other's opinions; we could have the necessary exchange of views and then go ahead on the road to social progress, which, after all, is what we want. That is one more reason why you should adopt the text submitted to you.

Finally, there is Europe. Well, there are many Europes. We cling to all these Europes in so far as the criterion is that of freedom and of free co-operation. It is unthinkable that out of our deliberations should come texts which, in comparison with other European institutions, would appear to fall below the level and would show that we were too timid, distrustful perhaps, for reasons which some considered valid. Reflect on this: at a time when, in this hall, we are trying, from the social point of view, to build something worthwhile, we must, vis-à-vis the other communities which already exist, be able to hold our heads high. Do you not fear that discredit might be cast upon our work?

I would conclude by saying this: you must not be suspicious of the intentions of the Workers' group. It must be realised that efficient co-operation is necessary in building this European social structure. I would be surprised if the employers, who should normally take part in this constructive effort, did not agree with us. Together with the Committee of Ministers, all the interested parties should be informed on all the problems so that there may exist that fruitful and healthy co-operation which would be the true sign, and the only one, of that social democracy which we want to have.

Interpretation from French: Mrs. GILON (Government adviser, Belgium) - The Belgian Government has not ceased, throughout this Conference, to support the principle of a valid tripartite supervision of the Social Charter. Our Government considers that effective supervision of the Charter must rest on effective co-operation between governments, employers and workers. It should not be difficult to accept, in the European framework, procedures which have proved to be of value at world level and which are constantly used on the national plane by the various Council of Europe countries. The Belgian Government, therefore, entirely approves the principle of the tripartite supervision of the Charter and supports the French proposal in the hope that it will serve to dispel certain doubts as to the compatibility between the tripartite system and the structure of the Council of Europe.

Mr. ROBERTSON (Government delegate, United Kingdom) - I asked for the floor for the same reason as did Mr. Geller, namely to explain the attitude of my delegation to this proposal. But our position is so akin to his, our views are so coincident with his, and the arguments which have determined our attitude are so similar to his that it is not necessary for me to go over all these again.

Like him, we believe that the machinery should be kept simple. Like him, we believe that the machinery should not introduce the tripartite system into the Council of Europe. I am aware that Mr. Ramadier has argued that his proposal avoids that difficulty, and I was glad to note that he declared himself against bringing the tripartite principle into the framework of the Council of Europe. But call it a working party, call it a committee, call it what you will, the reality behind the name is the same and it seems to me that the proposal defined by the French Government does not, in fact, avoid the difficulty which we and the representative of the German Government have seen in this suggestion.

Another point I should like to make is this. It seems that the extent to which the proposals in the drafts brought forward by the Governmental Social Committee do in fact allow for participation, or for the representation of the views, of employers' and workers' organisations has been underestimated. Article 22, as you know, provides that the national reports shall be shown to national organisations and that the views and observations of those organisations will be transmitted to the Secretary-General and so brought forward to the Committee of Experts. Therefore, they are fully taken into account at that stage - at the crucial stage. Secondly, the international organisations are brought in at the international level under article 26(2) as suggested in the draft, and from observations here I would not have thought that the international organisations would be at all backward in putting forward their views when they attend that governmental subcommittee.

It seems to me, therefore, that we have in the draft a method suggested which reconciles the possibility of using the experience and the views of the non-governmental organisations with the particular structure, the governmental structure of the Council of Europe. For these reasons, my delegation's attitude will be the same as that of the German Government.

Interpretation from French: Mr. GATTI (Workers' delegate, Italy) - On behalf of the Italian workers I should like to support the French Government proposal and the amendment of the Workers' group, which has the advantage of simplifying the supervision machinery and makes it possible to have periodic consultation between the groups most interested in the implementation of the Charter.

Interpretation from French: Mr. van WERVEKE (Government delegate, Luxembourg) - I have asked to be placed on the list of speakers because in this discussion I may have a compromise proposal to put forward and I will do so in a moment with a view, if possible, to securing unanimity on this controversial question.

Since the beginning of the work of the Social Committee, the Government of Luxembourg has been frankly in favour of association of the representative organisations of workers and employers, not only in the preparation of the draft Social Charter but also in the subsequent implementation of its compulsory provisions. This is still the view of my Government, which has just resigned, but I do not think I shall be too bold in saying that the future Government will very probably not abandon that principle.

Nevertheless, there are other things to say regarding this principle and its application. Yesterday, I could not support the Belgian proposals, and this morning again I had doubts regarding the possibility of getting unanimity on the French proposal, as amended by the Workers' group.

A political question which arises is that of the structure of the Council of Europe. I will not stress that very much, but another problem - a practical one - concerns me more. It has been said several times that the system proposed by the French delegation, although rather more flexible than that proposed by the Belgian delegation at the outset, would make the system of supervising implementation very unwieldy. Furthermore, we must all realise that the problem may be viewed from various standpoints. We have heard a very substantial, and personally, I thought, convincing statement by Mr. Ramadier, and others from some of the Workers' representatives. Nevertheless I realise that there are strong arguments on the other side which have been put forward by the Government representatives of the Federal Republic of Germany and of the United Kingdom. Since Mr. Ramadier has emphasised, quite rightly, that we are faced by a question of very great importance, I should like to ask you if you can accept the following suggestion. It is already certain, after what has been said in the debate, that the French proposal, amended by the Workers' group, will not be unanimously accepted. From the discussion the impression emerged that, as regards the principle of associating employers and workers in the implementation of the Charter, there is pretty general agreement. I wonder, therefore, whether instead of taking a vote which would divide us into two groups we might not reach unanimous agreement on the text which I will now read to you:

"The Conference expresses the hope that the Committee of Ministers will ensure, in such manner as it may determine, that a certain number of representatives of employers' and workers' organisations are associated, with the right to vote, in the working of the machinery to be established to examine the reports of the experts concerning the implementation of the Social Charter."

I think that this text in a way summarises the debate. The Conference approves the principle of associating employers and workers in the machinery for implementation by some methods which have to be determined.

I think that the essential thing for us is to include this principle in a text which could perhaps be accepted by all. I should like to urge that instead of having a separate vote on texts which are probably not unanimously acceptable we should have recourse to a compromise text such as that which I have read out. As Mr. Ramadier said, the matter is of great importance; in drafting a Social Charter we cannot remain behind other European communities or other international institutions.

Interpretation from French: The PRESIDENT - This proposal, which is a compromise one, is before the Conference.

Mr. NIELSEN (Workers' delegate, Denmark) - This is a new situation, and I would like to ask for a break so that the Workers' group may have time for consultation. We will need only ten or 15 minutes.

Interpretation from French: Mr. LEBLANC (Employers' adviser, France) - I support the request made by Mr. Nielsen.

Interpretation from French: The PRESIDENT - I naturally grant this adjournment which has been asked for.

(The sitting was suspended at 11.35 a.m. and resumed at noon.)

Interpretation from French: The PRESIDENT - According to article 8, paragraph 1, of the Standing Orders, no motion or amendment may be discussed unless it is seconded. I therefore have to ask the Conference whether there is support for the compromise text introduced a short while ago by Mr. van Werveke. If it is supported it may be debated. Several delegates are indicating that they support the proposal, and it is therefore before us for discussion. I now ask the groups to be kind enough to tell the Conference their views.

Mr. NIELSEN (Workers' delegate, Denmark) - I can tell you that in a very few words. The Workers' group has decided to accept the Luxembourg proposal.

Interpretation from French: The PRESIDENT - Does any other member of the Conference wish to speak?

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany) - I should like to thank Mr. van Wervcke for his effort to find a generally acceptable basis for the Committee. I have the impression nevertheless that this text is fundamentally the same as the proposals before us already. Actually, it is only the outward form which has changed. Consequently - and I am speaking only for my delegation - I do not think that we are able to support this attempt at a compromise.

It is expressly stated in this text that the organisations consulted would have the right to vote. We conceived the procedure in the Committee of Experts and the Subcommittee of the Social Committee as a process of checking, on a comparative basis, the implementation of the Charter in the different countries. We were not thinking in terms of voting, but in terms of discovering the truth. But it is not by voting that the truth can be determined. I do not think that we should follow this procedure and I therefore maintain the view I have already expressed, namely that the proposal as it is in the draft Charter should be retained. That is at least the view of my own Government, and I think that the compromise proposal made by the Luxembourg Government is not necessary. The terms of reference of the Conference, after all, are to provide the Committee of Ministers with a series of suggestions and proposals. Obviously, the French proposal will be included in the record, and thus the Ministers will be aware of this problem, and will be fully informed as to what is desired by a certain number of delegations to the Conference. I do not think it is essential to seek a formula at all costs. What matters is that the very valuable and well-documented proposal of the French Government delegates should be placed before the Committee of Ministers for its consideration and decision.

Interpretation from French: Mr. IEBLANC (Employers' adviser, France) - I am not going to keep the Conference very long on this particular question in order to give them the point of view of the Employers. It is identical with that just expressed by Mr. Geller, and we do not think that we can support the proposal of the Luxembourg Government delegate.

Interpretation from French: The PRESIDENT - I should like to know whether Mr. van Werveke maintains his proposal. This is how I see the procedure: if Mr. van Werveke's text is maintained, I shall put it to the vote first. If it is not accepted I shall then put to the vote the French Government proposal together with the Workers' amendment. If, on the other hand, Mr. van Werveke's text is adopted, this seems to me to imply that both the French proposal and the Workers' amendment will fall. But, in order to do this, I must have the consent of those concerned, that is to say, of the French Government delegation and of the Workers' group. I felt I had to explain to the Conference how, to my mind, the debate and the voting present themselves from the point of view of procedure.

Interpretation from French: Mr. RAMADIER (Government delegate, France) - I do not see the procedure exactly as you do, Mr. President. We have before us proposed amendments. These amendments must naturally be first put to the vote. If they are not accepted - and I hope this will not be the case - we shall have to consider the Luxembourg Government delegate's proposal, which is a wish of a general character to be sent to governments, asking them to re-examine the question on a basis to be determined. I do not see how, while our proposal is still under discussion, a wish of such a general character can be voted upon.

Interpretation from French: The PRESIDENT - I ask Mr. van Werveke whether he maintains his compromise proposal.

Interpretation from French: Mr. van WERVEKE (Government delegate, Luxembourg) - Following the statement which has been made by Mr. Ramadier, I understand that he maintains the French proposal. I also think that from a procedural point of view it is quite right that a vote must be taken first on that proposal. I would like to repeat once again very briefly that I should have preferred to avoid a vote on the proposal as it is drafted now. I am not proposing to go back over the arguments which I sketched somewhat summarily a short time ago, but I must say I thought, more particularly after the support given to me by the Workers, that it might have been possible to achieve unanimity on a text such as the one I presented. Having said this, I think that Mr. Ramadier is perfectly entitled to ask first of all for a vote on his proposal.

Interpretation from French: The PRESIDENT - That is not how I see the procedure, and I explained this a little while ago. The Standing Orders of the Conference are broadly conceived from the point of view of the President's prerogatives. If you will look at article 8, paragraph 6(2), of the Standing Orders, you will see that it gives considerable power to the President. It says

"If there are several amendments to a motion the President shall determine the order in which they shall be discussed and put to the vote", subject to two reservations. These two reservations are not applicable here; they are those mentioned in clauses (a) and (b). I therefore think that I remain true to the spirit of Mr. van Werveke's proposal by putting it to the vote first because it is a proposal which appears as a compromise proposal and because I think it is desirable, so far as possible, that we should contrive to reach a compromise in this matter.

I must also make a statement: just as the members of the Social Committee of the Committee of Ministers do not lose sight of their capacity, I cannot forget my position as President of the Consultative Assembly of the Council of Europe. I am obliged to safeguard the rights of the Assembly and to state that it is incorrect to think that the setting-up of tripartite supervision machinery would be incompatible with the Statute of the Council of Europe. In point of fact, such machinery is not provided for, but it is not prohibited either. The Conference, therefore, is perfectly free to reach a decision on this point without such a decision having to be regarded as unconstitutional in respect of the Statute of the Council of Europe. I am making this statement for the record because I think it is necessary from the point of view of the rights of the Assembly of the Council of Europe.

Interpretation from French: Mr. van WERVEKE (Government delegate; Luxembourg) - Let me say a word on this procedural question. If I did not urge my proposal to be voted on first, it was because I did not wish to give the impression that my compromise proposal was trying to edge out the French Government's proposal. That was why I wished to give priority to it; I did not want it to be said that, indirectly, I wanted the French proposal to be brushed aside, with which, I repeat, I am in principle in agreement.

Interpretation from French: The PRESIDENT - I am going to put to the vote the proposal which was introduced by Mr. van Werveke before the suspension of the sitting. I do not think that it will be necessary for me to read the text out once more. As no one has asked for a record vote we shall have a vote by show of hands.

(A vote is taken by show of hands on Mr. van Werveke's proposal. The proposal is rejected by 22 votes to 26, with no abstentions.)

Interpretation from French: The PRESIDENT - Before putting to the vote the French Government delegation's proposal, I shall put to the vote the amendment introduced by the Workers' group. I remind you that this amendment bears on the last sentence of paragraph 1 and on paragraph 2 of the French proposal.

(A vote is taken by show of hands on the amendment submitted by the Workers' group to the French Government delegation's proposal. The amendment is rejected by 12 votes to 26, with 11 abstentions.)

Interpretation from French: The PRESIDENT - We shall now vote on the proposal of the French Government delegation.

(A vote is taken by show of hands on the French Government delegation's proposal. The proposal is rejected by 21 votes to 27, with no abstentions.)

Interpretation from French: The PRESIDENT - We therefore come back to the original article 26, and with it the various paragraphs of the report relating to that article, that is paragraphs 26 to 32. I now put these paragraphs to the vote.

(A vote is taken by show of hands. Paragraphs 26 to 32 of the report are adopted by 38 votes to 0, with 4 abstentions.)

Interpretation from French: The PRESIDENT - We now go on to article 27, which is dealt with in paragraph 33 of the report, and article 28, which is dealt with in paragraphs 34 and 35. Are there any comments?

(Paragraphs 33, 34 and 35 are adopted.)

Interpretation from French: The PRESIDENT - We will now take paragraph 36 of the report, which concerns article 29. There is a proposal by the Workers' group, which suggests that in article 29 the words "for the protection of the rights and freedoms of others or" should be deleted.

Does anyone wish to speak in support of the amendment?

Interpretation from French: Mr. ALDERS (Workers' delegate, Netherlands) - When article 29 was discussed in the Committee the Workers' members made a suggestion which will be found in the report, in the last sentence of paragraph 36, as follows: "at the same time they /the Workers/ asked that the Committee of Ministers should endeavour to find a more restrictive wording for it". At that time we had not in mind a more precise drafting, and after discussion in the group we found a solution which is that embodied in our proposal, namely to delete in the draft the words "for the protection of the rights and freedoms of others or", because we think that, if this text were retained, it would make possible an interpretation which could call in question the right to strike for instance. That is why we urge the Conference to adopt this proposal.

Interpretation from French: Mr. LEBLANC (Employers' adviser, France) - We examined this proposal at meetings of the Employers' group and we must confess that we did not understand it. We do not understand how, in a place such as this, anyone can think of proposing to delete words relating to the freedom and rights of others. Do you really think, when you say that we must maintain principles which are necessary in a democratic society, that these principles include the rights and freedoms of others? You may, and I would agree; but that we should deliberately suppress a text which protects the rights and freedoms of others is unacceptable to me.

Interpretation from French: Mr. SCHEVENELS (Observer representing the International Confederation of Free Trade Unions) - Thank you for permitting me to speak in order to explain the views of European organised workers. We have no intention of reducing the freedom of others or respect for their rights. What we want to avoid is that this phrase should be misused to suppress the rights and freedoms of a large majority in favour of a small minority. Surely, this principle is recognised in all countries. When the majority of a municipal, provincial or governmental body decides that, in the collective interest, it is necessary to build a road, you do not ask each individual whether he is for or against it: you impose the tax required. The same holds good for the exercise of trade union rights. You have accepted in another clause - and I suppose the Committee of Ministers will agree - that this problem should be settled at the national and not the international level.

On this subject we have had in most of our countries a very long experience of similar provisions, which have been used to persecute the workers and to prevent them from exercising their normal right to defend their wage scales and labour conditions by collective action. We cannot allow certain individuals to prevent the majority from exercising its right to defend its interests.

We live in an age when most of our actions and prospects depend on unity of action and collective decisions. It is the interests of the community which we wish to defend and not those of some individuals who may attempt to restrict, or indeed demolish, the right of self-defence in large communities.

Mr. BURTON (Employers' delegate, United Kingdom) - I think the trouble about this particular article is that people are reading only certain words in the article. The exception, as I understand it, to the general prohibition of restrictions is limited to restrictions "such as are prescribed by legal provision or are imposed constitutionally, and are compatible with the nature of

these rights and principles" - that is the rights and principles that we have been talking about - "or are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals". The test is necessity. It is not at all a limitation in the sense which Mr. Schevenels suggested it is. The proof of necessity arises here, and that is a proof which is incumbent on the governments, as I read this text.

Interpretation from French: Mr. SCHEVENELS (Observer representing the International Confederation of Free Trade Unions) - I do not want to enter into polemics here but I think in the English text we again speak of "public interest" and I think a correction ought to be made. It should read "law and order". We have no objection to retaining in article 29 the expressions following those which we want deleted, but "ordre public" must not be translated as "public interest". That is quite another thing. We must say "law and order".

Interpretation from French: The PRESIDENT - If there are no other comments I shall put the proposal to the vote.

(A vote is taken by show of hands. The proposal of the Workers' group is rejected by 18 votes to 28, with 2 abstentions.)

Interpretation from French: The PRESIDENT - If there are no further observations on paragraph 36 of the report I shall consider it as adopted.

(Paragraph 36 is adopted.)

Interpretation from French: The PRESIDENT - If there are no observations on the following paragraphs of the report I shall consider them adopted: paragraphs 37 (relating to article 30), 38 to 45 (article 31), 46 (article 32) and 47 to 54 (article 33).

(The above-mentioned paragraphs of the report were adopted seriatim.)

Interpretation from French: The PRESIDENT - Are there any observations on paragraphs 55 to 59 which relate to article 34 of the draft Charter?

I myself have a comment to make on paragraph 57. The Legal Adviser of the Council of Europe will no doubt forgive the President of the Assembly for not being in agreement with him as to the interpretation of article 14 of the Statute of the Council given in paragraph 57. The paragraph reads as follows:

"... the Legal Adviser of the Council of Europe pointed out that the proposal was not altogether in conformity with the Statute of the Council, article 14 of which provided that representatives on the Committee of Ministers should be the Ministers for Foreign Affairs. The article further provided that when a Minister for Foreign Affairs was unable to be present, or in other circumstances where it might be desirable, an alternate might be nominated to act for him, but that was entirely within the discretion of the government concerned." There are some slight nuances in the opinion of the Legal Adviser. First of all, he does not say that the proposal is not in conformity but that it is not "altogether in conformity", which is more subtle but also less rigid, and the final sentence, summarising his opinion, adds that the implementation of article 14 is left "entirely within the discretion of the government concerned".

Once more I am bound to make a statement here in order to safeguard the rights of the Assembly of the Council of Europe: article 14 in no way precludes a meeting of the Committee of Ministers at the level of Ministers of Social Affairs, or at the level of Ministers of Cultural Affairs if the Committee is to deal with cultural matters. Proof of this is to be found in this very article 14 where, after providing that the Minister of Foreign Affairs may be replaced by an alternate, it is stated that the person concerned may be someone other than the Minister for Foreign Affairs - and here I quote: "or in other circumstances where it might be desirable". This is a matter of substance. I do not have to determine, from the Chair, the opinion of the Conference as to the reply of substance to be given to this matter, but I wish to safeguard formally and explicitly the possibility for the Council of Europe to forward, when necessary, a recommendation to the Committee of Ministers requesting a meeting, for instance, at the level of Ministers of Social Affairs or Ministers of Cultural Affairs.

Are there any other observations on the various paragraphs under consideration? If not, I declare these paragraphs adopted.

(Paragraphs 55 to 59 (article 34) are adopted.)

Interpretation from French: The PRESIDENT - If there are no observations I shall consider paragraphs 60 to 69 (relating to article 35) adopted.

(Paragraphs 60 to 69 (article 35) are adopted.)

Interpretation from French: The PRESIDENT - We now come to a proposal for a new paragraph 5 to article 35, which is examined in paragraph 70 of the report. If there are no observations I shall consider the paragraph adopted.

(Paragraph 70 is adopted.)

Interpretation from French: The PRESIDENT - Paragraph 71 is one of pure form and merely notes that the report of the Committee was adopted unanimously. We have thus concluded our examination of the report.

I would remind you that yesterday morning, at the request of certain delegates, I made a statement to the effect that the texts adopted in the course of yesterday's sitting were only provisionally adopted. Certain delegates wished to reserve their opinion until they had before them the report of the Committee on Substantive Clauses. This report has now been circulated. I should like, with the concurrence of the Conference, to be able to consider as final the various votes taken yesterday. Are there any observations? As there are none I shall consider that it is so decided.

(It is so decided.)

Interpretation from French: The PRESIDENT - I shall now put to the vote the report of the Committee on Implementation Clauses as a whole.

(A vote is taken by show of hands. The report is adopted by 45 votes to 0, with no abstentions.)

Interpretation from French: The PRESIDENT - Thus a very important part of our work comes to an end. I am sure I shall interpret the feelings of the whole Conference in thanking the Committee for the task it has performed and in expressing our special gratitude to its Chairman, Mr. Dreyer, and to its Reporter, Mr. Pellinkhof.

REPORT OF THE COMMITTEE ON SUBSTANTIVE CLAUSES[1]: SUBMISSION

Interpretation from French: The PRESIDENT - The next item on our agenda is the report of the Committee on Substantive Clauses. I call on Mr. Ulsaker, Reporter of the Committee.

Mr. ULSAKER (Government delegate, Norway: Reporter of the Committee on Substantive Clauses) - I have the honour to present to the plenary Conference the report of the Committee on Substantive Clauses, the text of which has been distributed to you.

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[1] See below, Appendix II.

The Committee had to examine Parts I and II of the draft European Social Charter and devoted 12 sittings to this task. On many points different views were expressed in Committee as to the content and the formulation of the provisions contained in the draft Charter. But, in trying to sum up briefly the situation in the Committee, I am glad to be able to say that there was shown among the members and groups of the Committee a substantial measure of mutual understanding and willingness to compromise. Therefore, you will find in the report a considerable number of points on which the Committee reached unanimous decisions.

I shall not take up your time by speaking on the report in detail, but I should like to draw your attention to two main points in the draft Charter in regard to which the Committee reached unanimous compromise decisions. According to article 1, paragraph 1, of Part II of the draft Charter the ratifying States undertake "to accept as one of their primary aims and responsibilities the achievement and maintenance of a high and stable level of employment". The Workers' members, supported by some Government members, argued strongly that the aim should be full employment. After a long debate the Committee agreed that the undertaking should be: "to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible with a view to the attainment of full employment".

The second point I want to mention is the right of workers to strike. The draft (article 6, paragraph 4) contains a provision for the ratifying States "to recognise the right of workers and employers to collective action in cases of conflicts of interest". The Workers' members argued that a charter meant for the free countries of Europe should expressly recognise the right to strike in order to establish this basic freedom of the workers in these countries, as opposed to the position of workers in certain other countries. The Employers' members, together with some Government members, stated that, while the right to strike was generally accepted, it could not be recognised in an unqualified form. After lengthy discussions, and having tried several compromise solutions, the Committee unanimously decided to suggest that the obligation for ratifying States should be "to recognise the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to the obligations arising out of collective agreements previously entered into".

Some reservations are attached to these proposals, particularly on the part of Employers' members. They accepted the text on the condition that the attention of the Committee of Ministers should be drawn to their request: (a) that the right to lockout should be recognised; and (b) that a clause should provide for measures to regulate the right to strike along the lines of article 29.

Nevertheless, it can be characterised, in my opinion, as an event of significance that the right of the workers to strike expressly appears in a draft coming from a tripartite body, a draft which has been accepted unanimously and is intended to become part of an international instrument.

For the rest of the discussions in the Committee I shall refer you to the report. I am convinced that the work of the Committee, as expressed in the various suggestions and statements in the report, will be of great value to the Ministers when they come to take their decisions as to the final draft of the Charter. I hope the Conference will adopt the report.

Interpretation from French: The PRESIDENT - As in the case of the report of the Committee on Implementation Clauses, I am sure that the Conference will think that a general discussion is called for on this report. If there are no objections, it is so decided. The general discussion will take place at this afternoon's sitting.[1]

(The Conference adjourned at 1 p.m.)

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[1] See below, Sixth Sitting.

SIXTH SITTING

Friday, 12 December 1958, 3 p.m.

President: Mr. Dehousse

REPORT OF THE COMMITTEE ON SUBSTANTIVE CLAUSES (cont.)[1]: DISCUSSION AND ADOPTION

Interpretation from French: The PRESIDENT - This afternoon's agenda calls for the general discussion which we decided to have on the report of the Committee on Substantive Clauses.

Interpretation from German: Mr. HENKELMANN (Workers' adviser, Federal Republic of Germany) - At the beginning of my statement I should like, in the name of the Workers' group, to thank Mr. Hauck, the Chairman of the Committee on Substantive Clauses, for his inspiring and impartial work in the Chair. I should like also to thank the members of the staff who handled the complicated matters dealt with by the Committee in a most efficient manner. May I also, on behalf of the Workers' members who have German as their mother tongue, express our particular thanks to the interpreters for their excellent work. Only with their aid was it possible for us German speakers to follow this complicated discussion as well as we did. The same applies to the translation of the reports. We have the impression that the translations were excellent, and that though there were some minor errors they were due to lack of time.

This long report on the work of the Committee is now before the Conference and we think that it correctly and faithfully reproduces the proceedings in the Committee. If you have read the report with care you will have noted the extent and the intensity of the discussion on social standards. You will see that the proposals for amendment in the Committee were made almost entirely by the Workers' members. We recognise that some of our wishes, after long discussion, have been included in the draft Charter, to some extent at least and in some cases on the basis of a compromise. However, a large number of our proposals and suggestions met with resistance from the Employers and some Government representatives in the Committee, who seemed, for various reasons, to be opposed to any substantial progress.

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[1] See above, Fifth Sitting.

I would like to say now that we did not obtain all that we would have wished. We have not submitted any amendments in today's plenary sitting because we thought that no arguments could be brought other than those we heard in the Committee. The Workers' representatives came to Strasbourg with great faith and hopes, in order to produce a progressive Social Charter for the peoples of Europe, of whom 75 per cent. are workers. Perhaps our hopes were too high. In any case they have not been entirely fulfilled.

I should like now to refer to a number of particular questions with regard to which we have quite harsh criticism to express. The contents of the present Social Charter, including the proposals made by the Committee, do not surpass, on the whole, the various national provisions. The Charter in its present form, as was clearly and repeatedly expressed in the Committee, is nothing more than a compilation of the social law now prevailing in Europe. Indeed, in our opinion, it reflects the lowest social standards existing in Europe and does not, as a whole, come up to I.L.O. standards. We expressed the view in the Committee that in Europe, a region of advanced countries, social objectives must be genuinely progressive. We found that on the whole there was not the courage here to break new ground in the social field.

On the first day the Chairman of the Social Committee of the Consultative Assembly made a statement on the aims of that Committee. If we look at Part II of the Charter as it now is we can see that these aims have not been fulfilled. Mr. Strasser said that it was the unanimous wish of the Social Committee that the Charter to be created here should be something really valuable, and that of course it should exceed the general I.L.O. standards. Secondly, he said there should be a nucleus of articles which should be absolutely compulsory. Yesterday it was voted that this should not be the case. The Charter therefore, in our opinion, lacks one essential element. We have not been sufficiently dynamic and progressive in our social policy for Europe. If the European States want a high level of unified social law then there is only one path by which they can achieve that. In the interests of this achievement the countries must amend their national legislation. This point was mentioned again and again in the Committee. Each State cannot retain its own national laws and regard them as unalterable. The object of our work must be recognised as that of a unified high level of social legislation. The Charter must be an example and an ideal. It must not, as Mr. Ramadier said, reflect a restricted spirit.

The Workers are not satisfied with all the compromise solutions which have been reached and must therefore criticise the draft Charter as it now stands. We think it cannot be regarded as an advanced instrument, particularly because there is no guarantee of the compulsory character of its standards. Apart from the

fact that the Charter does not represent a guarantee of social progress, we have another important point to make. The Charter in its present drafting has no genuine substantial significance for the workers of Europe, nor does it constitute a demonstration of the spirit of free Europe as compared with the countries behind the Iron Curtain. It does not provide a positive guarantee of social rights and freedoms for western Europe and that is what it should have done. There is certainly a danger that if the western European countries do not establish genuine social ideas, if they rest on their laurels, they will soon be overtaken by others, and we think western Europe must maintain its leadership. We think there is still time for the Charter to express this progressive policy. We think that there must be an absolutely clear call for full employment, social security and freedom of association, and these must be included as unalterable parts of the Charter in order that this may have the respect of the other continents as well as of Europe. In Europe we must be prepared to create a Social Charter for peaceful purposes and to include something constructive and compulsory in it.

Part II of the Charter, however, is weakened by the fact that article 19 does not provide a guarantee for the enforcement of the various provisions of the Charter. The Workers are not, and will not be, resigned to the situation. The trade unions have always had an international point of view in labour and social policy as in other respects. They know that the path to the goal is full of thorns, but they believe that the discussions at the political level in the Council of Europe can still enable progress to be made if we set aside all small-minded and egocentric ideas and concentrate on the struggle for social peace, social justice and also for stability.

The Council of Europe will certainly discuss this question further, and the workers will always be ready to co-operate in the further development of the Social Charter, so that it may promote the consolidation of social policy in a united Europe.

Interpretation from French: Mr. PURPURA (Government delegate, Italy) - The report we are now examining relates to the first two parts of the Charter, which are the essence of it, since the last three parts deal with procedure and machinery for implementation. In fact, it is on the basis of Parts I and II that one must assess the political and social importance of the Charter. It represents both what has been achieved and also a starting point for further and more extensive achievements in the social field.

The social progress made in each of the member countries of the Council of Europe by means of national laws and regulations is reflected in many provisions of the draft Charter. In preparing the various drafts which have been examined during three years'

work, the Government experts have had in mind particularly the rules existing within their own countries and the social reforms contemplated for a more or less immediate future. However, the Charter should be a bridgehead for further development with a view to closer co-operation between the European peoples.

It is above all in the light of the need for genuine European co-operation that I should like to draw the attention of the Conference to three problems which we regard as essential. These are the right to work, the right to social security and the right of migrant workers to engage in a gainful occupation and to be protected in their employment.

The problem of the right to work is fundamentally very important and is particularly difficult in countries like Italy which suffer from a great deal of chronic structural unemployment due to disequilibrium between the volume of capital available for investment and the volume of available manpower. Of course a problem of this kind cannot be solved by the use of national resources alone; it is necessary to have recourse to greater European co-operation, and it is in this way that the final objective of full employment in political and economic liberty can, we believe, be reached. It was in this spirit that the Italian delegation submitted the proposal which was unanimously accepted, requiring the 15 countries to recognise as one of their primary aims the achievement and maintenance of as high and stable a level of employment as possible with a view to the attainment of full employment. It will be easier to achieve this if the efforts made in a given country are accompanied by efforts in the economic and social fields by all the other member countries of the Council of Europe.

This brings me to the problem of the right to emigrate and the protection of migrant workers. The Charter contains provisions which are very valuable to Italy in this field. Article 17 guarantees the right of a worker to engage in gainful employment in other countries; it requires the Contracting Parties to liberalise their regulations regarding the employment of foreign workers, and recognises the right of nationals to leave their own country if they should wish to earn their living elsewhere.

Article 18 includes the arrangements required for protecting migrant workers, and indicates a number of rights and facilities which should be granted to them. The importance of these provisions proceeds from the fact that emigration is today, and will remain in the near future, a safety valve for the unemployment prevailing in some European countries. This is why the Italian Government delegation felt bound to vote against the Workers' proposal on article 19.

In order to conciliate the various proposals made by the Workers' members and certain Government members of the Committee on Implementation Clauses, a recommendation was submitted to that body by 11 Government members expressing the view that the Charter should contain, in article 19, an enumeration of certain articles and paragraphs which should be compulsorily covered by any ratification, so as to make up a common denominator for the social policy of the States Members of the Council of Europe. These governments considered that the articles and paragraphs proposed by the Belgian, French, Italian - I emphasise Italian - and Swedish delegations should be taken into account by the Committee of Ministers with a view to choosing the articles and paragraphs to make up the compulsory common minimum. I must remind you that the Italian delegation had proposed to include articles 17 and 18 in this nucleus. The Workers' proposal, however, was in conflict with the above recommendation, for it not only included paragraphs which were contrary to Italian legislation but also excluded the two articles which the Italian delegation had proposed. As the Workers' proposal was rejected in the plenary sitting, the recommendation referred to in paragraph 10 of the report of the Committee on Implementation Clauses retains its force, and the Italian delegation, faithful to the idea of a common minimum, hopes that the Committee of Ministers will include articles 17 and 18 in this minimum. We do not think that the inclusion of these two articles would hamper ratification of the Charter by the other member States of the Council of Europe.

The protection of migrant workers is closely linked up with the solution of social security problems (article 12 of the Charter). Among these problems particular importance attaches to that of equality of treatment for the nationals of all States Members. The draft Charter merely provides that such equality of treatment should be reached by bilateral and multilateral agreements between the member States or by other appropriate means, subject to the provisions of such agreements. The Italian Government, however, wishes to repeat its opinion that equality of treatment should be guaranteed by the Charter in the same terms as in the European Social Security Convention adopted by the High Authority of the European Coal and Steel Community, which recently became also an instrument of the European Economic Community.

Yesterday Mr. Ramadier spoke of Europe and of the role which our old continent can and should play on the world scene. By applauding him, members indicated their acceptance of the ideas so eloquently expressed. However, until the problems I have mentioned have been satisfactorily solved - that is to say until full employment has been reached in each of the countries by means of closer international co-operation and until migrant workers have obtained appropriate protection as regards social security, Europe will remain a mere geographical expression, whereas we all wish it to become an economic, social and finally, a political reality.

Mr. FENNEMA (Employers' delegate, Netherlands) - First of all, I should like to associate myself with the tribute paid by Mr. Henkelmann to the Chairman of our Committee. We had very animated and somewhat heated discussions. Perhaps this was due also to the high temperature. If the heating in the I.L.O. building in Geneva and also in the Maison de l'Europe in Strasbourg were reduced, there might be a possibility of saving money on fuel in both these organisations. Nevertheless, our discussions were very useful and the result of them will without doubt be of use to the Committee of Ministers when they take another look at the draft Charter.

Mr. Henkelmann referred to the German translation of the report. Yesterday, Mr. Hauck said that the German version contained quite a lot of errors, but he explained the special circumstances in which the staff had to prepare this report. I do not know how the report which has been presented today in German looks, but I hope that all the errors which were found yesterday have been deleted.

Mr. Henkelmann explained that 75 per cent. of the population of Europe is made up of workers. That is a rather high percentage and I think he is including also wives and children in that figure. On that assumption, it may be true.

I quite understand that the Workers' group had expected more from our deliberations but if it is really the aim that the Social Charter be ratified and come into existence in the near future, I think it will not be possible to go too far ahead of the existing legislation. Nevertheless, the provisions of the Charter are ahead of certain provisions in a number of countries. For instance, in my own country, the law will have to be changed to put us in a position to ratify the Charter.

I think it is the thought of every Prime Minister, whether he belongs to the Conservative Party or to the Labour Party, that there should be some moderation in all changes. We should not try to do too many things at the same time. Therefore, we should be patient and not try to reach at short notice a very high standard of social legislation. We have also to improve our productivity, and it will take a number of years before we can come to the level which is desired by the Workers' group.

Our Reporter this morning pointed out that on two main points - full employment and the right to strike - there had been unanimous decisions. So far as the right to strike is concerned, I think this unanimity is only formal: it is not a unanimity in substance. After the somewhat alarming proposal concerning article 29 which was presented this morning by the Workers it is quite clear that Workers and Employers have not come to an agreed decision about the right to strike - or the freedom to strike, whichever way one likes to call it.

We think that the right to strike should not lead to an abuse of rights and freedoms. I think we can abuse all rights and all freedoms. In order to prevent abuses we need some qualifications, and we thought these were contained in article 29. We regret very much that the Workers' representatives proposed that the words "for the protection of the rights and freedoms of others", in this article, should be deleted. We can state that from the vote it was clear that our views are shared by a number of governments.

In these last days we have heard quite a lot of speakers who were proud of the great past of Europe. We have also to look into the future. We must hope that our grandchildren also will be proud of the past, which for us at this time is a future. We should not have too many illusions that life is going to be very easy. We have to work in order that Europe may survive. We have obligations not only towards the less developed regions of our own countries but also for the underdeveloped countries outside of Europe.

In the past we have built up in our countries social legislation on different lines and based on principles that vary from one country to another. In order to protect this social legislation in many countries we have built up trade barriers. Now Europe has come to a point where it is felt that the prosperity of the region, as such, is hampered by these trade barriers, and an effort is therefore being made to lower or even abolish them. It is evident that there should be a certain equilibrium in social legislation between the countries as soon as these trade barriers are decreased, without this social legislation having to be identical.

From this point of view, we think the draft Charter and the observations which will be presented to the Committee of Ministers, will form an appropriate basis for reaching that equilibrium which will be necessary for a Europe in which trade barriers will gradually disappear.

Interpretation from German: Mr. GELLER (Government delegate, Federal Republic of Germany) - I should first like to associate myself with Mr. Henkelmann's expression of thanks. I do this in the name of my Government and also thank the Secretary-General and his staff for permitting use of the German language and arranging for the reports, draft amendments and all other texts necessary for discussion to be prepared in such a rapid manner and so well. I should also like to thank the interpreters and translators for the way in which they have made it possible for us to receive texts so quickly; I mention this expressly because I understand that yesterday there were criticisms of the German translation of certain parts of the Committee's report. I, myself, have had the impression that misunderstandings may have occurred in some texts but that these have been due to the fact that everything had to be done so quickly. In any case our work has not been affected.

I should like to say a few words on the general discussion on the report of the Committee on Substantive Clauses. First, I should like to say that if we look at this report and compare it with the report of the second Committee we note the interesting fact that at the same Conference two committees have proceeded on the basis of rather different principles. This is clear from a comparison of the two reports. Whereas one of the committees worked on the basis of discussion of specific proposals, the other committee, whose report we have before us now, tried to reach specific drafts. My country's delegation to the first Committee expressed the view that under article 8(2) of the Agreement between the Organisations, specific drafting should have been an exceptional procedure. I will not go into that any further now. I think that the final record of the Conference will show that the two reports in their particular way reflect resemblance to their respective parents. They both include good material in which the Conference will find what it required.

Quite apart from the difference between the two reports, one must recognise that the first Committee, with the vigour of its unsurpassable Chairman, has produced an extremely good piece of work. The field with which it had to deal was much the wider. The contents of Parts I and II of the Charter cover the whole of social life dealt with in more than 100 international labour Conventions, drafted over many many years, since, as you know, we shall celebrate next year the 40th birthday of the I.L.O. Yet all this material is concentrated in a series of 18 articles in the Social Charter, and the first Committee had to do all that. It is perfectly natural that in the very short time of ten days it was not possible to deal with the points for discussion in an entirely complete manner and to produce a definite draft in every case. In fact, that is not important in my view. The important thing is, and I think the Committee will regard this as its best achievement, that the debate was intense, reached a high level, and led to a result on which the Committee can be objectively congratulated. I can say this because I belonged to the other Committee.

The discussion brought out a great number of valuable indications for future work on the Social Charter. In this connection I think it is particularly important to refer briefly to the question of the right to work and full employment, which was discussed at great length, and on the right to strike which was also discussed with much profit. The proposal of the Committee regarding fair conditions of employment in Part II is very useful and without doubt it will have results in the future.

It is hoped that the conclusions of the Committee will go in the normal manner before the Committee of Ministers in its future work on the Social Charter. It will then be for the governments and the Committee of Ministers to examine the results achieved. Most of the statements were based on the experience of representatives of the three groups, who were fully able to contribute their knowledge and I am certain that, in the eyes of the Committee of Ministers, the report will be of exceptional importance.

I think we all feel that progress has been made, for we have obtained a good picture of efforts made in the social field towards solving problems in the member States of the Council of Europe. I think that the Conference will have made a valuable contribution to the task undertaken by the peoples of European countries, which, as Mr. Ramadier said so well yesterday, have done so much in this field which is of increasing importance, namely the formulation of joint social policy.

May I now refer very briefly to what my friend Henkelmann, for the Workers' members, said at the beginning of this sitting. He sharply criticised the report before us this afternoon. Henkelmann is an old friend of mine; we have worked together often and long in the Federal Institute for Employment Service and Unemployment Insurance. I know his spirit well for we have often been side by side, and I well understand that he may regard the Social Charter as insufficiently ambitious. However, if I may repeat what I said in my earlier speech at the opening of the Conference, one must remember that in an international organisation no country stands alone. In order to achieve any progress at all one must move forward with due regard to the conditions in all the other countries. Yesterday we were told of the hard time which Greece has been through lately and so I should like to tell you that the Greek representative in the Social Committee has made very valuable suggestions arising out of conditions in his own country. I think that we should remember that each country may at one time be ahead and at another in the rear. One must seek a balance between the various countries. We must always seek a mean term to a common end so that we can go on and draft a text that can be accepted by all countries, even as far as Iceland. I said something like this at the beginning of the Conference and that is what concerns me so particularly. For we must avoid drafting texts of great progressiveness which are of no general use. I think we have worked in the right way and can say so without exaggeration. I believe that the achievements of this Conference will lead to a still better social charter in the future, for so many suggestions have been made to the Committee of Ministers that this can hardly fail to be the case and they certainly will be as grateful as we should be.

Mr. WILLIS (Workers' delegate, United Kingdom) - The Committees have now completed their task and this plenary sitting has before it the result of their labours. I would like to associate myself with the thanks that have been expressed to the staff and all who have assisted in this Conference, and particularly to the I.L.O. and the Council of Europe whose joint participation has made this Conference possible.

During the last two weeks every article has been subjected to careful consideration by the Committees. All of the provisions are important, but it is inevitable that to some are attached a greater value than to others. I would list, therefore, as minimum requirements in any charter that may be considered those vital fundamental rights to which I am afraid we often pay lip service yet omit to put into practice - indeed, if I could paraphrase Mr. Fennema who said just now that the Workers want to do too much in a short time, I would say we sometimes have reason to suspect that the Employers are anxious to do as little as possible in any time.

The right to work, the right to organise, the right to bargain collectively, the right to social security - these are the vital and fundamental rights to which we would give preference. In that regard, the achievement of full employment should be an accepted factor in these modern days, not looked upon as an impossible dream. We have achieved it in many countries since the war. We can do so again in those countries which, as a result of certain economic factors, may have gone back a little in this matter. We can again achieve that full employment if we set our minds to it and if we adopt economic policies that are reasonable and right.

I have not listed the particular article dealing with migration. That is not because I am personally unsympathetic to Greece or to Italy, which have this problem as a very real and vital problem, but because in the view of trade unionists emigration is no solution to unemployment. The worker has a right to work in the country of his origin; he should not expect to be turned into an industrial exile because government policies and other factors have failed to provide him with the employment to which he is entitled. The trade unions have always argued that to talk in terms of emigration and to put emphasis on emigration is a negative attitude to adopt. We have always taken the approach that what is needed is greater financial aid to and greater economic development in these countries in order that they can supply for their people the work and the livelihood to which they are entitled.

Now it is because the Workers attach such importance to the rights to which I have referred that we pressed the proposal on article 19 to the vote. We are not pessimistic about the result. The reason why we pressed it to a vote was to demonstrate the degree of importance that we gave to these particular provisions. I am convinced that the Ministers will not leave out these fundamentals when coming to the final draft. To permit member countries to choose any ten articles creates, in my view, a danger that what could be a great social document would become merely a farce. Compulsion is not for the more enlightened countries but it is necessary for those which otherwise would evade their responsibilities. Many provisions about which we have argued in the last two weeks are accepted as normal practice in my country. Indeed, many Employers here recognise these fundamental rights and much of the opposition that we have heard could be ascribed to differences based on phrasing rather than on principle. Therefore, particularly, I would ask those Employers to make the right to work for a decent living a reality.

In these days we expect - indeed we are entitled to - more than a mere subsistence. As in the nineteenth century, again we are on the threshold of an industrial revolution, but the workers and the governments have great advantages over those who had to live through the first stages of the industrial revolution of the nineteenth century. As a result of the slow and painful development since that time we have entered into this new phase with advanced ideas, advanced labour relations, social developments which were undreamed of in those days. I feel that the Preamble in the Charter which calls for a common effort by the Council of Europe Members is not and must not be merely empty words. The Charter enshrines the needs of all men on agreed vital principles. Of itself it is an assertion of the human spirit in the provisions of this great social document. In that lies a challenge to the free world. We can and we must offer freedom and security, as against the alternatives that come from the East of security with slavery. Communists have their supporters in every country and the adoption of the provisions of the Charter in words and not in deeds would bring them a satisfaction which they must not have.

We Workers expect to see these principles become a living reality, an indication of the challenge of free men to tyranny and oppression. We look to the governments to take the lead in these things and not, because of timidity or of undue caution, to set their sights below the target at which we aim. This Charter is on a European basis; it is not drafted for any one country but for Europe as a whole and therein lies its value. We have completed our task here in Strasbourg. It is now for the Committee of Ministers to make this Charter a living fact and not just an idle dream.

Interpretation from French: Mr. WALINE (Employers' delegate, France) - Yesterday and today disappointment has been expressed several times at the results of this Conference. I leave it to those of my colleagues who have taken a more direct part in the work of this Committee to put matters right. For my part, I shall merely take up three points which have already been made. The first, which was made by the Reporter, is that after all there are many points of agreement. The second one (which was mentioned, I think, by Mr. Henkelmann) is that disagreements have often occurred not on the text proposed by the Committee of Ministers but on the amendments. The third observation is that we are here, after all, to give an opinion. This is the only opportunity that we have of giving our opinion; it is therefore quite normal that we should express our objections. When I mention these I am thinking of our varying objections because, although all our European countries may be said to be socially advanced countries, they have made social progress by different routes so that their reactions may be different in regard to this, that or the other proposal. Leaving this question, I should now, with your permission, like to come back to the very fine speech made by Mr. Ramadier yesterday. As a Frenchman, I should like to tell him how happy I was to listen to him here, with those qualities of his that we know so well from conferences in Geneva: great knowledge, breadth and loftiness of vision, and also that gift of expression which you have all appreciated.

If I take the liberty of returning to what he said, it is not so much to contradict him - because I agree with him in the main - but rather to distinguish certain shades of meaning; in so doing I do not think that I am going outside the scope of this discussion. In essence, Mr. Ramadier drew our attention to three main points which sum up European social practice. The first one is the development of legislation for the protection of workers, which first occurred in Europe and which has now proved its worth. I should like to say, as Employers' delegate and as representative of the French employers, and remembering that I am in Alsace, that the beginnings of this legislation, in a period of triumphant liberalism, were due not only to certain thinkers - economists, philanthropists, politicians of various parties (such as Jaurès and Albert de Mun, to mention only those from my country) - but also, side by side with the efforts of representatives of the working class (I cannot say trade unionists because it was before 1884), there was here in Alsace the example of a man commemorated at the entrance to the International Labour Office, Daniel Le Grand, who, under Louis Philippe, was a textile manufacturer in the Vosges and who demanded national legislation, and even international legislation, for the protection of the workers. So, although the labour legislation to which Mr. Ramadier referred yesterday was, as he said, intended in some degree to limit the authority of the employer it was often promoted by the best employers of the time.

But I wonder if this progress has not in certain countries already reached the limit? Of course, I recognise that nothing is perfect and there may be gaps to be filled in the legislation of particular countries as well as in the network of I.L.O. Conventions. I also accept the possibility that in certain fields the State would do well to make compulsory certain advanced practices. But caution is needed, as we have learnt in my country. Abuse of legislation may have dangerous consequences. If we have not been able in France to make collective agreements as solid an institution as they are in so many other countries, this may perhaps be partly due to the misuse of legislation. The blame is shared. I am not accusing parliamentarians only - far from that - because there is also our Latin temperament, our centralising tradition. There is also the powerlessness or temporary weakness of our professional associations - both of employers and of workers - which for many years have been unable themselves to take up the task of drafting legislation, thus leaving the responsibility to the State. In concluding on this point, I would say that, while it is right to praise what has been done in the field of legislation, it is now desirable that the legislators consider before taking new initiatives and wait until industry has set an example.

The second point made by Mr. Ramadier was the role of trade unions and collective agreements. Here, too, I agree with him entirely that it is one of the proudest achievements of our continent, all the more so as our trade unions, despite their small resources as compared with unions in other countries, have shown their will to remain independent of governments (and that is not the case everywhere) and to be prudent and to resist the temptation of trade union monopoly. This being so, we employers - I am speaking for my own country, but I think I am not the only one to think like this - must hope for the best possible relations with a strong and stable trade union movement which understands its obligations as well as its rights. It is the penalty of power to have responsibilities. Nobody will be surprised if I say that in my country, as in other countries, we favour collective agreements because this presupposes the respect of commitments entered into.

Nevertheless, today the unions say that they must not only deal with determining conditions of work but must go further and take part, in some way, in the running of undertakings under various systems of consultation. What is sometimes called supervision at any rate shows that the workers are no longer mere cogs but take part more directly in the life of the undertaking. This is extremely important and something achieved, in differing forms.

But this presupposes that the trade unions (and I am sure that they understand this very well without lessons from me) will take account of the operating conditions of undertakings, whatever their legal status, and will educate the workers who, in one way or another, have to play a part on the lines I have just mentioned. This is, of course, being done in many cases.

I have seen with much interest what has been achieved in the Scandinavian countries, in the Netherlands, in Belgium, Switzerland or elsewhere, and in my own country, and have the impression - and I am sure Mr. Ventejol and Mr. Braun will not contradict me - that we are making good progress, not only in any particular industry but generally in the way I have just mentioned.

Once more, I fully agree with Mr. Ramadier on the importance of that fact, but would draw attention to the consequences which I feel this accession of power to trade unionism represents.

I come then to the last point concerning the concept of social insurance and social security. Here too, there is an established fact, from which I am sure that in my own country no employer would seriously wish to go back, that is, the principle of social security or rather social insurance. I should just like to recall that, as in my first point, the employers had a share in its beginnings. I think of all that was done in France (and more particularly in engineering industry to which I belong) not only in the field of workmen's compensation but also for sickness and retirement before legislation was enacted. You know of French family allowances. Between 1919 and 1932 these developed on a voluntary basis and it was only then that the State intervened to make them universal.

You can see that the employers in my country realise the necessity for social security. But here too, with your permission, I should like to be a little more precise. I do not think that social security should kill the natural instinct of individual thrift, if only from the moral point of view. One must not give people the feeling that the State is there to protect them from all risks. That is Utopian and we must not have such dangerous illusions.

I should like to add that what has been done in this or that country is not necessarily perfect. Nobody would be so bold as to assert that. Certain revisions may therefore be necessary, if only to improve the effectiveness of social security. Where something has to be added, I think the State must be careful and that it should, as far as possible, leave it to industry to do what has to be done. We have been doing this during the last ten years by establishing, mainly through collective agreements, supplementary pension systems for different staff groups, thus adding to the

social security system. You no doubt know that at present the central organisation of French employers is negotiating with the free trade unions an agreement on supplementary unemployment benefits.

Here too I can agree with Mr. Ramadier. In my view the picture he has given us shows what has been achieved in the past, and I must say that what has been done is not the privilege or the monopoly of western Europe. Mr. Ramadier said that Europe was the teacher of the world in this field as in other fields, but Europe has some pupils which can give her lessons. When we speak of western Europe we often mean the western world. At any rate, Mr. Ramadier regretted that we had not better defined, for the future, our European social order. I somewhat share his regret, but how can we define this European social order? Is it, as our Worker colleagues at this Conference sometimes seem to think, a matter of faster progress, more universally distributed? I entirely agree that we must push forward by all means (and heaven knows how competition makes increased productivity a vital question) to improve the products of industry so that all consumers, and not only a given category of employees, may enjoy a higher standard of living. I think that we can hope to be always able to answer critics from eastern Europe by showing that, without going across the seas, our old Europe has a much higher standard of living than in their countries.

Nevertheless, I do not think that that is the feature by which our social European order can be essentially defined in relation to the other, because after all material progress can also be achieved in those countries. In the twentieth century, as at the time of the Pharaohs and in the age of slavery, with direction of labour and disregard of human rights much can be done in the material field. It is a stimulus for us to see that we can do the same without direction of labour and enslavement.

I do not think that that is where the main difference lies. The best way of defining our social system is by contrast. That is the classical method: to note what exists here, what is essential here, what we do not wish to abandon, and what does not exist elsewhere. The answer you know: recognition of the personality of the individual, with opportunity of developing this in the social, private and political fields.

In this building we have studied and defended the human rights. Among these there are the rights of man over the work-place, i.e. the right of the individual not only to progress - that can exist elsewhere - but to choose his work, not to have to accept a way of life contrary to his will, his tastes and his capacities.

There is also recognition of the right of those free and independent associations, to which I referred earlier, to negotiate agreements amongst themselves. Mr. Ramadier, who presided over the I.L.O. Committee on Freedom of Association, knows better than I do that in Europe as elsewhere there are infringements of freedom of association; but amongst all the cases that we examined in that Committee, you will agree that we found that it was mostly outside western Europe that violations occur or freedom of association as we conceive it does not exist.

That is something to which we are attached and which we do not wish to abandon because it is a condition for what we call, rightly or wrongly, our civilisation; whether we call this civilisation European, Western or Christian, that is all the same to me.

It resolves itself into the question of how we can reconcile what I consider to be the essential characteristics of our social order (basically, our liberties) with the discipline which is indispensable in our old countries to enable them to keep their position in a changing world.

Each country seeks its own solution in terms of its possibilities, its most pressing requirements, its temperament. This variety is the very expression of freedom. I, for one, do not think that we can embody these forms into a single, rigid text. I do not think they can become the object of law. I think we must leave things to work out and that our most useful work might be to compare experience in this field with a view to seeing how the other countries have reconciled the freedoms of individuals and associations with the requirements of discipline, both industrial and national. Here as elsewhere (for discussion is not limited to Strasbourg, Geneva, Brussels or Luxembourg) we can, wherever we are, take all opportunities to know each other better, to understand our varied systems, our varied experience. And that is, I must say, the wish which I would express at the end of this Conference, which has at least given us an opportunity to meet and to know each other better.

Allow me to add two more things. If there is a place particularly suitable for exchange of national experience, it is this town of Strasbourg, which is a crossroads in all respects. If there is any population desirous of reconciling the freedom to which it is attached and the discipline to which it is also attached, that is the population of Alsace.

Mr. BURTON (Employers' delegate, United Kingdom) - In this report we have produced our Christmas present for the Council of Europe. At one time I feared that on Christmas Day I should be having my dinner in the Hotel Maison Rouge and that the Council of Europe would get our report as a New Year gift. In part this was

due to the fact that we sometimes spent a long time talking about forms of words when we were already substantially in agreement as to the ideas we wished to express. This difficulty is inevitable in any attempt to summarise briefly the complexities inherent in many of the subjects we have discussed. However, due to general good sense, we have been able to carry through our discussions, for a lot of the time in a calm and balanced way, without rancour and even with few polemics.

It would be idle to pretend that we have solved for the Committee of Ministers all their problems. We have even created a few new ones for them and have pointed out some of whose existence they were not previously fully aware. I suspect that some even of our own positive suggestions may need further consideration and revision. I am sure, however, that the Committee of Ministers, having sought the advice of this Conference, will do their utmost to give as much satisfaction as possible to the views which we have expressed.

This document is called a Charter. Instruments such as charters and declarations of rights are of most value to those who are not already enfranchised. For organisations such as the United Nations such documents are useful as a means of trying to bring some light into the dark places of the world. In Western Europe perhaps a Convention is more useful; in fact, this is what, in general form if not in name, Part II of this Charter really is.

Future objectives can rarely be declared by governments with great precision or for a long time ahead because governments in free countries change and they cannot formally bind their successors. It is much easier for employers' organisations and for workers' organisations to state their long-term aims in many of the fields we have here discussed than it is for governments to do so.

International attempts, however, to set long-term objectives and ideals, whether by governments or by employers' organisations or workers' organisations, or by combinations of two of them, or by all three, are apt to take on the appearance of castles in the air unless they are based on solid foundations laid at national level. In the last resort, it is in the workplace that many of the provisions of this or any other Charter will have to be effectively implemented.

In my own country, through the British Productivity Council, the central employers' organisations, including my own Confederation, and the Trades Union Congress some years ago jointly subscribed to a statement of continuing aims and objectives in increasing industrial efficiency. They have since sought by steady effort throughout the country to implement that statement.

More recently, my Confederation and the Trades Union Congress have jointly set up, independently of the Government but with Government representatives participating by invitation in its work, an industrial training council which is seeking to increase and improve the facilities for industrial training throughout British industry.

In many other European countries similar steps have been taken and it seems to me that it is on such foundations as these that we can build our joint international efforts.

Yesterday, Mr. Ramadier spoke of Europe as the schoolmaster (or rather, I think, as schoolmistress) of the world in matters of social policy. Personally, I think it is better if we regard ourselves as being members of a school in which we are all, at different times, teachers and students. Membership of this school is not confined, however, to Europeans. While, as Europeans, we may have taught much in the field with which we are here concerned to the rest of the world, we have also a lot to learn from our friends overseas; in particular, I think of our friends in the great republic of the United States of America and in the Commonwealth, particularly Canada, and those countries of the southern hemisphere whose people came originally from European shores.

In this school there are, however, two systems of thought. There are the Cartesians, erecting principles from which they seek to derive rules of conduct governing situations which may arise, and there are the empiricists content to deal with emerging problems on the basis of what they believe to be common sense. Although you will have already guessed to which of these systems I, as an Englishman, adhere, in my own country we have our Cartesians. The difficulty which Cartesians often find themselves in is that in order to meet the changing conditions in the world and at the same time to preserve inviolate their principles, they frequently have to adjust the nuances of the words in which those principles are expressed. But, at any time, the Cartesians and the empiricists are generally in practice and in substance not so very far apart.

Thus, at this Conference, as I have said, much of our discussion was about the use of words and much of the misunderstanding that has existed arose from this cause. This discussion has not, however, generally, in my view, been a waste of time. As the report before you shows, we have discussed many questions of prime importance and reached substantial agreement on many of them. Particularly I would mention employment policy, equal pay and the freedom to strike; I would also refer to our unanimous agreement that arbitration machinery should be voluntary.

On employment policy we have all recognised that the aim of governments should be to maintain as high and stable a level of employment as possible. On this I would only say again what I said in the Committee, that in my view the greatest threat of unemployment in such countries as my own would arise if there were to be a recrudescence of inflation and all the consequent difficulties which an exporting and mercantile country experiences in world markets if the level of its costs is constantly rising and the value of its currency in real terms is falling.

On equal pay, I think we have shown that the differences between the Cartesians and the empiricists are not as great as on the face of things they might appear and that the actual situation in our different countries is not so very far apart.

On the freedom to strike, we had a very fair and frank exchange of views which is well summarised in the report.

What to me is so significant about this Conference, however, because it reflects one of the distinctive features of the Western world, is that we can come together and freely exchange our ideas and experience. We do not have to conform in what we say to the fixed canons of a body of dogma imposed on us from above or from outside. There has been much said about eyes being turned on us from the East. Our eyes are turned on the East and I would like to say just a few words as a citizen of my country which I think represent the views of most of my compatriots. Yesterday Mr. Ramadier spoke of what was translated as "fear and trembling" - I think the word he used was "effroi". This does not reflect the mood of my own countrymen nor, I hope, that of most of us here. I will content myself with recalling the great words of Abraham Lincoln, for I believe it is only by firmness in the right that we shall achieve a just and lasting peace. A just and lasting peace is essential if the advances in standards of living which we all wish to see are in fact to be achieved. As I have said before, Western Europe is not all of the Western world, and we can be thankful for our friends from beyond the seas.

Mr. HONOHAN (Government delegate, Ireland) - Perhaps a few words from the Government delegate of a country whose prospects of ratifying this Charter, even as it stands at present, are very much in the balance, might be of interest.

I think the Conference has been helpful to those who have been involved in the preparation of the text because they have heard the views of Employers and Workers and have seen the strength of the arguments. We may hope also perhaps that the Employers and Workers have seen that there are well-founded reasons for having the text in the form in which this Conference found it. Inevitably, having regard to the constitution of a Conference such as this, there have been pressures - demands for improved standards, suggestions that

the Charter was unsatisfactory as it stood, that it should be framed on such a basis as would force governments to do better, that as an instrument of social progress it should be a charter for the future, and so on.

I would suggest a few reflections on such representations. If our task was to write a Utopian Charter, the sky is the limit, and it is easy to write "pie in the sky". But if the present text is of no avail to the workers, of what avail is a Charter for the future? What if it should always remain a Charter of the future? I think that would be a catastrophe. Moreover, such a Charter would not represent - to use the words of some delegates - a social defence of the Western democracies. We in the West have no obvious advantages in a competition of words and if a Charter contains only our notions, our ideas, of what we would like to have, then it might well become a boomerang. If only a few countries were in a position to ratify it, it would be considered a matter of ridicule outside Europe. Within Europe itself it would become a disillusion and perhaps do psychological harm to the European community. Moreover, such a Charter would not be a demonstration of our existing solidarity, a point which I think in this constant pressure for higher standards and further social progress has tended to become overlooked. It is a matter, however, which the organs of the Council of Europe should not overlook, that is to say, the need for more co-operation between the countries of the Council of Europe, and I would suggest that the aim of mutual co-operation and mutual help may not always be entirely compatible with feverish pressure and competition for advancing material standards. At an epoch in our civilisation when we are living in the sinister shadow of a future era in which "big brother" may be watching us, I think it is up to us in the Council of Europe to show in what sense we think "big brother" should watch "little brother".

My own country is pleased to be associated with this venture to create a European Social Charter. We hope that we will be in a position to ratify it, but if certain suggestions which have been made eventually find their way into the Charter it will, I regret to say, put us entirely out of court. In particular, may I mention the suggestion of making compulsory a number of specified articles. It is obvious to us at this Conference that it would be very difficult to obtain agreement as to what articles should be chosen and that different groups and countries have different ideas of what these articles might be. Such a proposition, moreover, might well lead to the absurd situation that a country which is in a position to ratify in respect of every paragraph of the Charter except one - perhaps for some technical reason - would be unable to ratify the Charter at all. Moreover, in a country such as mine, which is dependent upon agriculture rather than industry for its main economic strength, a particular provision could conceivably, by requiring the establishment of some perhaps quite unnecessary

(in our circumstances) institutional organism, have the effect of enticing workers and others from the land to the detriment of our economy. In my opinion, such a proposition is wholly misconceived. If my country finds itself in the position of not being able to ratify, we will equally be unable to sign because we take our international obligations seriously, and the signature of my Government to a document implies a valid intention forthwith to proceed to whatever legislation is necessary to change the order of things to carry out that intention. It is not acceptable to us to hear that implementation by stages might meet this objection. There are some articles in the Charter - not many perhaps, but there are some - in which the question of our not being able to ratify is not due to any backwardness or underdevelopment but to a matter of principle, and in these cases, the passage of time is no solution.

In conclusion, I would like to emphasise the point that, from the aspect of the Council of Europe, it would be a great pity if the consideration of the necessity for co-operating became submerged. We should try to pull together with sincerity in striving to promote - and may I quote the words of the Irish Constitution - "the welfare of the whole people by securing and protecting as effectively as may be a social order in which justice and charity shall inform all the institutions of national life". Always remembering in applying this principle the paramount need of which we are well aware - again, to use the words of our Constitution - "to safeguard with especial care the interests of the weaker sections of the community".

Interpretation from French: Mr. BRAUN (Workers' adviser, France) - I should like at the outset of my speech to associate myself with all those who have thanked the Council of Europe and the International Labour Organisation for having taken the initiative to prepare a Social Charter and for having organised this Conference.

I should like to say first of all, and I say it with force, that the workers think that international collaboration is needed more and more. We live in a world in movement which promises ever-increasing material wealth, but a world which at the same time trembles on its base, an ever-changing world which is desperately searching for a system of thought to grasp on. In our present epoch the nations cannot solve their problems by isolating themselves from the world. There are hardly any national problems of a social or economic kind which are not partly, at any rate, dependent on international affairs. Frontiers are too narrow and rigid today for the modern economy and the workers are conscious of this situation. They know very well in respect of each of their countries that improvements in their conditions of

existence depend on the efforts undertaken at the same time by the other countries. They are therefore strong supporters of the principle of a European Social Charter, the more so as they are convinced that the progress they may obtain in their own countries will only be lasting if there is a harmonisation of social legislation and practice in Europe.

Difficulties arising from differences of all kinds among nations are weakening the hope of achieving general results in the economic and social field. The initiative of the Council of Europe is therefore particularly significant and the Social Charter therefore corresponds to a hope of the workers of the world. But there is a prerequisite, and that is that the Social Charter must correspond to the deep aspirations of the workers throughout the world and that it should not only be a catalogue of pious hopes, or, in other words, a declaration of intentions. Peace, economic expansion, respect for the dignity of man, the essential freedoms which are the glory of our age will be safeguarded if our Conference has followed the aim of clearly informing the Committee of Ministers that if a Social Charter is to be adopted it will have value only if it obtains the support of the workers.

Europe will be what we make it. We do not want a Europe organised only on a military or economic basis, or a Europe which is only organised through the participation of technicians or civil servants, however qualified they be. Europe will live if it receives the full and entire support of the people, of the mass of workers of our countries. Consequently, I give solemn warning, with some feeling as I think is necessary at historical moments such as those in which we live, to the Committee of Ministers that, for us, the Social Charter must be one containing a number of rights which we consider essential and fundamental, and even compulsory.

First of all, the concept of the right to work. I shall not try to say whether this is a fundamental right, whether it is possible or impossible, but I shall translate it in the following way. What is essential to us is that our various countries, through their economic systems, shall guarantee a policy of full employment, that is, in the last resort that they shall not accept unemployment. History has shown that unemployment is a social evil, that it is inhuman and that it always carries with it misery which is not compatible with the fine declarations of principle always set forth. I shall go even further and say that no democratic political system can survive with a mass of unemployed. History has shown this sufficiently for it not to be necessary to insist on it. For us, then, the Social Charter must firmly indicate that it will seek a policy of full employment but that this implies a European economy designed for that purpose. I shall not try to engage in complex analysis on this subject but shall indicate simple and generally agreed conclusions as a basis for action.

For us the problem is to ensure full outlets for production; in other words, that supply meets a sufficient demand on the market and therefore a balancing purchasing power. The problem of the wages, therefore, to us is an essential point and no Social Charter could fail to include the right to fair remuneration. In our view fair remuneration must be based on very precise criteria and more particularly on professional ability and the nature of the work. We include in it the concept of the minimum living wage but we go further and think that it is essential to set up a European agency for standards of living, a body which will guarantee the essential rights of the workers of the various European countries against the dangers to them from economic competition, reconversion, industrial concentration and changes of techniques. This body must harmonise social conditions, and we feel that the Charter can be a means to this, but the will to do so is necessary.

To sum up my first part I would say that to us the Social Charter is a means towards a policy of full employment, of high wages, adequate purchasing power, and consequently the Charter must tomorrow become what I call the European agency of standards of living.

If up to now I have spoken about two problems which appear fundamental to me, it is nevertheless true that our requirements are not limited to these. Social security is necessary and indispensable. We are too familiar in our countries with an economic system which did not permit workers to make sufficient savings. We all know the threats to savings. What country is there today which has not known devaluation?

Modern technique and science have considerably advanced, particularly in medicine and surgery. Today a bed in hospital costs a lot of money and a surgical operation is not possible without social security. Consequently, the Social Charter must guarantee full social security, that is a system of social insurance, the machinery of which I shall not try to explain, but a system which will guarantee everyone against reduction or loss of livelihood as a result of sickness, disablement, unemployment, widowhood, old age, or other causes outside his control. There is a necessity here for a harmonisation so that direct and indirect wages are not involved in economic competition.

I shall not speak now of vocational training, apprenticeship, or the protection of mothers and children. These rights and this protection are necessary.

To us therefore, the Social Charter is a necessity; it is a need but not at any cost. The Charter must give effect to this will of progress and of social harmonisation in an economy in which people may develop in respect for the human dignity and under the guarantee of the essential freedoms.

Our Conference must realise the context in which it is held. The workers consider that the time for out-and-out liberalism has passed. Next to their social requirements they cannot forget their wish to participate fully in economic organisation and in the economic life. These requirements imply recognition of trade union rights and the right to strike. It is not merely a question of conferring the right to organise but of giving unions the means to exercise it fully. This means that the union delegate must be recognised in the undertaking, that the union is allowed to take part in the organisation of industry and of the economy. The shop steward should also have protection in the factory so that he can fully carry out his task. I shall voice the hope that the Social Charter will not tomorrow be exclusively a charter of social rights but that very soon we shall meet again to include economic rights in it.

Our Social Charter must be our best reply to the Eastern countries and must declare that it is possible, through economic organisation which respects freedom and man, to guarantee a high standard of living and full employment. The Charter must also be for the developing nations a hope in the face of the grave difficulties which they have to solve and which they are at present discussing.

In conclusion, I should like to say that I feel at the end of this Conference some disappointment, some satisfaction, some regret, but some hope also - and I should like to explain what I mean. I feel a disappointment, but do not wish to dramatise it. There comes a moment when one ceases to be able to understand. I often have discussions with the employers. I am Vice-Chairman of an organisation which deals with international matters and I have often heard employers say to me: "in the I.L.O. it is difficult to have discussions; there are the Eastern countries which upset things. If only we were among free organisations, free countries, what could we not achieve?" Yes, that is my first disappointment. We are gathered here at the initiative of the Council of Europe and of the I.L.O. among free nations. I was glad to listen to Mr. Waline a short while ago. It is not my intention to oppose him to his colleagues, but I do regret that in the spirit of the Conference the Employers' group has not interpreted in the same way what he said.

What I also regret is this: it has been stated - and not only by Mr. Waline but even by the representative of the British Employers - that this Conference has been useful. We have learned to know each other and to appreciate each other. Why then, gentlemen, did you this morning so energetically oppose a tripartite committee? Why do you refuse such discussion? Is it necessary or not? If it is necessary, then I think that the Committee of Ministers will give satisfaction to the workers and that very soon we shall meet again at another conference, for discussions are necessary today and while they exist there is a possibility of agreement.

We have asked for a certain number of articles to be made compulsory in this Charter. What I do not understand is this. If a united Europe is genuinely to be built up, how can civil servants representing their countries be unable to voice at least an opinion, advising their Ministers to retain a certain number of compulsory articles? All this shows clearly that the Workers were right. If the Charter is not to be a mere declaration of intentions it is necessary for it to include a certain number of compulsory articles. I will say more. I hope you will excuse my feeling but I must strongly state for the Committee of Ministers that the hopes of the workers are that, if the Social Charter is to be adopted, it can only be so if it wins the support of all European peoples and of the workers in particular.

In conclusion, I have the deep conviction that a united Europe will be built up if it gets such support; this support must take the form of full participation in this policy and in the implementation of this Social Charter.

Interpretation from French: The PRESIDENT - The general discussion is closed. The sitting will be suspended for a few minutes.

(The sitting is suspended at 5.15 p.m. and resumed at 5.30 p.m.)

Interpretation from French: The PRESIDENT - We shall now adopt, part by part, the report of the Committee on Substantive Clauses. I draw attention to the fact that I have been notified of no amendment to any of the provisions of this report. I conclude that it can rapidly be adopted.

I will put to the vote the introductory paragraphs, and the paragraphs relating to the preamble and to the various articles of the draft Social Charter.

(Paragraphs 1 to 7 (Introduction) are adopted seriatim.)

(Paragraph 8 (Preamble and Part I of the Charter) is adopted.)

(Paragraphs 9 to 27 (Part II, article 1) are adopted seriatim.)

(Paragraphs 28 to 44 (article 2) are adopted seriatim.)

(Paragraphs 45 to 47 (article 3) are adopted seriatim.)

Interpretation from French: The PRESIDENT - We now pass to paragraphs 48 to 70 relating to article 4. Mr. Leblanc wishes to speak on paragraph 58.

Interpretation from French: Mr. LEBLANC (Employers' adviser, France) - Paragraph 58 states: "Another Employers' member (Austria) suggested that a solution might be found in providing that those countries in which the application of the equal remuneration principle was not at present possible should accept this principle as an aim of social policy". The French Employers' member was not present when the discussion took place. Had he been there he would have associated himself with his Austrian colleague.

Interpretation from French: The PRESIDENT - Note will be taken of Mr. Leblanc's statement in the record of our Conference.

(Paragraphs 48 to 70 (article 4) are adopted seriatim.)

(Paragraphs 71 to 78 (article 5) are adopted seriatim.)

(Paragraphs 79 to 99 (article 6) are adopted seriatim.)

(Paragraphs 100 to 136 (article 7) are adopted seriatim.)

(Paragraphs 137 to 150 (article 8) are adopted seriatim.)

(Paragraphs 151 to 152 (article 9) are adopted seriatim.)

(Paragraphs 153 to 175 (article 10) are adopted seriatim.)

(Paragraphs 176 to 178 (article 11) are adopted seriatim.)

(Paragraphs 179 to 197 (article 12) are adopted seriatim.)

(Paragraphs 198 to 201 (article 13) are adopted seriatim.)

(Paragraphs 202 to 206 (article 14) are adopted seriatim.)

(Paragraph 207 (article 15) is adopted.)

(Paragraph 208 (article 16) is adopted.)

(Paragraphs 209 to 214 (article 17) are adopted seriatim.)

(Paragraphs 215 to 228 (article 18) are adopted seriatim.)

(Paragraphs 229 to 235 (article 18bis) are adopted seriatim.)

Interpretation from French: The PRESIDENT - Paragraph 236 is a purely formal one which notes that the Committee adopted its report unanimously.

I am now going to ask the Conference to be kind enough to vote on the whole of the report of the Committee on Substantive Clauses.

(A vote is taken by show of hands. The report of the Committee on Substantive Clauses is adopted by 40 votes to 0, with no abstentions.)

Interpretation from French: The PRESIDENT - As I did a while ago I must thank on behalf of the Conference the members of the Committee on Substantive Clauses. Its energetic Chairman, Mr. Hauck, certainly deserves special mention and a special tribute in these congratulations, as also does the Reporter of the Committee, Mr. Ulsaker.

CLOSING SPEECHES

Interpretation from French: The PRESIDENT - We have come now to the last item on our agenda this afternoon and, consequently, to the last item of our work, that is the closing speeches. I call on Mr. Veysey, Government Vice-President of the Conference.

Mr. VEYSEY (Government delegate, United Kingdom; Vice-President of the Conference) - This time I am speaking to the Conference in a third capacity, that of Vice-President, which was conferred on me at the beginning but which has not involved a good deal of responsibilities so far. Previously I appeared as representative of the United Kingdom Government and also as a representative of the Committee of Ministers. This time I attempt to combine three speeches into one and speak in all three capacities with one voice.

As the United Kingdom delegate I might say simply that my delegation has participated in the work of the Governmental Social Committee which drew up the draft of this Charter which has been before this Conference and has taken its part in the work of this Conference with the sole desire to help in producing a Charter the obligations of which the United Kingdom Government could accept, and therefore a Charter which they could sign.

They would regard it as highly regrettable if the Charter were so drafted or if the obligations it imposed on governments were so stated that they were unable to sign it. They would wish to see a truly European Charter, widely accepted, not only by them but also by the other Members of the Council of Europe.

This Conference has, I think, provided the Committee of Ministers with a wealth of advice on the contents of the Charter. The suggestions made all have their importance. Naturally some are better than others and we may all have our own views as to which are the better ones; but we need have no doubt about the object with which they were submitted, that of improving the Charter in the eyes of those who put forward the suggestions.

So far as my Government is concerned, we will take our proper part in the further drafting of the Charter by the Committee of Ministers, by giving the most careful consideration to all suggestions made by the Conference, with the object of producing a final document of the most substantial content possible, which could be most widely ratified by Members of the Council of Europe.

I venture to suggest that the first part of this objective is on the way to being fulfilled, thanks to the contribution made by the Conference. Although it may not have satisfied all parties, the Charter does indeed contain many substantial obligations to be undertaken by governments. Moreover, in Part I of the Charter, let it not be forgotten there are obligations also to be undertaken. That represents a promise of further progress.

Whether the second part of the objective will be achieved, that is the widest possible ratification of the Charter, is a matter only for the future. I think that when we have gone home, when we who have spent these last two weeks at this Conference can really look back on our work, we shall then come to realise that we have built better than we may think now.

Our conclusions, I suggest, have been practical. We cannot continually walk on the summits of idealism. We must come down - from time to time at least - to the plains of realism, because what we have to deal with are practical things: the right to work in just conditions, the right to organise and bargain collectively, the right to social security, the protection of migrant workers. Thus, we need a practical Charter and we also need one which will be widely ratified. Otherwise, what good would it be? Nothing could be worse, as the Irish delegate said, than the adoption of a Charter which contained obligations which many member States of the Council of Europe were unable to fulfil and which could be brought into operation only as a partial agreement by a few Members. What a result that would be for all the years of work spent in drafting the Charter! How ineffective the Council would be made to appear in such a case!

From the standpoint of the Committee of Ministers, whom I have the honour to represent at this Conference, I would say that the same objectives must also be theirs - those objectives of drawing up finally a Charter of the most substantial content which can be most widely ratified.

The Committee of Ministers will, I think, judge the value of this Conference by the extent to which it has contributed to the attainment of those objectives.

It is a new departure for the Council of Europe to have such a Conference. It is the first time that it has asked the I.L.O. to call a tripartite Conference under the terms of the relationship agreement between the two organisations.

The I.L.O. has unrivalled experience in calling tripartite conferences and knows how to extract the greatest possible value from them. But this has been a rather different conference from those called annually by the I.L.O. to consider and adopt international labour Conventions and Recommendations. The present Conference was not called to draft and adopt the European Social Charter but to express its views individually, collectively, or by groups, on the draft prepared on behalf of the Committee of Ministers, in order that the latter might be able to draw upon the collective wisdom and to benefit from the combined advice of all three parties. I am sure that the Committee of Ministers will be grateful for all the trouble that has been taken and all the desire that has been evinced to assist them in their task of drafting the best possible Charter.

Looking back over the work of the Conference as a whole, one cannot help being struck by the way in which all sections of the Conference have collaborated in the common task of examining what is a pretty considerable document. It is no light achievement, I suggest, to have completed within the space of two weeks the careful and detailed study which is called for by a document of this importance, which represents a major international initiative on the part of the Council of Europe. It could not have been done in so short a time without that spirit of co-operation, that desire to work together for the common end of giving the best possible advice to those whose task it will be in the future to produce the final Charter.

All have contributed: the representatives of Governments, Employers and Workers who have participated in the debates, the observers, some of whom have played a remarkably prominent part in the Conference, and, of course, those whose job it has been to organise and service the Conference. The Secretary-General of the Conference, Mr. Rens, and others who have given their services both from the staff of the Council of Europe and that of the I.L.O., those seen in the Conference Hall and those unseen, those seen behind a glass darkly and heard on the microphone, or those unheard in rooms across the corridor - they all command our thanks.

Among the delegates, the Chairmen and Officers of the Committees fully deserve the congratulations which the Conference has already conferred on them and, for the members as a whole, all of us I think can felicitate ourselves on a good job well done.

Finally, and indeed most importantly, there is yourself, Mr. President, who has guided our debates in plenary sitting with so great competence and with so obviously practised a hand. We owe our thanks to you and the Consultative Assembly of the Council of Europe for letting us use this Chamber for our debates and particularly to you. Sir, for presiding over them.

And now our work is nearing conclusion and we shall be returning home, all having played whatever part we have played in our various ways in helping to realise the aim of the Council which is to achieve a "greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage". I read that quotation when I spoke some days ago and I make no apology for ending on the first article of the Statute of the Council of Europe.

If I might just end on a personal note, may I say that it has been a great pleasure to me to meet friends, old and new, to make new friendships and to renew old ones, and I would like to wish members here a pleasant return to their own countries and best wishes for Christmas.

Interpretation from German: Mr. FAUBEL (Employers' delegate, Federal Republic of Germany; Vice-President of the Conference) - I have an easier task than the previous speaker because I have not had to speak to you in three different capacities. At this Conference I have only had to play the part entrusted to me by the Employers' group and confirmed by the plenary sitting as Employers' Vice-President.

It is difficult to speak at the end of an international assembly where so many persons are fully at home. The position is rather difficult. What you have to say is good but not new, or perhaps new but not good. All this is not very pleasant for a speaker at the end of long discussions.

Before thanking everybody on behalf of the Employers, I should like to say a few words regarding the impression we have received from this whole session, which my friends and I have very much enjoyed. For most of us this is not the first international conference we have attended. I have met many friends and seen familiar faces. Most of us are experts in social meetings and yet I think I can say that we came to this Conference with particular expectations. This is due largely to the fact that this was the

first tripartite Conference of the free States of Europe. During the discussion in the two committees, and particularly in the plenary sitting, it turned out that our expectations were varied. However, we have agreed, and I should like to stress this particularly, on a whole series of points. Speakers of all three groups and of various nationalities have repeatedly stated that the work of this Conference proceeds from the determination to express the social order of the free European countries effectively in comparison with the situation in other countries. As regards how best to do this, we have heard various statements. Most of us have the feeling that the success of this Conference cannot be measured by the manner in which one or other question of detail has been dealt with in the substantive provisions. In our free Europe these matters must surely be primarily settled by the parties to collective agreements. An instrument which is to be described as a Charter must, in my opinion, above all state the general principles which bind us. Yesterday we heard a great specialist in social policy say that the debate had seemed rather petty to him at times. He missed the reference to great and high objectives. I wonder why that was. For over 40 years in industrial life I have been dealing particularly with social problems, but when I listened to Mr. Ramadier, his words impressed me. I looked back over those decades and I think I can now give you an answer to the question which I put to myself. I think the reason is that the great objectives of the end of the last century and the beginning of this have, at least in principle, been achieved in recent decades. The task of the present generation is quite a different one. It has to expand what has been achieved and also continually to adjust it to economic reality.

I should like to say something of economic realities. We all know that social benefits require funds - money which must be earned before it can be spent; one cannot spend more than one has saved. If you make too heavy a demand on an economy you soon have an inflation with all its destructive effects. Believe me, many of our objections have derived from considerations of that kind.

Personally, I think that the task of this generation is to adjust social status to economic possibilities and that this is just as meritorious as the tasks of the past generation who pointed to great objectives. Perhaps this is unrealised. It is natural for public enthusiasm to be more easily excited by great ideas than by the smaller work which is important at a Conference such as ours. We have indicated that in many cases the governments could not immediately take steps after ratification on matters on which, for reasons peculiar to each country, no action of a particular kind has yet been taken. The wishes of many delegates cannot be entirely fulfilled, but still the compromise we have reached has

been the result of free negotiation. I believe that the Social Charter represents and will bring social progress with it. Let us be glad that we have been able to discuss the questions in a country which 150 years ago gave the world the great concepts of liberty. That the discussion was so frank and so fair has pleased us all. The merit is due to the openness with which all have spoken and particularly to you, Mr. President, aided by a staff of experienced persons from the Council of Europe and the I.L.O.; you have guided our proceedings and brought us to a satisfactory conclusion. You have managed to hold us to a schedule and enabled us all to go home in good time in order to continue the work. For all this I have to thank you most sincerely.

Mr. NIELSEN (Workers' delegate, Denmark; Vice-President of the Conference) - As you know, I am a Scandinavian, and we Scandinavians attending international meetings have sometimes among ourselves discussed the possibility of requesting the international organisations to accept a Scandinavian language as a working language. But we have refrained from doing so because we have come to the conclusion that in any case that would make very little difference because the Scandinavian way of speaking is just to make short speeches. So I have some observations to make; they will be very brief and I will try to express myself very shortly.

I think this Conference must be considered as an historical event. To the best of my recollection it is the first time that a tripartite conference has been convened in order to examine an international charter to be adopted by a governmental organisation. The workers of the Member States, represented in the Council of Europe, are very grateful to the Council for the opportunity which has been offered them to collaborate in the drafting of this extremely important instrument, aimed to form the basis of a uniform social and labour policy in our countries.

It has not been the purpose of the Conference to take final decisions on the draft Charter, but merely to express the opinions of the three parties concerning the proposed regulations and the system for their implementation. The Conference has been able, in many essential respects, to reach unanimous conclusions. However, as could be clearly foreseen, we have also had to deal with a lot of controversial questions, on which it has been impossible to reconcile the different opinions.

As to the Workers, they are far from satisfied with the views expressed by the Government and Employers' representatives; this first and foremost applies to the fact that the Conference has proved unable to come to conclusions about the common compulsory minimum standards for ratification of the Charter. We, on our side, have consistently emphasised the need of such uniform minimum

regulations. Certainly, even the two other parties have in principle recognised this need, although they, for some reasons, have taken the standpoint that the selection of the compulsory provisions should be left to the Committee of Ministers of the Council. We sincerely hope that the Committee will succeed in that task. Moreover, I would like to draw your attention to the decision taken this morning by the Conference concerning the co-operation of Workers and Employers in the supervision of the implementation of the Charter. The Workers are unable to understand the position taken by some governments in this respect. The Workers have, so far as I know, no further possibility of exercising direct pressure on the solution of this question, but they are determined, in their respective countries, to do their utmost in order to make their governments understand the viewpoints expressed by the Workers' delegates at this Conference. Until the Committee of Ministers and the Council have taken a final decision, it is too early to make a judgment on the results of our work.

Finally, I have to express my hearty thanks to the President of the Conference for his able leadership and my personal thanks to him, as well as to my colleagues, the Vice-Presidents, for their good collaboration. I extend these thanks also to the staffs of the I.L.O. and of the Council, who have had to perform such heavy work during these two weeks. This applies not the least to our excellent interpreters.

Interpretation from French: The SECRETARY-GENERAL - At this time, when the Conference is about to come to a close, I may state without fear of contradiction that my task as its Secretary-General has been an extremely easy one. Above all I am indebted to you, Mr. President, and to the Chairmen and Reporters of the Committees, and I wish to express my heartfelt thanks.

However, having followed your work closely, I think that I might perhaps make a useful contribution to the Conference and do it a last service by trying, at this final meeting, to set forth very briefly the results which you have achieved. I shall do so as objectively as I can. I should like, therefore, to express a few of my own ideas concerning these results and concerning the co-operation between the International Labour Organisation and the Council of Europe in the social field.

The Chairman of our Governing Body, Mr. Barboza-Carneiro, has already expressed the satisfaction we all felt when the Council of Europe requested the International Labour Organisation to participate in this ambitious task, in which the States Members of the Council of Europe wished to define the common aims

of their social policy. Yes, we were particularly happy to lend our aid to such a task since the International Labour Organisation, which is today a universal organisation par excellence, is itself a creation of European thought. Our satisfaction in being able to render this service has been in no way impaired by the difficulties that we and you have encountered.

There have indeed been many obstacles in the field that we have been exploring during this Conference, and many had to be overcome in the course of your discussions. This in no way surprised us. The social policy of the European States is no new matter, as President Ramadier has already told us here. True, the standards adopted by the International Labour Conference have already done much to bring closer together the different social legislations in European countries; these, nevertheless, still have a wide variety of laws and regulations. This is because, each of them legislating in the social field, has naturally followed the line of its own history and has based itself on its own concepts - in short, it has persevered along the lines indicated by its own personality. Complex political problems, economic conditions, above all, vary greatly from one country to another and these variations are so many factors which, from the very start, made it extremely difficult to find a common denominator between the social policies of the States Members of the Council of Europe.

In the course of this progress, on the basis of their own inspiration, the States Members of the Council of Europe have already advanced a good deal along the road that leads to social justice. Let us look at the budgets of European States. We find that expenditure for social purposes, direct or indirect, represents a considerable proportion of the budget of each nation. Is it therefore surprising that each new stage should be embarked upon with some hesitation, sometimes with considerable reservation and only after lively discussion? Thus, the fact that the social policies of the States Members of the Council of Europe reach a high level served to render the task of the Conference even more complex.

Having been obliged to take account of the disparity between the economies of your countries, of the variety of social legislations and regulations, some of you have defended the point of view that the level of social legislation contained in the Charter should be at least equal to, and preferably higher than, the standards defined in the international instruments adopted by our International Labour Conference; others urged the necessity for establishing a level such as could be reached in the very near future by each of your countries.

In view of this, it is all the more meritorious that your Conference should, on a considerable number of points, have achieved definite results which, in my humble view, form a contribution of the highest importance to the final establishment of the text of the European Social Charter. These definite results, which were mostly adopted unanimously, were obtained by you in freedom and by negotiation, and each of you has throughout been prepared to make concessions to the others. This in itself is an important lesson to be drawn from the Conference, and I shall refer to it again presently.

With regard to the substance of the European Social Charter, the extraordinary complexity of the various factors that I have just referred to has rendered it impossible for the Conference to reach agreement on all points; the contrary would have been astonishing. I am thinking, for example, of the request of the Workers for three weeks' annual holiday with pay for all workers and four weeks' annual holiday with pay for young workers under 18 years of age. I am thinking above all of a most important question: that of the limitation of hours of work. Quite obviously, as certain delegates repeatedly have pointed out, a document of so general a character as the Social Charter does not lend itself readily to exact definition as regards the limitation of hours of work applicable to all industries. Is it possible to find a sufficiently flexible formula, which would take into account on the one hand all the technical requirements and all the characteristics of the various jobs and industries, and on the other would meet the Workers' demand that the States should gradually reduce hours of work until a normal working week of 40 hours is achieved? That remains an open question.

On other points, although it was not possible to reach unanimous conclusions, very interesting suggestions have often been put forward either by individual members or by groups. There is good reason to hope that the views so expressed will not be lost sight of when it comes to the final drafting of the draft Social Charter. I should like in this connection to draw attention to the recommendations put forward in favour of an efficient system of labour inspection.

In certain cases the Conference, even when it took the unanimous view that the draft Charter required to be amended or completed, confined itself to indicating the general trend which it would be desirable for the Committee of Ministers to give to such amendments.

However, despite the difficulty to which I have referred already, your wish to ensure that European social legislation should reach a high level has enabled you, on a number of very important points, to make unanimous recommendations to the Committee of Ministers for the introduction of new provisions into the draft Charter.

In this connection I would mention first of all the recommendation that the benefits of freedom of association should be extended to all public servants, as is already laid down in I.L.O. instruments. I need not tell you how important freedom of association is to the workers, for, as has often been stressed, this is one of the fundamental aspects of human rights.

The second question on which you have reached unanimous agreement, thanks to mutual concessions made by the various groups, is connected with the right to strike. If, as is to be hoped, this suggestion put forward by the Conference leads to the inclusion in the Charter of a provision dealing with the right to strike, it will be the first time that an international convention will have recognised that the workers and their organisations have this right for the defence of their economic and social interests.

There was unanimity also in favour of a provision stating that one of the main purposes and responsibilities of the State consists in the establishment and maintenance of as high and as stable a level of employment as can possibly be achieved, in order to secure full employment. With regard to remuneration, you have agreed to recognise the workers' right to adequate remuneration ensuring for them, as well as for their families, a reasonable standard of living, on the understanding that this result is to be achieved by the appropriate wage fixing machinery in each country. A provision recognising the workers' right to a reasonable period of notice before the cessation of employment, except in the case of a serious offence, was also unanimously adopted.

With regard to the different clauses concerning the ratification of the Charter, the supervision of its implementation and its coming into force, the Conference, in several cases, was able to make recommendations which seemed to me a considerable improvement on the draft text before it. Moreover, there has been much fruitful discussion, and indications have been given which will, I hope, guide the Council of Ministers in its task.

The most important amendment which you recommended deals with article 19, setting forth the commitments which the States undertake upon ratifying the Charter. Although you may not have been in a position to agree upon the content of a nucleus of provisions which would have been binding upon all the States ratifying the Charter - thus forming a common denominator of social policies - you nevertheless almost unanimously agreed that it would be desirable for such a nucleus to be established. You expressed the desire that the Committee of Ministers should accept this point of view and should itself establish this common denominator; in this connection, various articles and paragraphs of the Charter that are regarded as essential were mentioned during the debates and will be considered by the Committee of Ministers.

This is a very definite step forward.

You have made a further useful contribution: it was understood that an effort should be made to ensure that all the Members of the Council of Europe should be requested to place the Charter before their own national parliaments, within a given period of time, with a view to its ratification.

Progress was also made in another field: you suggested the deletion of a paragraph of article 35 whereby a State which ceased to be a Member of the Council of Europe also ceased to be a party to the Charter. You found, in fact, that these two matters are in no way connected and that the deletion of that paragraph would give the Charter additional weight.

After considering at length the question of the supervision of the implementation of the Charter, you finally decided not to include the provisions whereby - at any rate at one stage at least in the procedure - such supervision was to be organised on a tripartite basis. I should like, however, to express the hope that, in the system advocated by the authors of the draft Charter, the greatest attention will be paid to the views of the employers' and workers' organisations that will - in an advisory capacity only - attend the meetings of the Subcommittee provided for by the terms of article 26, and I am happy to note that that is the general trend.

With regard to the implementation of certain provisions of the Charter by collective agreements (article 31) the Conference was unable to evolve any hard-and-fast proposals for the definition of the scope of the Charter in statistical terms fixing the percentage of the working population to be covered by it; it was, however, considered that the idea of such a percentage ought to be carefully explored by the Committee of Ministers and also by the Committee of Experts to be set up for the supervision of the implementation of the Charter.

That, I think, constitutes a rough general outline of your work, following step by step your work in committee and in plenary sitting.

The Committee of Ministers, then, will have before it the results of your work and, after due study, will be able to adopt the definitive text of the European Social Charter. I am sure I speak on behalf of the entire Conference when I express the hope that the Committee of Ministers will not fail to take careful note of the opinions transmitted to it by yourselves, especially when they represent the general consensus of the Conference. I am convinced, for my part, that the Ministers will study exhaustively all the suggestions put forward in the course of this Conference, before adopting the final text of the Charter.

And here I should like to express an entirely personal view but one which reflects, I think, the aspirations of many of you. I wonder whether the Ministers, once they give the Charter its final form, could not lay particular stress on the essential principles of the Social Charter, and express them in words which, as in the Charters of other days, speak to the imagination of the men and women to whom it is addressed. I am convinced that a text which contains in forceful terms a statement of the fundamental principles that will in future inspire the entire social policy of your countries can have a considerable moral effect upon the working classes in Europe and throughout the world. This is just a personal view which I feel it my duty to submit, with all due caution, for the consideration of the Committee of Ministers.

I have endeavoured to draw up a brief list of the immediate results achieved by the Conference. I say "immediate" advisedly, for I am certain that it will only be possible to assess the full value of the work done here after a few months have passed.

There is one feature, however, the full importance of which is already clear and to which I am bound to draw attention today: the very fact that the Conference has met means that the Committee of Ministers will be informed of the views held by Employers and Workers alike on all essential social problems. It would have been almost inconceivable for a Social Covenant such as this to be drawn up without the aid of all the fundamental elements in the social life of our countries. The Committee of Ministers, thus fully informed of the technical views of Governments, Employers and Workers on each article of the Charter, will also have at its disposal a great deal of valuable information as to the level on which the Social Charter will have to be placed if

it is to secure ratification by the largest possible number of States in the shortest possible time. In addition, it must ensure the goodwill of public opinion, for otherwise this European social instrument could not take on the full political and moral bearing to which it is entitled.

It is clear that the adoption of conclusions obtained by negotiation and compromise cannot be entirely satisfactory to all parties. That is the rule of the game. May I say, however, that this rule of the game and the manner in which you have applied it are in themselves - quite apart from the tangible conclusions that they have enabled you to reach and to which I have referred earlier - of such importance that no one can fail to appreciate it. You have shown that it is possible today, despite considerable divergencies of opinion, freely to reach agreements which represent a step forward for the workers of each of your countries. That, I know, is the lesson that was expected of you and it would have been a pity had it not been forthcoming.

Thus, a European Social Charter will soon come into being. This instrument, carefully prepared after exhaustive deliberations in the different bodies of the Council of Europe, discussed by representatives of Governments, Employers and Workers of the States Members of the Council of Europe and of the International Labour Organisation, cast into its final form by the Committee of Ministers, will take its place among the texts that express European thought. Drawn up for the workers of your countries, it will be of importance to the rest of the world, for nowadays everything that furthers progress and social justice has immediate repercussions all over the world. Social progress has become irresistible. All men are eager for better conditions; they desire their dignity to be recognised; they thirst after justice. These values to which they aspire they may conquer in all freedom and it seems to me that that is the true vocation of Europe.

Perhaps I might express the hope that this close and direct co-operation in regard to social progress which, thanks to this Conference, has now been established between the Council of Europe and the International Labour Organisation, will continue. I hope that our two organisations will be able on many other occasions to pool their efforts in the furtherance of the cause of social justice in Europe. If I may, however, express yet another personal view, I wonder whether this association could not have more usefully taken place at an earlier stage of the work. The Committee of Ministers and its experts would thus have had at their disposal at an earlier date documents reflecting more directly the wishes of all the parties concerned and on which they could base themselves in order to fix their own policy.

In conclusion, I wish to congratulate you, Mr. President, and you, the Chairmen and Reporters of the Committees and the members of the delegations, on the work that you have done in the course of the past two weeks. I extend my congratulations to all those who, directly or indirectly, have helped the Conference to discharge its allotted task, and it is my very pleasant duty to extend my warmest thanks to the staff of the Council of Europe, headed by its Secretary-General. As we fully expected, your staff and ours at this Conference have formed at all levels a perfectly united and homogeneous team, thus providing a striking testimony to the spirit of co-operation that animates our two organisations.

Our thanks are also due to the Secretary-General of the Council of Europe in particular for the generous hospitality he has extended to us. I further wish to say how happy we were to meet here, in this city of Strasbourg, and how indebted we feel also to its local authorities for their kindly welcome.

Finally, I am sure I speak not only on behalf of the delegates to the Conference but also of all those who have participated in its work by telling you, Mr. President, how much we have been impressed by your authority, your courtesy and your impartiality. We owe it to you, and to your masterly conduct of our deliberations that the Conference has been able to overcome the many difficulties to which I have referred, and to conclude its work successfully in a few sittings of the highest standard.

Interpretation from French: The PRESIDENT - The time has now come for me to close the work of our tripartite Conference, which will certainly represent a milestone in the history of the Council of Europe and in that of its relations with the International Labour Organisation.

I shall resist the temptation to take stock; this has just been done in a most masterly manner by Mr. Rens, our Secretary-General.

Already, in opening our discussions on Monday 1 December, I told you my personal feelings on the draft Social Charter which has been submitted to us and on the problems raised by it. This evening I shall limit myself to stressing certain appreciable results of our work. You have decided to suggest to the Committee of Ministers the inclusion in the European Social Charter of the right to strike. If the Ministers take account of your suggestion, as I hope they will, we shall see this right mentioned for the first time in an international convention. This fact has in itself exemplary value. In itself, too, it would justify the importance which will no doubt be attached to our debates.

You have also improved the draft Charter on another important point, namely article 19 relating to the commitments to be subscribed to by Governments. It has been said you have suggested to the Committee of Ministers the creation of a nucleus, a common denominator of the social policies of the Member countries of the Council of Europe, by the obligation on the parties to select a minimum of common standards. This constitutes progress in relation to the system suggested by the Social Committee, a system which was only based on a coincidence of obligations which were voluntarily chosen. I am convinced that the Ministers will give particular attention to the problem of the tripartite supervision of the implementation of the Charter, the practical significance of which was so clearly brought out by your work. I for one think, and I said this right at the beginning of our discussions, that it is essential that the Ministers, having closely associated employers and workers in the drafting of the Charter, should as closely associate them in its implementation. This association would give stimulus to the Council of Europe.

In the last analysis, can we regard the results of our Conference as positive? As President Ramadier so brilliantly said yesterday, I am not sure that we always went to the limit of present possibilities. We have perhaps not sufficiently profited from the opportunity granted to us for showing the world that Europe is still the spearhead of social progress.

Let me now be the interpreter of the Council of Europe and, more particularly of its Consultative Assembly, in thanking the International Labour Office most heartily for its invaluable cooperation. We have been able to appreciate the technical help which its Secretariat has so generously given us. The I.L.O. is and remains the first of existing international administrations. I more particularly thank Mr. Rens, the Deputy Director-General of the I.L.O., and his staff, who have worked untiringly for our undertaking to become a success. We know that this success is due in a very large part to their experience in the social field, and it will be with a wish, the same as that of Mr. Rens, that I will close our meeting, namely to see our cooperation further intensified. The Conference which is finishing must not be a one-time experience. I hope that it will take place often in the future. May I also be permitted to add that in such cases it would be desirable for such consultation to take place at an earlier stage of our work.

Finally, I should like to say how much in the course of these two weeks I have appreciated and sincerely admired your debates. At a time when the clouds are showing again on the political horizon, when peace seems more precarious than ever, it is comforting to see that there are still men such as you who pursue, against all odds, a task which draws inspiration from the noblest human ideals. Thank you, my dear colleagues, for having shown us this and for having given us this feeling. You may be proud of what you are and of what you represent.

(The Conference was declared closed at 6.45 p.m.)

THIRD PART

APPENDICES

APPENDICES

APPENDIX I

REPORTS OF THE STEERING COMMITTEE

FIRST REPORT

The first report of the Steering Committee was submitted orally to the Conference (see Third Sitting, p. 60).

SECOND REPORT

The second report of the Steering Committee was submitted orally to the Conference (see Third Sitting, p. 62).

Annex to the Second Report: Composition of Committees

Committee on Substantive Clauses

Government members:

Austria.
Belgium.
Denmark.
France.
Federal Republic of Germany.
Greece.
Ireland.
Italy.
Luxembourg.
Netherlands.
Norway.
Sweden.
United Kingdom.

Observer:

Turkey.

Employers' members:

Mr. Boccardi; substitutes: Mr. Giove, Mr. Misserville (Italy).
Mr. Burton; substitute: Mr. Bellingham-Smith (United Kingdom).
Mr. Due (Denmark).
Mr. Faubel; substitute: Mr. Schöne (Federal Republic of Germany).
Mr. Fennema; substitutes: Mr. Kramer, Mr. Samson, Mr. van Gorkom (Netherlands).
Mr. Lindström; substitute: Mr. Hydén (Sweden).
Mr. O'Brien (Ireland).
Mr. Van Lint; substitute: Mr. Buchet (Belgium).
Mr. Mautner-Markhof; substitute: Mr. Tutschka (Austria)
Mr. Waline; substitutes: Mr. Saintigny, Mr. Leblanc (France).

Deputy members:

Mr. Hayot; substitute: Mr. Faber (Luxembourg).
Mr. Kleppe; substitute: Mr. Didriksen (Norway).

Workers' members:

Mr. De Bock (Belgium).
Mr. Gatti (Italy).
Mr. Hazenbosch (Netherlands).
Mr. Henkelmann (Federal Republic of Germany).
Mr. Hoffmann (Austria).
Mr. Nielsen (Denmark).
Mr. Nordenskiöld (Sweden).
Mr. Ventejol (France).
Mr. Weinand (Luxembourg).
Mr. Willis (United Kingdom).

Deputy members:

Mr. Bakels (Netherlands).
Mr. Beermann (Federal Republic of Germany).
Mr. Beirne (Ireland).
Mr. Braun (France).
Mr. van Hoorick (Belgium).
Mr. Savoini (Italy).

Committee on Implementation Clauses

Government members:

Austria.
Belgium.
Denmark.
France.
Federal Republic of Germany.
Greece.
Ireland.
Italy.
Luxembourg.
Netherlands.
Norway.
Sweden.
United Kingdom.

Observer:

Turkey.

Employers' members:

Mr. Bardas (Greece).
Mr. Boccardi; substitutes: Mr. Cicve, Mr. Mochi-Onori (Italy).
Mr. Hayot; substitute: Mr. Faber (Luxembourg)
Mr. Kleppe; substitute: Mr. Didriksen (Norway).
Mr. Van Lint; substitute: Mr. Buchet (Belgium).
Mr. Waline; substitutes: Mr. Leblanc, Mr. Saintigny (France).

Deputy members:

Mr. Burton; substitute: Mr. Bellingham-Smith (United Kingdom).
Mr. Faubel; substitute: Mr. Zigan (Federal Republic of Germany).
Mr. Fennema; substitute: Mr. van Gorkom (Netherlands).
Mr. Lindström; substitute: Mr. Hydén (Sweden).
Mr. O'Brien (Ireland).

Workers' members:

Mr. Alders (Netherlands).
Mr. Günther (Federal Republic of Germany).
Mr. Hall (United Kingdom).
Mr. Meedby (Norway).
Mr. Mouzin (France).
Mr. Sölvén (Sweden).

Deputy members:

Mr. Korte (Netherlands).
Mr. Kummer (Austria).
Mr. Macario (Italy).
Mr. Wagner (Luxembourg).

THIRD REPORT

Credentials of Delegates

1. Article 5 of the Standing Orders of the Conference provides that:

> "The credentials of delegates and their advisers shall be deposited with the Secretariat of the Conference and examined by the Steering Committee."

2. Credentials have been deposited with the Secretariat of the Conference for all the members of the following delegations:

Austria.
Belgium.
Denmark.
France.
Federal Republic of Germany.
Greece.
Ireland.
Italy.
Luxembourg.
Netherlands.
Norway.
Sweden.
United Kingdom.

The number of delegates is 52, of which 26 are Government delegates, 13 Employers' delegates and 13 Workers' delegates. The number of advisers is 57, of which 23 are Government advisers, 16 Employers' advisers and 18 Workers' advisers. The total number of delegates and advisers is thus 109.

3. The following are also participating in the work of the Conference without the right to vote:

(a) the members of the tripartite delegation of the Governing Body of the International Labour Office;

(b) the members of the delegation of the Council of Europe;

(c) the members of the delegation of the Organisation for European Economic Co-operation.

4. A representative of the United Nations is participating in the work of the Conference as an observer. Moreover, the following official international organisations have accepted the invitation to be represented at the Conference by observers in accordance with the arrangements which were agreed upon between the Committee of Ministers of the Council of Europe and the Governing Body of the I.L.O.:

High Authority of the European Coal and Steel Community.

European Parliamentary Assembly.

Commission of the European Economic Community (the delegation of this organisation represents also the Commission of the European Atomic Energy Community).

Intergovernmental Committee for European Migration.

Western European Union.

5. The following international non-governmental organisations have also accepted the invitation to appoint observers at the Conference which was addressed to them in accordance with the agreement between the International Labour Organisation and the Council of Europe:

European Confederation of Agriculture.

International Federation of Christian Trade Unions.

International Confederation of Free Trade Unions.

International Organisation of Employers.

Composition of Committees

The Steering Committee recommends that the following change be made in the composition of the committees:

Steering Committee. Workers' deputy members: Add Mr. Henkelmann (Federal Republic of Germany).

FOURTH REPORT

Objections against the Credentials of the Workers' Delegations of France and Italy

Objections coming respectively from the French General Confederation of Labour (C.G.T.) and from the Italian Confederation of National Trade Unions (C.I.S.N.A.L.) have been made against the nomination of the French and Italian Workers' delegations.

The French General Confederation of Labour considers that the French Government has not respected the arrangements agreed upon between the Committee of Ministers of the Council of Europe and the Governing Body of the International Labour Office, in that the Government did not comply with the request of the C.G.T. that the most representative trade union organisations should be consulted with a view to the appointment of the French Workers' delegation.

The Italian Confederation of National Trade Unions (C.I.S.N.A.L.) also complains that it was not consulted by the Italian Government with a view to including one of its representatives in the Workers' delegation to the Conference. The C.I.S.N.A.L. contests the validity of the Workers' representation in the Italian delegation to the Conference.

The first question which arises is whether the Conference is competent to examine a proposal to invalidate the credentials of a delegate.

The arrangements agreed upon between the Committee of Ministers of the Council of Europe and the Governing Body of the International Labour Office provide that "Employers' and Workers' delegates and their advisers shall be chosen in agreement with the industrial organisations which are most representative of employers or workpeople as the case may be in the State concerned".

However, these arrangements have not given this meeting any power to invalidate credentials. Similarly, the possibility of such invalidation was not envisaged in the letters inviting the governments concerned to take part in the Conference. Moreover, the Standing Orders of the Conference also do not provide for such a possibility.

It would thus seem that an examination of the objections would be purposeless in so far as it is designed to lead to the invalidation of the credentials of the delegates concerned.

The substance of the objections has already on many occasions been examined by the International Labour Conference. The Conference, which in the past had considered the thesis of the objecting organisations to be unfounded, has rejected it in recent years with reference to the principle of res judicata. As no significant change in the trade union situation liable to alter the problem seems to have taken place either in France or in Italy since the last session of the International Labour Conference (June 1958), this present Conference, basing itself on the Rules concerning the Powers, Functions and Procedure of Regional Conferences Convened by the International Labour Organisation, which provide that an objection based upon facts or allegations which the General Conference of the Organisation has already discussed and rejected is not receivable, can also only dismiss the objections before it.

APPENDIX II

REPORT OF THE COMMITTEE ON SUBSTANTIVE CLAUSES

INTRODUCTION

1. The Committee on Substantive Clauses, set up by the Conference to examine Parts I and II (articles 1 to 18) of the draft European Social Charter and to report thereon to the Conference, consisted of 33 members (13 Government members, 10 Employers' members and 10 Workers' members).

2. The Committee appointed its Officers as follows:

Chairman: Mr. Hauck, Government member, France.

Vice-Chairmen: Mr. Purpura, Government member, Italy; Mr. Fennema, Employers' member, Netherlands; and Mr. Henkelmann, Workers' member, Federal Republic of Germany.

Reporter: Mr. Ulsaker, Government member, Norway.

The Committee held 12 sittings.

3. The Committee decided that it was not necessary to proceed to a general discussion in committee, since a general discussion on the draft Charter, including Parts I and II with which the Committee was to deal, had already taken place in plenary sitting of the Conference.

4. The Committee took as the basis for its discussions the draft European Social Charter prepared by the Social Committee of the Committee of Ministers of the Council of Europe, contained in the report prepared by the International Labour Office for the Conference, entitled "Comparison of the Provisions of the Draft European Social Charter with the Corresponding I.L.O. Standards".

5. The Committee decided to examine each of the paragraphs in Part I in connection with the examination of the corresponding article of Part II.

6. On a certain number of points the Committee reached unanimous conclusions. These conclusions appear in this report. In some cases, when unanimous conclusions could not be reached, the report contains the individual views of members of the Committee or the opinions of the various groups:

Government, Employers and Workers. In a number of cases, in accordance with the arrangements agreed upon between the I.L.O. and the Council of Europe with respect to the organisation of the Conference, the report contains "texts which could be presented in the form of provisions of the draft Charter", in order to bring out more clearly the views of the Committee as a whole or those of some of its members, either individually or as a group. Certain Government members pointed out, with regard to the procedure followed by the Committee, that, in accordance with article 8 of the arrangements agreed upon between the Committee of Ministers of the Council of Europe and the Governing Body of the I.L.O., primary emphasis should be placed on obtaining an exchange of views and that decisions on specific texts were envisaged only in certain cases. Other Government members expressed a contrary view.

7. The provisions of the draft Charter on which the members of the Committee did not make any proposals or comments are not dealt with in this report.

CONSIDERATION OF THE PREAMBLE AND OF PART I OF THE DRAFT EUROPEAN SOCIAL CHARTER

8. At the end of its deliberations the Committee devoted a sitting to the consideration of the Preamble and of Part I of the draft Social Charter.

Preamble

The Workers' members suggested that, in the first recital of the Preamble, the word "humanitarian" be inserted before "ideals" and the word "democratic" before "principles".

Part I

(a) The Workers' members suggested that paragraph 3 might be modified to read: "All workers have the right to the best possible conditions of safety and health".

(b) The Workers' members suggested that paragraph 7 might be modified to read: "Children and young persons have the right to a special protection against the physical and moral hazards to which they may be exposed."

(c) The Workers' members suggested that paragraph 18 might be modified to read: "Migrant workers have the right to effective protection and assistance."

(d) The Committee considered that the above-mentioned suggestions of the Workers' members might be transmitted to the Committee of Ministers for consideration.

(e) The Committee decided to suggest to the Committee of Ministers that paragraph 8 might be worded as follows: "Employed women, in case of maternity, and other employed women as appropriate have the right to a special protection in their work". The substitution of the words "employed women, in case of maternity" for "expectant or nursing mothers in employment" would make it possible to cover all the different matters dealt with in article 8 of Part II, including the various protective measures which were to apply after confinement.

(f) A Government member (Sweden) suggested that paragraph 12 might be modified to read: "Everyone has the right to social security". This suggestion was supported by the Norwegian Government member and by the Workers' members. A Government member (Federal Republic of Germany), while in sympathy with this idea, stated that care should be taken to avoid State intervention as regards self-employed persons, which - except in certain appropriate cases - might be uncalled for. Another Government member (United Kingdom) stated that this matter should be approached with care, since States which ratified the Charter would be bound by all the paragraphs of Part I. Another Government member (Netherlands) stated that the contents of paragraph 12 of Part I should correspond to the appropriate article of Part II and that the proposed alteration might have repercussions on the provisions of article 12 of Part II. The Employers' members considered that paragraph 12 of Part I should accord with the provisions of article 12 of Part II. The Swedish Government member replied that article 12 of Part II referred to the European Code of Social Security, which would determine the percentage of the population to be protected. It would therefore not be necessary, for ratification of the Charter, to have a social security system covering the country's entire population. The Committee noted these suggestions and comments and considered that they might be examined by the Committee of Ministers.

CONSIDERATION OF PART II OF THE DRAFT EUROPEAN SOCIAL CHARTER

Article 1
The Right to Work

Introductory Paragraph.

9. The Employers' members pointed out that, whereas paragraph 1 of Part I established the principle that "Everyone shall have the opportunity to earn his living in a freely accepted occupation", the introductory paragraph in article 1 of Part II established a "right to work". They suggested that in both cases the wording used in Part I should be used, since one could not in the present context create a legal right. A Government member (France) agreed with this view.

10. The Workers' members, however, opposed this suggestion, considering that the right to work was a fundamental right.

11. The Committee as a whole did not express any views on the suggestion of the Employers' members.

Paragraph 1.

12. The Workers' members proposed that the Committee should suggest that the words "a high and stable level of employment" used in the draft Charter should be replaced by the words "full employment".

13. The Employers' members opposed this suggestion. They stated that it was impossible to guarantee that absolutely everyone would have employment, although it was desirable to aim at maintaining the highest level of employment compatible with a sound economy.

14. The Workers' members stated that the inclusion in the Charter of the term "full employment" should not be taken to mean that governments would be obliged to guarantee permanent full employment, but that, in the event of unemployment, governments would be obliged to take all appropriate economic, financial or other measures.

15. Two Government members (Greece and Ireland) stated that their countries' economy was unable to absorb a constantly increasing population where a situation of chronic unemployment existed; their Governments could not guarantee "full employment", if such a guarantee implied that they had to provide employment

for everyone who so desired. One of these two Government members (Greece) added that this problem was all the more serious owing to the absence of the free movement of workers from one country to another and could not therefore be cured by purely national measures.

16. Certain other Government members suggested that the original text should be maintained because of the difficulty of defining "full employment", and that the use of this term in the Charter might lead to misunderstanding.

17. A Government member (France) pointed out that the Employment Service Convention, 1948 (No. 88) - which had been ratified by all except four States Members of the Council of Europe - already referred to a "national programme for the achievement and maintenance of full employment", and this, in his view, should likewise be the aim of the Charter.

18. Certain other Government members also stated that they were in favour of inserting in the Charter a reference to "full employment", as this was a well-understood concept in their countries and accepted as an aim of government policy.

19. The Workers' members then proposed to the Committee that it should suggest that the present text of the paragraph of the draft European Social Charter should be replaced by the following text:

> "to accept as one of their primary aims and responsibilities the achievement and maintenance of full employment through the pursuance of policies which will ensure adequate opportunities for work, such as, for example, the fixing of national employment targets, the preparation of national manpower budgets, and the establishment of long-term development programmes, including the planning of public works, which may be adapted to the changing employment situation".

20. Following a general discussion during which the Employers' members and certain Government members stated that the text proposed by the Workers' members was unacceptable, a Government member (Italy) proposed a compromise solution.

21. The Workers' members then proposed that the Committee should suggest that paragraph 1 of article 1 be drafted as follows:

> "to accept the achievement of full employment as one of their primary aims and responsibilities and in the interim to pursue policies which will maintain the highest possible and most stable level of employment".

22. The Employers' members indicated that, while they preferred the original text of the Charter, they were willing to agree to the text proposed by the Italian Government member.

23. The Workers, having accepted this text, the Committee accordingly unanimously decided to suggest that article 1, paragraph 1, of Part II of the draft Charter should be altered to read as follows:

> "to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment".

Paragraph 2.

24. The Employers' members stated that the reference to the right to choose any "available" occupation must be subject to the condition that the workers had the necessary qualifications.

25. The Committee noted that the last phrase of this paragraph should be understood as leaving each country free to determine its attitude to union security clauses or practices. The Employers' members stated that their undertakings were open to all workers, whether organised or not.

Paragraph 3.

26. The Committee considered that the words "for all workers and for all categories of workers" should be added to this paragraph, in order to make it clear that all workers should benefit from the public employment service and should in no case be dependent only on fee-charging agencies.

Paragraph 4.

27. The Committee considered that in order that the wording of this paragraph should correspond to that used in article 10, it would be preferable to reword it as follows:

> "to provide or promote appropriate vocational guidance, training and rehabilitation".

Article 2
The Right to Just Conditions of Work

Paragraph 1.

28. The Employers' members pointed out that, notwithstanding the provisions of article 31, the present wording of this paragraph might give rise to the impression that governments should intervene in collective bargaining to ensure compliance with the paragraph. They also wished to record their view that, in so far as hours of work were reduced, other improvements in standards of living might be retarded. An Employers' member added that the fruits of productivity might be distributed in forms other than a reduction of working hours, such as the reduction of prices for the benefit of consumers.

29. The Workers' members proposed that the Committee should suggest the deletion from this paragraph of any reference to the increase of productivity and other relevant factors. They proposed that the Committee should suggest that the paragraph be amended to read as follows:

> "to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to forty hours".

30. The Employers' members stated that they were opposed to the Workers' proposal.

31. The Committee as a whole did not express any views.

Paragraph 2.

32. Some members of the Committee stated that the scope of this paragraph was not clear and that its wording might be improved by adding a reference to public holidays established by law, national custom or collective agreements.

33. The Committee accordingly discussed a proposal intended to clarify the scope of this provision. After a discussion during which the Workers' members expressed the fear that the text submitted would make payment of wages for public holidays compulsory only in so far as this obligation was expressly established by law, custom or collective agreement, the Committee decided to suggest that paragraph 2 of article 2 might be amended to read as follows:

> "to provide for public holidays with pay".

34. The Committee further decided to suggest that the following definition might be inserted in the Appendix to the Charter:

> "The term 'public holidays with pay' means general public holidays in respect of which, under national law or custom or collective agreements, the employer is under the obligation to pay wages."

35. The Committee considered that these texts should be understood as meeting the preoccupations of the workers, paragraph 2 establishing the obligation for employers to pay wages for public holidays, and the definition indicating the manner in which public holidays should be determined.

Paragraph 3.

36. The Committee considered that this paragraph should be so drafted as to permit that a certain period of employment might be required for acquiring the right to a holiday with pay, as is already the case in most countries.

37. One Employers' member (Austria) considered that the paragraph should be drafted so as to make allowance for cases in which the duration of the holiday with pay was initially less than two weeks, and for particular trades in which, instead of two weeks' holiday, higher wages were paid and for the economic position of small and medium-sized undertakings in industry, crafts, commerce and agriculture. He added that, in his view, the duration of the holiday should not be specified in the Charter.

38. The Workers' members suggested that, in order to have real significance as an aim of social policy, the paragraph should provide for a minimum of three weeks' holiday with pay.

39. The Committee took note of these opinions.

Paragraph 4.

40. The Employers' members indicated that they were opposed to the principle stated in this paragraph, as they considered that safety and health problems might be approached in many different ways and that adequate provision for dealing with these problems could be made within the scope of article 3 of the draft Charter.

41. One Employers' member (Italy) suggested that the words "for additional paid holidays or reduced working hours" should be replaced by the words "appropriate safeguards by law or collective agreements". Another Employers' member (Luxembourg) suggested that, as in most cases higher wages were paid for the work in question, it would be difficult to provide in addition for reduced working hours or additional holidays, and that it was necessary to make a choice.

42. The Workers' members insisted on the importance of the provisions of this paragraph of the Charter. They suggested that provision should be made both for additional paid holidays and reduced working hours, and accordingly suggested that the word "or" should be replaced by the word "and".

43. The Committee took note of these opinions.

Paragraph 5.

44. There were no comments on this paragraph.

Article 3
The Right to Safe and Healthy Working Conditions

45. The Workers' members proposed that the Committee should suggest replacing the present text of article 3 of the draft Social Charter by an alternative text.

46. A Government member (United Kingdom) suggested that the provision in paragraph (c) proposed by the Workers could hardly be regarded as one of the fundamental social rights to which, in his opinion, the Charter should be limited.

47. Subject to the above reservation and after having agreed to an amendment proposed by the Employers' members to substitute in paragraph (c) of the alternative text the word "consult" for the word "associate", the Committee considered that it would be desirable to replace the present text by the following:

> "With a view to ensuring the effective exercise of the rights to safe and healthy working conditions, the Contracting Parties undertake -
>
> (a) to issue safety and health regulations;
>
> (b) to provide for the enforcement of such regulations by measures of supervision;

(c) to consult employers' and workers' organisations in the drawing up and implementing of measures intended to improve industrial safety and health."

Article 4
The Right to a Fair Wage

48. The Workers' members stated that the text of article 4 was not satisfactory. Although the right to a fair wage was mentioned in the introductory paragraph, they noted that the article did not contain any provision concerning the payment of a fair remuneration and that paragraph 1 dealt only with a problem of secondary importance. The Charter should provide for a minimum wage that would guarantee a decent way of life to workers and their families, taking account of the variations in the cost of living and of economic prosperity.

49. The Workers' members accordingly proposed that the Committee should suggest replacing the present text of article 4 by the following:

"With a view to ensuring the effective exercise of the right to a fair wage, the Contracting Parties undertake -

1. that workers shall be entitled to a remuneration such as will guarantee a decent way of life to workers and their families; this shall be achieved by freely concluded collective agreements, by statutory wage fixing machinery, or by any other means appropriate to national conditions;

2. to recognise the right of all workers to an increased rate of wages for overtime work;

3. to recognise the right of men and women workers to equal remuneration for work of equal value;

4. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award;

5. to provide for a reasonable period of notice for termination of employment."

50. Certain Government members expressed reservations in respect of the provisions of the text proposed by the Workers, in so far as wages and conditions of work in their countries were determined by collective agreements and were therefore not normally subject to control by government.

51. The Employers' members stated that the arrangement of the alternative text was an improvement on that of the draft Charter, but they could not accept all its provisions. They suggested that paragraph 1 should provide for the recognition by governments of the right of workers to a fair remuneration, rather than state that governments should undertake that all workers were entitled to such remuneration; that the provisions in paragraph 1 indicating the methods by which the right in question might be granted should likewise apply to paragraphs 2, 3 and 5, and that the order of paragraphs 4 and 5 should be reversed. The Workers' members agreed to these suggestions. The Committee then considered seriatim the individual paragraphs of the alternative text.

Paragraph 1.

52. The Committee decided that it would be desirable to insert in the draft European Social Charter the following text, which would become paragraph 1 of article 4:

"1. to recognise the right of workers to a remuneration such as will guarantee a decent way of life to workers and their families; this shall be achieved by freely concluded collective agreements, by statutory wage fixing machinery, or by other means appropriate to national conditions".

Paragraph 2.

53. Certain Employers' and Government members indicated that employees in senior posts, certain public employees, etc., did not normally receive additional payment for overtime, and that account should be taken of this in the text of the Charter.

54. The Committee decided that it would be desirable to substitute for the present text of paragraph 2 of the draft European Social Charter the following text:

"2. to recognise the right of workers to an increased rate of wages for overtime work (subject to the exception of particular classes of workers)".

(Subject to the agreed proposal as to the methods of application - see paragraph 51 above.)

Paragraph 3.

55. On behalf of the Employers' members it was stated that some of them were opposed to the inclusion in the draft Charter of a provision concerning the right of men and women workers to equal remuneration for work of equal value. They stressed the difficulty of ensuring application of this principle, having regard to the extent to which the determination of wages was left to employers and workers. Moreover, they stated that there was a relation between the application of the principle of equal remuneration and family allowances.

56. Several Government members stated that they were in favour of maintaining a provision relating to equal remuneration in the Charter; one of these members (Sweden) stated that, although his country was not in a position to ratify the Equal Remuneration Convention, 1951 (No. 100), his Government considered that, in view of the importance of the principle of equal remuneration for work of equal value, this principle should be included in the Charter.

57. In the ensuing discussion reference was made to the Rome Treaty and to the Equal Remuneration Convention, 1951 (No. 100), by which some States Members of the Council of Europe were already bound. It was noted that, whereas the former instrument provided for equal remuneration "for equal work", the latter referred to equal remuneration "for work of equal value" (as did also the draft Social Charter before the Conference). One Employers' member (Italy) pointed out that the difference between the Equal Remuneration Convention, 1951 (No. 100) and article 119 of the Rome Treaty was one of substance.

58. Another Employers' member (Austria) suggested that a solution might be found in providing that those countries in which the application of the equal remuneration principle was not at present possible should accept this principle as an aim of social policy. Other Employers' members did not agree to this solution which, in their view, would amount to an undertaking to ratify the Equal Remuneration Convention, 1951 (No. 100).

59. The Workers' members then proposed that paragraph 3 of the text which they had previously submitted should be amended to read as follows:

> "that there should be no discrimination based on sex in fixing wage rates for work of equal value".

60. An Employers' member (United Kingdom) pointed out that the three formulas to which reference had been made - that in the Rome Treaty, that in the draft Social Charter, and that suggested by the Workers - meant different things. If he had felt it possible to subscribe to any formula at all he would find that in the draft Charter the most acceptable. In his country the approach was, however, a pragmatic one. Where there was individual job evaluation and assessment of the suitability of individuals for particular jobs he did not believe that employers generally discriminated as regards remuneration between men and women. Collective agreements involve standardisation, but of necessity such broad distinctions are made as can be drawn between different groups of workers. Collective bargaining necessarily cannot be a method of close calculation and often introduces an element of compromise. It is thus that in collective agreements explicit discrimination is frequently made between the sexes. If this were not done often such factors as restriction on overtime and shift-working, shorter working life and increased absenteeism, would make the employment of women less advantageous than that of men. In other cases there was implicit discrimination which involved treating particular jobs as men's jobs or women's jobs, with no attempt to establish a relationship between the wages paid in respect of them. In fact no attempt was made explicitly to apply the principle of equal remuneration for work of equal value even as between men in different industries and occupations. Moreover, there was the fact that the family responsibilities of men tended to be greater on the average than those of women. He believed what he said applied in several other countries and the reports on the application of Conventions showed that this was so in some of the European countries which had ratified the Equal Remuneration Convention, 1951 (No. 100).

61. The Workers' members expressed the view that it was no longer right to think of jobs as "men's jobs" or "women's jobs". They stressed the increasing importance of women workers in the labour force, and pointed out that, in view of technical progress, many kinds of work formerly considered unsuitable for women could now be satisfactorily performed by them. They stated that, in their view, the payment of the same wage rates to men and women workers for work of equal value was of basic importance, and that no European country should decline to accept this principle. Since the text they suggested was not acceptable to the Employers, they finally stated that they were in favour of retaining the original text of the draft Charter.

62. Several Government members stated that they were in favour of retaining the existing draft text.

63. The Committee noted these views.

64. One Workers' member (France) regretted that the draft Charter contained no provisions prohibiting discrimination generally. In his view, paragraph 3 of article 4 should at least prohibit all discrimination based on sex and should refer to remuneration only as a specific example.

Paragraph 4.

65. On the proposal of the Workers' members the Committee decided to suggest inserting in the text a new paragraph (numbered 4) to read as follows:

> "4. to recognise the right of all workers to a reasonable period of notice for termination of employment".
>
> (Subject to the agreed proposal as to the methods of application - see paragraph 51 above.)

66. The Committee agreed that this provision should not prohibit immediate dismissal for any serious offence.

Paragraph 5.

67. An Employers' member (United Kingdom) pointed out that in his country, although there were statutory limits to deductions from wages, the legislation in question applied only to manual workers. As at present drafted, neither paragraph 1 of the draft Charter nor paragraph 5 (new numbering) of the text proposed by the Workers took account of this situation. He suggested that the text might be drafted as follows:

> "5. in so far as it is considered necessary in order to prevent abuse, to provide by national laws and regulations that deductions from wages shall be made only under conditions and to the extent prescribed in such laws and regulations".

68. The Workers' members stated that they preferred the text of the draft Charter.

69. Subject to a reservation on the above point, the Committee as a whole decided to suggest that the existing text of paragraph 1 of article 4 should be transferred to paragraph 5 of that article.

70. One Government member (Sweden) indicated that in the original draft of the Charter the word "undertake" had been used when it was desired to impose a specific obligation, and that the words "recognise" or "endeavour" had been used when it was intended to determine policy. The new text of article 4 which the Committee now suggested for insertion in the Charter would have the effect of providing, in several instances, that the Contracting Parties would "undertake to recognise" certain rights. In his view, the wording should be altered.

Article 5
The Right to Organise

71. A Government member (Belgium) proposed that the words "and the administration of the State" should be deleted from this paragraph. The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), had been ratified by all except two States Members of the Council of Europe and the only exceptions which it permitted related to the armed forces and the police. This was clear from the use of the words "without distinction whatsoever" in Article 2 of the Convention. The draft Charter should follow the Convention on this point. The right to organise was not equivalent to the right to strike. Moreover, article 29 of the draft Charter safeguarded public order.

72. The Workers' members supported this suggestion, which was in line with one of their own proposals.

73. A number of governments also took the view that the provisions of the Charter concerning the right to organise should apply equally to public servants.

74. The Employers' members stated that they accepted the existing text of article 5 and also the suggestion under consideration.

75. One Government member (United Kingdom) stated that his Government was in favour of maintaining the original text; although the United Kingdom had ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it had done so for Great Britain only, and there existed certain difficulties regarding its application in Northern Ireland in view of regulations concerning civil servants there. His Government was, however, prepared to examine the matter further pending consideration by the Committee of Ministers of the conclusions of the Conference.

76. It was brought to the attention of the Committee that the report of the competent committee of the International Labour Conference which had considered the draft text of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), had stressed the fact that under the terms of the Convention "freedom of association was to be guaranteed not only to employers and workers in private industry, but also to public employees, and without distinction or discrimination of any kind as to occupation ..."[1], and that this statement had been endorsed by the Conference in plenary sitting.

77. Subject to the reservation of the United Kingdom Government member, the Committee decided to suggest that the words "and the administration of the State" should be deleted from the second sentence of article 5, and expressed itself in favour of the article as so modified.

78. The Committee noted that the provisions of article 5 had no connection with the question of strikes and decided that the proposals of the Workers' members concerning this subject should be dealt with under article 6.

Article 6
The Right to Bargain Collectively

79. The Workers' members suggested that paragraph 3, dealing with joint consultation, should be placed before, and not after, the provisions in paragraph 2 dealing with conciliation and arbitration.

80. The Committee decided to suggest that paragraph 3 might become paragraph 1, and that the original paragraphs 1 and 2 might be renumbered 2 and 3 respectively.

Paragraph 1 (Former Paragraph 3).

81. The Committee decided to suggest that the words "consultation between" might be substituted for "consultation of" to make it clear that the consultations in question were between workers and employers and not between the government on the one hand and employers and workers on the other.

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[1] The International Labour Code, 1951 (Geneva, I.L.O., 1952), Vol. I, p. 681, Article 857, footnote 3.

Paragraph 2 (Former Paragraph 1).

82. The Workers' members suggested that the words "where necessary and appropriate" should be deleted. A Government member explained that these words had been inserted to cover cases where appropriate machinery for voluntary negotiation already existed, or where some other measures, such as statutory wage fixing machinery, might appear more appropriate; in other words, it was intended to give governments a certain freedom of action. On the basis of these explanations the Workers' members withdrew their suggestion.

Paragraph 3 (Former Paragraph 2).

83. At the suggestion of the Workers' members, the Committee decided to suggest that the word "voluntary" might be inserted before the word "arbitration".

84. It was noted that, whereas the English text of this paragraph referred to machinery for "conciliation or arbitration", the French text referred to "de conciliation et d'arbitrage". The Workers' members and several Government members pointed out that conciliation and arbitration were not alternative processes but rather succeeding stages of one process.

85. The Committee accordingly suggests that the English text of this paragraph might refer to "appropriate machinery for conciliation and voluntary arbitration".

Paragraph 4.

86. The Workers' members considered that a Charter meant for the free countries of Europe should expressly recognise the right to strike, in order to establish this basic freedom of the workers in these countries, as opposed to the position of workers in certain other countries. They therefore proposed to the Committee that it should suggest that this paragraph should be worded as follows:

> "The Contracting Parties recognise the right of workers to strike."

87. A Government member (Luxemburg) indicated that, while the right to strike was generally accepted, it could not be stated in this unqualified form. The right to strike should exist only as a measure of last resort, after possibilities of conciliation and arbitration had been exhausted. The suggested text made no allowance for this. The text might be acceptable if one added the words "and undertake to regulate the exercise of this right". There should, for example, be no right to engage in political strikes not intended for the defence of occupational interests.

88. Several Employers' members emphasised that the freedom to strike was universally accepted in free countries. However, the text suggested by the Workers' members seemed to encourage strikes at any time and in any circumstances by irresponsible elements. In various countries there existed arrangements, which had proved satisfactory, to prevent unofficial or lightning strikes and the suggested text seemed to go counter to this experience. In certain countries provisions regarding the negotiating machinery in certain special occupations and services limited the right to strike, and the Charter should take account of this situation. The Employers' members further stated that there was no right to collective action, but freedom to take such action. Certain qualifications, moreover, applied; it was necessary that collective action should take place within the general framework of law and order and the provisions of collective agreements.

89. A Government member (Sweden) pointed out that in his country strikes were prohibited in the case of conflicts of interpretation, and he accordingly preferred the original text in the draft Charter, which referred to collective action in the case of conflicts of interest.

90. The Workers' members agreed that the right to strike should exist only in so far as this did not involve breach of obligations established by collective agreements and that the exercise of the right to strike might be made subject to the condition that possibilities of conciliation and arbitration had been exhausted. This was in fact clear from the order of the paragraphs in article 6, which dealt with the right to strike only after dealing with consultation, negotiation, conciliation and arbitration.

91. The Committee noted that article 29 of the Charter made the provision in Part II generally subject to the rules necessary for the protection of public order. The Workers' members indicated that they would accept a reference to observance of obligations arising under collective agreements.

92. An Employers' member (Ireland) pointed out that it was clear from the discussion how difficult it was to define the right to strike, and the Committee should merely include a summary of the discussion in its report, without trying to put forward a specific solution. The instruments adopted by the International Labour Conference on freedom of association and the right to organise did not mention the right to strike, and it should not, in his view, be included in the Charter either.

93. Several Government members stated that the issue was too important to be ignored, and that as there was general agreement on the ultimate right to strike, without this sanctioning unofficial strikes, it was merely a question of agreeing on the appropriate wording.

94. After having summarised the discussion, the Chairman suggested the following text with a view to meeting the various observations which had been made:

> "including the possibility for workers to resort to strike once the means of determining conditions of employment laid down in the preceding paragraphs have been exhausted and having regard to the provisions of article 29 below".

95. A Government member (Belgium) emphasised that article 29 applied to all the rights provided for in the Charter, and that a reference to this article only in article 6, paragraph 4, might lead to misunderstanding as to the true scope of article 29.

96. The Workers' members stated that they could not accept this text. The Employers' members stated that they could accept this text, provided that reference was also made to the right of employers to resort to lockouts, and provided that the exercise of the right to strike was made subject to existing agreements.

97. Several Workers' members strongly opposed the inclusion of any reference to lockouts in the draft Charter. They stressed the fact that there was a fundamental difference between strikes, which were sometimes the only ultimate means available to workers to press their demands, and lockouts; they added that, in certain countries, employers were not permitted to resort to lockouts.

98. After a general discussion in which various Government members took part, and on the basis of a suggestion made by the United Kingdom Government member, the Committee unanimously decided to suggest that the following phrase should be added at the end of paragraph 4 of article 6: "including the right to strike, subject to the obligations arising out of collective agreements previously entered into".

99. The Employers' members agreed to this text, on the condition that the attention of the Committee of Ministers should be drawn to their request -

(a) that the right to lockout should be recognised, and

(b) that a clause should provide for measures to regulate the right to strike along the lines of article 29.

Article 7
The Right of Children and Young Persons to Protection

Introductory Paragraph.

100. An Employers' member (United Kingdom) suggested that, as regards paragraph 5 of article 7, the Contracting Parties should "recognise" the benefit in question rather than "undertake" to provide it, as holidays with pay were in many cases a matter for collective bargaining.

101. A Workers' member observed that the workers were interested not in the recognition of abstract principles but in their effective application. The Employers' member replied that the modification suggested by him was not designed to limit the rights granted in the article, but merely to provide for those cases in which the rights in question were granted by collective agreement.

102. The Committee noted these views.

Paragraph 1.

103. One Government member (Sweden) indicated that in his country young persons were permitted to work as from the beginning of the calendar year in which they attained the age of 15 years, and suggested that the paragraph should be drafted on these lines.

104. No other member of the Committee made observations on this paragraph.

Paragraph 2.

105. The Workers' members proposed for this paragraph the following text:

> "to fix the minimum age for admission to employment in occupations regarded as dangerous or unhealthy at 18 years".

106. A Government member (Netherlands) stated that he considered the Workers' members text to be unduly rigid, in leaving a choice only between the general age limit of 15 years and the higher limit of 18 years. He suggested that the solution might be to retain the original text, subject to the deletion of the words "regarded as dangerous or unhealthy", and to insert the text suggested by the Workers' members as an additional paragraph.

107. The Workers' members supported this suggestion.

108. The Employers' members and two Government members stated that they would prefer the original text. One of the latter pointed out that, in fixing a rigid age limit of 18 years, the Charter might lead to the list of occupations to which a higher age limit was to apply being kept to a minimum, and this would be prejudicial to the interests of the workers.

109. The Committee noted these views.

Paragraph 3.

110. No comments were made on this paragraph.

Paragraph 4.

111. The Workers' members suggested the following text for this paragraph:

> "to provide that the working hours of young persons receiving vocational training shall be limited, the time spent in undergoing such training to be treated as forming part of the normal working day".

112. The Workers' members explained that this text was intended to ensure that time spent in attending vocational training courses, which were necessary because undertakings could not themselves provide all the required training, should be treated in all respects as time worked, so that in particular young workers would not have to make good time spent attending courses by additional hours of work.

113. A Government member (Norway) observed that the suggested text was too wide, in referring to vocational training generally. It should be left to the competent government authorities or the organisations concerned to decide what kind of vocational training should be counted as working time. He preferred the original text.

114. Another Government member (Italy) indicated that a distinction should be made between young workers undergoing training and apprentices (who might be very much older). The questions of limiting hours of work of persons under 16 years of age and of the working hours of persons undergoing training should be considered separately.

115. The Employers' members stated that they preferred the original text, and suggested that the question of working hours of persons undergoing vocational training be considered in connection with article 10, paragraph 4(c). This was agreed to.

116. After consideration of article 10, paragraph 4, a Workers' member stated that article 10, paragraph 4(c) appeared to relate primarily to adult workers undergoing supplementary training, whereas article 7, paragraph 4, referred to young workers who were apprenticed or otherwise undergoing initial training.

117. An Employers' member opposed these views; he stated that, while it was right to protect young workers undergoing training in general, it was wrong to insist that there must never be study outside working hours; in many cases it was in the worker's own interest to improve his qualifications by such study.

118. The Committee noted these views.

Paragraph 5 (New Paragraph).

119. The Workers' members suggested that the following new paragraph (numbered 5) should be inserted in article 7:

> "to provide that young workers and apprentices shall receive a fair wage".

120. The Employers' members stated that in certain cases apprentices received allowances rather than wages and that account should be taken of this situation; they also suggested that "provide" be replaced by "recognise".

121. The Committee decided to suggest that the following new paragraph 5 might be inserted in the draft Charter: "to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances".

Paragraph 6 (Former Paragraph 5).

122. The Workers' members suggested the following new text for this paragraph:

> "to provide that employed persons of under 18 years of age shall be entitled to not less than four weeks' annual holidays with pay and that employed persons between 18 and 21 years of age shall be entitled to not less than three weeks' annual holidays with pay".

123. The Employers' members stated that they preferred the original text. One Employers' member (United Kingdom) stated that in many countries no difference was made between young and adult workers as regards the length of the annual holiday with pay and that he was opposed to both the original text and the

text submitted by the Workers' members. Another Employers' member (Italy) added that in his country longer holidays with pay were granted only to apprentices (varying with their age) and that no collective agreement provided for longer holidays with pay for young workers as such.

124. Two Government members (Netherlands and Norway) stated that they preferred the original text; one of them (Norway) observed that this provision should be considered in the context of the series of special provisions for the protection of young workers contained in the Charter.

125. One Government member (Luxembourg) expressed himself in favour of the text suggested by the Workers' members.

126. The Workers' members pointed out that in certain countries the situation was already that suggested in their text. Many members of the Committee, when objecting to a particular provision because it set a standard higher than that attained in their country, seemed to forget the purpose of the Charter. If this document was merely to be a collection of existing standards, making allowance for the lowest standards to be found among the member States of the Council of Europe, it would serve no purpose whatsoever. The only purpose of the Charter should be to fix social objectives, and governments, rather than objecting to particular provisions because they went beyond national legislation and practice, should be prepared to change the latter and to strive for an improvement in existing conditions.

127. The Committee noted these views.

128. The Committee considered that this paragraph should make allowance for the imposition of a qualifying period of employment prior to acquisition of entitlement to holidays with pay.

Paragraph 7 (Former Paragraph 6).

129. No comments were made on this paragraph.

Paragraph 8 (Former Paragraph 7).

130. A Government member (Belgium) proposed the following new text for this paragraph:

> "to provide that workers under 18 years of age shall be subject to regular medical control".

131. The Workers' members suggested a new text for this paragraph, as follows:

> "to provide that all workers under 18 years of age shall, as from their entry into employment, be subject to regular medical examination, in order to ensure that their health is not endangered by their work".

132. The Belgian Government member stated that provision should be made for regular medical examination of all young workers, and that this provision, if effectively applied, was more important than fixing a higher minimum age for particular employments, since it would provide a check in each individual case to ensure that the work in question was suitable for the particular worker. He was prepared to withdraw his text in favour of that suggested by the Workers' members.

133. A number of other Government members (Austria, France and Federal Republic of Germany) supported the text submitted by the Workers' members, pointing out that the regular medical examination of young workers generally in their countries had led to the improvement in workers' health. One of these members (Federal Republic of Germany) suggested that exceptions might be permitted in respect of certain employments, such as temporary employment on light work, and that the provision should refer to medical examination "at appropriate intervals" rather than "regular medical examination".

134. Several Government members (Denmark, Netherlands and United Kingdom) stated that they preferred the original text as they considered compulsory or regular medical examination not to be necessary in all occupations. One of them (United Kingdom) further referred to the existence in his country of a free health service, and another (Netherlands) stated that the text suggested by the Workers' members might be acceptable if the words after "medical examination" were deleted and replaced by the words "in occupations which might impair their health".

135. The Employers' members stated that they preferred the original text. Medical examination generally was unnecessary, and might be impracticable in view of lack of sufficient numbers of doctors. A Workers' member mentioned the creation in his country (France) of industrial health services which had had most beneficial effects, since they tended to prevent sickness instead of merely trying to cure it.

136. The Committee noted these views.

Article 8
The Right of Employed Women to Protection

Paragraph 1.

137. No comments were made on this paragraph.

Paragraph 2.

138. The Employers' members pointed out that the English text referred to "maternity absence" whereas the French text referred to "accouchement" (confinement).

139. One Employers' member (United Kingdom) stated that he was opposed in principle to this paragraph, since it involved the giving of reasons by employers for dismissals which might prejudice the employment prospects of the workers concerned. Several Employers' members stated that, while in practice the situation in their countries regarding maternity leave was satisfactory, they doubted whether it should be regulated by law. One Employers' member (Denmark) reserved his position with regard to the article as a whole.

140. In this connection reference was made to the provisions contained in the relevant international labour Conventions.

141. It was explained to the Committee that the rules contained in these Conventions referred not to motives for dismissal but prohibited dismissal between specified dates; the prohibition covered both the giving of notice during the period in question and the giving of any notice which might expire during that period.

142. The Committee decided to suggest that, as regards protection against dismissal during maternity leave, the Charter might be based on the provisions contained in the relevant international labour Conventions.[1]

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[1] See the report submitted to the Conference: Comparison of the Provisions of the Draft European Social Charter with the Corresponding I.L.O. Standards (C.S.E. 1958/I, CN.3.1958), p. 55.

Paragraph 3.

143. An Employers' member suggested that, even if practice should conform to this paragraph, it might not be appropriate to have legislation on such subjects.

144. No other member of the Committee made observations on this paragraph.

Paragraph 4.

145. A Government member (Belgium) suggested a new text for this paragraph, as follows:

> "to regulate the employment of women workers on night work in industrial employment and to prohibit their employment in underground mining and specified particularly arduous jobs".

146. The Workers' members suggested the following text for this paragraph:

> "(a) to regulate the employment of women workers on night work in industrial employment;
>
> (b) to prohibit the employment of women workers in underground mining and as appropriate on all other work which is unsuitable for them, such as arduous work".

147. The Belgian Government member indicated that his text was intended to make it clear that the prohibitions in question were not imposed as a discriminatory measure but for the protection of women workers as mothers or potential mothers. He suggested that the text suggested by the Workers' members might be acceptable, if the words after "as appropriate" were replaced by the following words: "and in all other work which is too dangerous, unhealthy or arduous for mothers or potential mothers". The French Government member supported the principle of the Belgian Government's suggestions, while calling attention to the necessity of prohibiting the employment of women in dangerous employments, as suggested by the Workers' members.

148. The Workers' members stated that they would not accept this modification of their text. The Employers' members stated that they were in agreement with the text suggested by the Workers' members.

149. One Government member (Norway) stated that his Government was opposed to the very principle of paragraph 4, and considered that provision should be made only for the protection of expectant and nursing mothers, but that there was no need for provisions relating to women generally.

150. Subject to the last mentioned comments, the Committee decided to suggest that the following new text might be substituted for the original text:

"(a) to regulate the employment of women workers on night work in industrial employment;

(b) to prohibit the employment of women workers in underground mining and as appropriate on all other work which is unsuitable for them by reason of its dangerous, unhealthy or arduous nature".

Article 9
The Right to Vocational Guidance

151. The Workers' members stressed that the two important points were (a) that a free vocational guidance service should be available to anyone seeking such guidance, and (b) that there should be an obligation to provide such a service (whether through a state agency or otherwise); accordingly, paragraph 2 should be deleted and paragraph 1 modified. A Government member (Belgium) suggested that this article should be drafted so as to be of an obligatory nature.

152. The Committee decided to suggest that paragraph 2 of article 9 be deleted, and that the beginning of the article might be reworded as follows: "With a view to ensuring the effective exercise of the right to vocational guidance, the Contracting Parties undertake to provide or promote, as necessary, free of charge, a service which will assist individuals to solve problems related ...".

Article 10
The Right to Vocational Training

Paragraph 1.

153. One Government member (Belgium) proposed that this paragraph be modified as follows:

> "to provide or promote, as necessary, the technical and vocational training of workers in collaboration with employers' and workers' organisations".

154. He explained that it was essential to obtain the collaboration of employers' and workers' organisations, so that technical and vocational training might meet the real needs of the economic and social situation.

155. The Employers' members stated that they could not accept the text of the addition proposed as they could not accept that there might be any interference in the training given in the workplace. It was then explained that the collaboration envisaged did not appear to be in connection with training at work, but rather in vocational training in which the State, as such, took the initiative.

156. The Workers' members proposed the deletion of the words "as necessary" and the addition of "and grant facilities for access to higher technical and university education solely based on individual aptitude".

157. Two Government members (Federal Republic of Germany and United Kingdom) doubted whether it would be proper for the Committee to consider the question of educational facilities in general, and one of them (United Kingdom) indicated that a general article on education had been drawn up at the request of the Committee of Ministers, but that the latter had decided to exclude it as falling within the cultural rather than the social sphere and therefore not appropriate for inclusion in the Charter.

158. The Workers' members pointed out that the addition proposed did not relate to education in general but to that aspect of education concerning industry. In view of the great need for skilled technicians and engineers, the provision of proper technical and scientific education was of vital importance to both sides of industry and to the economy as a whole. If reference was made to such education, the word "university" might be omitted from the text suggested by them.

159. The Employers' members indicated that, subject to their earlier observations to the effect that the State should not interfere in training given in workplaces, they would agree to the text proposed provided the words "as necessary" were maintained.

160. One Government member (Netherlands) observed that the additional words proposed by the Workers seemed to create a general obligation to provide free school education giving access to higher technical and university education.

161. A Workers' member indicated that it was not a question of free education generally, but of the provision of appropriate education for persons capable of benefiting therefrom. It was also observed that provision for the persons in question might be made in the form of grants.

162. The Committee decided to suggest that the following text might be substituted for this paragraph: "to provide or promote, as necessary, the technical and vocational training of workers, in collaboration with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, solely based on individual aptitude".

Paragraph 2.

163. On the proposal of the Workers' members the Committee decided to suggest that the following words might be added to this paragraph: "and other systematic arrangements for training young workers, both boys and girls, in their various employments".

Paragraph 3.

164. On the proposal of the Workers' members, slightly amended, the Committee decided to suggest that the following text might be substituted for this paragraph: "to provide or promote, as necessary, adequate and readily available training facilities for adult workers and similarly to provide or promote special facilities for the retraining of adult workers where the need arises from such causes as technological development or dislocations of the employment market".

Paragraph 4.

165. No comments were made on subparagraphs (a) and (b) of this paragraph.

Subparagraph (c).

166. The Committee decided to suggest that in the English text the word "workman" should be replaced by "worker".

167. An Employers' member (United Kingdom) observed that the matters dealt with in this subparagraph were normally dealt with by collective negotiation, and the word "undertake" in the introductory paragraph was therefore not appropriate in this connection. He also observed that the subparagraph did not make allowance for cases where an employer might allow time off to workers without pay to enable them to attend courses which were not essential for their immediate work, and suggested that the words "at the request of his employer" might be substituted for "with the consent of his employer" to cover this point. A Workers' member suggested that an alternative solution to this problem might be to insert "vocational" before "training".

Article 16
The Right of Migrant Workers to Protection and Assistance

Paragraph 1.

215. A Workers' member observed that all States should take measures against misleading propaganda concerning emigration and immigration and that the words "so far as national laws and regulations permit" should be regarded as referring solely to the liberty of the press.

216. A Government member (Italy) pointed out that similar words were contained in the Migration for Employment Convention, (Revised), 1949 (No. 97), and that, in his opinion, the words "so far as national laws and regulations permit" should be taken as meaning "within the framework of and according to the methods prescribed by national laws and regulations".

Paragraph 2.

217. No comments were made on this paragraph.

Paragraph 3.

218. The Workers' members proposed two alterations to this paragraph, as follows: delete the words "are subject to the control of administrative authorities" and insert "by collective agreements".

219. A Government member (United Kingdom) explained that the words "or are subject to the control of administrative authorities" had been inserted in this paragraph because certain of the matters were sometimes dealt with not by laws or regulations but by administrative authorities, e.g. as when local authorities allocated housing accommodation. He did not consider that the words "by collective agreements" should be inserted in this paragraph, because the supervision of such agreements was not a matter for the authorities but for the employers' and workers' organisations concerned.

220. The Committee noted these suggestions and comments.

Paragraph 4.

221. No comments were made on this paragraph.

Paragraph 5.

222. The Workers' members proposed the deletion of the words "lawfully within their territories". They indicated that, if these words were retained, a person might lose the possibility of proceeding in the courts if his labour permit were withdrawn. The suggested deletion would close this loophole.

223. A Government member (United Kingdom) pointed out that the words in question were taken from Convention No. 97, and were also used in paragraphs 3 and 4 of this article. It was not intended to deprive workers who had lawfully entered the country of the rights in question.

224. A Workers' member observed that the minimum standards of I.L.O. Conventions were not necessarily the right minimum for European countries.

225. The Committee noted these suggestions and comments.

Paragraphs 6 and 7.

226. No comments were made on these paragraphs.

Paragraph 8.

227. An Employers' member wondered whether there were any "self-employed migrants". A Government member (Italy) pointed out that this paragraph was intended to protect independent workers.

228. The Committee noted these views.

New Article (18bis)

229. A Government member (Belgium) proposed the addition of a new article (18bis), as follows:

"With a view to ensuring the effective enforcement of the standards laid down in the preceding articles in respect of conditions of work and the protection of workers, the Contracting Parties undertake to establish and maintain a system of labour inspection, and to that end:

(a) to issue regulations or to make appropriate administrative arrangements regarding the recruitment and training of inspectors and their independent status;

(b) to grant to inspectors all necessary powers for carrying out the supervision provided for and for requiring or obtaining orders requiring compliance with specified legal provisions;

(c) to lay down rules of conduct for inspectors, including rules regarding the confidential nature of information obtained in the course of their duties;

(d) to prescribe adequate sanctions in respect of failure to observe the provisions for whose enforcement the labour inspectors are responsible;

(e) to publish an annual general report on the work of the inspection services."

230. The Workers' members suggested that this article might be redrafted as follows:

"With a view to ensuring the effective enforcement of such standards laid down in the preceding articles in respect of conditions of work and the protection of workers as require continuous supervision, the Contracting Parties undertake:

(a) to establish and maintain a system of labour inspection, and to grant inspectors an independent status and all necessary powers for carrying out their duties;

(b) to lay down rules of conduct for inspectors, including rules regarding the confidential nature of information obtained in the course of their duties;

(c) to publish an annual general report on the work of the inspection services."

231. The Workers' members explained that inspection was provided for in the text proposed by them for conditions requiring "continuous supervision" so as to make it clear that the enforcement of collective agreements might be left to the employers' and workers' organisations concerned.

232. A Government member (United Kingdom) said that the inclusion of such provisions in Part II seemed inappropriate; in any case, if it were necessary at all to specify one of the means, among many, which Governments might adopt to fulfil their obligations under the Charter, it could perhaps more appropriately be included in Part III.

233. The Employers' members indicated that they had no objection to the submission of the Workers' proposals to the Committee of Ministers for consideration by the latter.

234. In reply to a question by these members, it was explained that the words "independent status" were meant to express the notion, contained in Article 6 of the Labour Inspection Convention, 1947 (No. 81), of independence of changes of government and of improper external influences.

235. After further discussion, the Committee decided to bring the texts suggested by the Belgian Government member and by the Workers' members to the attention of the Committee of Ministers. The Committee wishes to stress the following points:

(a) the Committee attaches great importance to the maintenance of an effective system of labour inspection;

(b) if provisions concerning labour inspection are inserted in the final text of the Charter, consideration might be given as to whether these provisions should appear in Part II, which otherwise deals with rights, or elsewhere in the Charter (for example, in Part III, dealing with the undertakings of the Contracting Parties, which would have the effect of making the acceptance of these provisions compulsory);

(c) if it were decided that labour inspection was a matter which would appropriately be dealt with in Part II of the Charter, the number of articles or paragraphs which Contracting Parties had to accept, under article 19, paragraph 1(b), might have to be increased accordingly, so as not to lessen the obligations which the Contracting Parties would otherwise have to accept to ratify the Charter.

236. The Committee adopted the present report unanimously.

Strasbourg, 11 December 1958.

(Signed) HENRY HAUCK,
Chairman.

BERGER ULSAKER,
Reporter.

APPENDIX III

REPORT OF THE COMMITTEE ON IMPLEMENTATION CLAUSES

INTRODUCTION

1. The Committee on Implementation Clauses, set up by the Conference to examine and report on Parts III, IV and V (articles 19 to 35) of the draft European Social Charter, consisted of 25 members (13 Government members, 6 Employers' members and 6 Workers' members).

2. The Committee appointed its Officers as follows:

Chairman: Mr. DREYER, Government member, Denmark.

Vice-Chairmen: Mr. LEBLANC, Employers' member, France; and Mr. ALDERS, Workers' member, Netherlands.

Reporter: Mr. PELLINKHOF, Government member, Netherlands.

3. The Committee held nine sittings.

4. The Commitee took as the basis for its discussions the relevant Parts of the draft European Social Charter drawn up by the Governmental Social Committee of the Council of Europe, and contained in the report prepared by the International Labour Office, entitled "Comparison of the Provisions of the Draft European Social Charter with the Corresponding I.L.O. Standards".

5. The main issues in the Parts of the Charter which were before the Committee were: the measure of compliance by the Contracting Parties with the provisions of the Charter required for ratification (article 19), the participation of employers and workers in the supervision of the implementation of the Charter (article 26), and the implementation of the Charter by means of collective agreements (article 31). In the following summary of the proceedings of the Committee all the articles are presented in numerical order.

PART III OF THE DRAFT EUROPEAN SOCIAL CHARTER

Article 19
Undertakings

Paragraph 1.

6. Proposals for alternative texts of this article were submitted by the Workers' members and by the Belgian and French Government members. The purpose of all these proposals was to

make the acceptance of certain defined provisions of Part II of the Charter a compulsory requirement for ratification. The Workers' members suggested that all the provisions of Part II of the Charter should have to be accepted. The Belgian Government member proposed that the undertakings given for ratification should compulsorily include the acceptance of article 5 (the right to organise), article 6 (the right to bargain collectively) and article 12 (the right to social security). The French Government member suggested that the following articles or paragraphs of Part II should have to be accepted for the purpose of ratification: article 1, paragraph 1 (level of employment), article 2 (the right to just conditions of work), article 5 (the right to organise), article 6 (the right to bargain collectively), article 9 (the right to vocational guidance), article 10 (the right to vocational training) and article 12, paragraph 1 (undertaking to establish and maintain a system of social security).

7. In support of these various proposals it was argued that there must be a minimum common standard of obligations amongst the Contracting Parties, and that this common standard could not be left to chance coincidence of obligations voluntarily selected, but must compulsorily consist of at least the articles which were most fundamental from the point of view of social policy. The French Government member stated that in the view of his Government the Charter would not have its full value, politically or socially, unless the minimum requirement for ratification included the acceptance of certain generally recognised rights. Moreover, the view was expressed that if the Charter was to be an instrument of social progress the requirements for ratification could go beyond the choice of provisions with which national legislation was at present in conformity. In this connection the Workers' members emphasised that in their view the member States of the Council of Europe were economically able to accept all the provisions of Part II of the Charter.

8. From the discussion which followed it was clear that there was no support for the proposal of the Workers' members. On the other hand, a number of Government members, in particular those of Austria, Italy, Luxembourg and Sweden, supported the principle underlying the Belgian and French proposals, with certain amendments as regards the provisions to be compulsorily accepted. Thus the Italian Government member suggested that articles 17 (the right to engage in a gainful occupation in other member countries), and 18 (the right of migrant workers to protection and assistance) be added to the list of articles the compulsory acceptance of which should be envisaged. The Swedish Government member proposed also that the acceptance of parts of article 3 (the right to safe and healthy working conditions), article 4 (the right to a fair wage), article 7 (the right of children and young persons to protection), article 8 (the right of employed women to protection) and article 13 (the right to social and medical assistance) be made compulsory. The Austrian Government member was in favour of the compulsory acceptance of the articles proposed by the French Government member.

9. A number of other Government members expressed the fear that the proposed alternative texts of article 19 might make it impossible for certain States to ratify the Charter - conceivably sometimes because of an inability to accept one compulsory paragraph - and that this would defeat a fundamental purpose of the Charter, which was to realise and demonstrate the unity of Western Europe. Similarly the Employers' members indicated that, while they were attached to the principle that all contracting States should have identical obligations, they had reluctantly concluded that it would be opportune to retain the existing text of article 19; it was essential that the Charter should be quickly ratified by all or nearly all the Members of the Council of Europe; in view of the number and variety of the subjects dealt with in Part II of the Charter, the most opportune solution was, in the view of the Employers' members, that suggested in the draft text. The Government member of the Federal Republic of Germany explained that the provisions of article 19 had been drafted with reference to the ability of the various member States to accept the different provisions of Part II, and that in this connection it had appeared preferable to have no compulsory provisions rather than to make certain provisions compulsory on the basis of their intrinsic character, and thereby endanger the acceptability of the Charter; he suggested, however, that the Committee of Ministers might re-examine the question whether the articles listed in the French or Belgian proposals were sufficiently generally acceptable to make it possible to require ratifying States to be bound thereby.

10. In an effort to reconcile the various views which had been put forward, the following recommendation was submitted to the Committee:

> "The Government members of Austria, Belgium, Denmark, France, the Federal Republic of Germany, Greece, Italy, Luxembourg, the Netherlands, Sweden and the United Kingdom, after comparison of their views, consider that, with a view to establishing a common denominator for the social policies of member States of the Council of Europe, it would be desirable for article 19 of the Charter to list a certain number of articles or paragraphs which should be accepted compulsorily on ratification. They believe that the various articles and paragraphs proposed by the Belgian, French, Italian and Swedish delegations on the basis of the Social Committee's draft Charter merit consideration by the Committee of Ministers in deciding which of these articles and paragraphs should form a compulsory common minimum in the final text of the Charter.
>
> The Government members consider that this choice should be made in such a manner as to enable accession to be secured on the widest scale."

11. This recommendation was supported by the Committee, subject to certain reservations and understandings. The Employers' members were of the opinion that in view of the importance given in the recommendation itself to obtaining the largest number of accessions, the discretion of the Committee of Ministers in the choice of the provisions to form a compulsory common minimum should not be limited by the directions contained in the second sentence of paragraph 1 of the recommendation, which, in any case, only left a small number of provisions aside. The Workers' members expressed disappointment that, under the text of the recommendation, it would be possible for the Committee of Ministers to decide on a limited number of the articles and paragraphs proposed; they considered that the Ministers should consider themselves morally bound by the proposals put before them They further declared that they attached the greatest importance to the progressive compulsory acceptance of all provisions of the Charter, starting with the compulsory common minimum, within a limited period which might be five years. The Norwegian Government member stated that he was in agreement with the principle underlying the recommendation, but was unable to recommend the inclusion in the compulsory common minimum of certain provisions there referred to. The United Kingdom Government member stated that he subscribed to the recommendation on the understanding - which was confirmed by the Belgian Government member - that it was the intention of the Committee to leave the choice of the compulsory provisions to the discretion of the Committee of Ministers, and merely to suggest which articles merited the main consideration of the Ministers. The Irish Government member indicated that he shared this understanding; he stated further that he would have preferred the second paragraph of the recommendation to provide that the choice of provisions should be made in such a manner "as not to prevent ratification of the Charter by any member State".

Paragraph 2.

12. No observations were made on this paragraph.

Paragraph 3.

13. To ensure consistency with the decisions taken in respect of article 33, paragraph 4, and article 34 (see paragraphs 54 and 55 below), provision should be made for the communication to the Director-General of the I.L.O. of notifications received pursuant to this Part of the Charter.

PART IV OF THE DRAFT EUROPEAN SOCIAL CHARTER

General Discussion

14. The Committee was informed by the Government member of the Federal Republic of Germany, in his capacity as Vice-Chairman of the Governmental Social Committee of the Council of Europe, that the intention of the Social Committee in almost unanimously adopting the procedure set forth in articles 20 to 27 was to have machinery which was as simple as possible and to avoid creating new bodies. Moreover, it had been felt that tripartite implementing machinery was not compatible with the structure of the Council of Europe, which was governmental in character.

15. The Vice-Chairman of the Social Committee, as well as some other members of the Committee on Implementation Clauses, including the Employers' members, observed that in any case employers and workers would be associated with the implementation of the Charter at two stages: they could play an important part in submitting observations on the reports of governments, in conformity with article 22; and they would be represented in a consultative capacity at the meeting of the subcommittee called upon to examine the reports of governments, in accordance with article 26.

16. On the other hand, the view was expressed by the Workers' members and by the Belgian Government member that employers and workers should be more directly associated in the procedure of implementing the Charter, for the purpose of ensuring democratic and effective supervision thereof.

Article 20
Reports concerning Accepted Provisions

17. No observations were made on this article.

Article 21
Reports concerning Provisions Which Are Not Accepted

18. No observations were made on this article.

Article 22
Communication of Copies

19. Some Employers' members raised the question why provision was not made for the communication of reports of governments to the "most representative" national organisations of employers and workers, rather than to national organisations which are members of the international organisations of employers and trade unions in consultative status with the Council of Europe. In their view it was the position which employers' and workers' organisations held in their own countries which was important in this content.

Article 23
Examination of Reports

20. No observations were made on this article.

Article 24
Committee of Experts

21. The Workers' members proposed that paragraph 1 of this article should provide that the Committee of Experts should be appointed from a list of independent experts nominated by the Contracting Parties "in consultation with the organisations referred to in paragraph 1 of article 22". Two arguments were put forward in support of this proposal. First, it was pointed out that the Contracting Parties and the Committee of Ministers were essentially identical, and that in these circumstances the appointment by the Committee of Ministers of persons nominated by the Contracting Parties meant that nomination and appointment were made by the same authorities. This contrasted with the procedure for the appointment of the I.L.O. Committee of Experts on the Application of Conventions and Recommendations, where the appointment was made by the Governing Body on the proposal of the Director-General. Secondly, it was suggested that the proposal would constitute a safeguard against the appointment of persons who might be prejudiced against the interests of employers and workers.

22. The proposal was opposed by the Employers' and by almost all the Government members. In their view the essential object was to obtain independent experts and not persons representative of various interests. In these circumstances it was important to avoid any procedures which might give rise to sectional pressures. Some members felt that in any case some consultation of employers' and workers' organisations was likely to take place before experts were nominated.

Article 25
Participation of the International Labour Organisation

23. The Workers' members proposed that this article should provide for the participation of a representative of the I.L.O. not only in the Committee of Experts but also in the tripartite committee to be provided for in an amended version of article 26. Doubts were expressed by the French Government member whether it would be appropriate to have a representative of the I.L.O., who would be essentially an individual technical expert, as a participant in a committee of the kind envisaged. The Belgian Government member also expressed the view that it would be preferable to leave article 25 in its present form. The Workers' proposal did not

receive any support from any other Government or from the Employers' members. The French Government member tentatively suggested that it might be possible to consult the I.L.O. prior to the submission of the report of the Committee of Experts to the Subcommittee of the Governmental Social Committee, and that the I.L.O. might for the purpose of this consultation, if it so wished, establish a tripartite committee. This suggestion, however, was not pressed.

24. The Workers' members further proposed that the reports from governments should be transmitted to the Director-General of the I.L.O. It was explained that this would ensure in particular that the representative of the I.L.O. participating in the work of the Committee of Experts would have advance knowledge of the documents to be submitted to the Committee. The Government member of the Federal Republic of Germany, speaking in his capacity as Vice-Chairman of the Governmental Social Committee, explained that it was self-evident, even in the absence of special provision, that participants in the Committee of Experts or in the Subcommittee of the Governmental Social Committee, including in the case of the latter non-governmental organisations participating in its work in a consultative capacity, would, at the appropriate time, receive all documents necessary for their effective participation. In view of this assurance, the Workers' proposal was not further pressed.

25. The Netherlands Government member suggested that certain private organisations working in the social field should be allowed to participate as observers in the work of the Committee of Experts. This suggestion was opposed by other Government members on the ground that it was undesirable to have private organisations participating in the work of the Committee of Experts. Provision had been made for participation of a representative of the I.L.O. solely with reference to the particular technical qualifications which such a representative would have for this work. The suggestion was not pressed.

Article 26
Subcommittee of the Governmental Social Committee

26. The Workers' members proposed, as an alternative to the first two paragraphs of article 26, that the reports of the Contracting Parties and the conclusions of the Committee of Experts should be submitted to a committee composed of one representative of the Government, one representative of the employers and one representative of the workers from each of the Contracting Parties, the representatives of the Employers and Workers to be appointed in agreement with the national and international organisations of employers and workers having consultative status with the Council of Europe.

27. The Belgian Government member submitted an alternative proposal for a tripartite committee of more limited size. According to this proposal the reports of the Contracting Parties and the conclusions of the Committee of Experts would be submitted for examination to a tripartite committee composed of eight Government members, four Employers' members and four Workers' members. Before each session of the tripartite committee the eight Government members would be chosen by the Committee of Ministers from the Governmental Social Committee. The four Employers' members and the four Workers' members would be appointed, in agreement with national employers' and workers' organisations affiliated to the international organisations of employers and workers having consultative status with the Council of Europe, by four governments chosen by the Committee of Ministers

28. The proposal of the Belgian Government member was supported by the Workers' members after they had been assured that the proposal permitted of consultation between national and international employers' and workers' organisations prior to the appointment of the Employers' and Workers' members of the Committee. It was also supported by the Austrian and Italian Government members. The following considerations, put forward by the author of the proposal, were supported by those members who favoured it: employers and workers had a real contribution to make to the body supervising the implementation of the provisions of the Charter and should be given the same standing as governments in it; the structure of the Council of Europe did not preclude the setting up of tripartite machinery to assist in its work, as shown by the provision for a tripartite conference in the agreement between the Council of Europe and the I.L.O.; resolution (56) 25, adopted by the Committee of Ministers on 15 December 1956, instructed the Social Committee "to consider measures for the implementation of the Social Charter such as will enable employers' and trade union organisations to assist (participer) in supervising its implementation", and here consultation did not appear fully to satisfy this instruction; finally, in view of the fundamental purpose of the Council of Europe, it would be a serious error not to take full account in it of the important part played by employers' and workers' organisations in the sociological structure of Western Europe, and not to concentrate in the Council the unifying force represented by these organisations.

29. However, the Employers' members and the majority of the Government members felt unable to accept the proposal.

30. The Employers' members indicated that they were in agreement with the existing text which gave employers and workers opportunity for the expression of their views: they could comment on the reports of governments at the national level, where they had

the most important part to play; and they were able to present their point of view to the governmental subcommittee, which would take account of it in its report to the Committee of Ministers. Moreover, these members considered that it was neither desirable nor wise to establish tripartite machinery in the Council of Europe.

31. The majority of the Government members also emphasised these two points. On the one hand, they admitted the necessity of maximum consultation, and considered that this was achieved by the existing text; the representatives of international employers' and workers' organisations would participate in the discussions of the Subcommittee of the Governmental Social Committee and not merely make statements, and their views would be recorded in the report of the Subcommittee; this direct association in the work of the Subcommittee had been considered more favourable to the interests concerned than the setting up of a tripartite committee advisory to the Social Committee. On the other hand, they considered that representation in what was essentially an executive committee could not be admitted; it was recalled in this connection that under the Statute of the Council of Europe the power of decision was vested exclusively in the governmental organ, namely the Committee of Ministers.

32. The French and Luxembourg Government members reserved the position of their Governments.

Article 27
Committee of Ministers

33. No observations were made on this article.

PART V OF THE DRAFT EUROPEAN SOCIAL CHARTER

Article 28
Emergency Clause

34. The Workers' member of the Federal Republic of Germany suggested that the power of individual States to derogate from the provisions of the Charter in case of public emergency should be limited in time. On the other hand, the Government member of the Federal Republic of Germany expressed the view that such limitation was difficult to determine in advance and that it was only possible to state that the derogation should not go further than required by the exigencies of the situation. It was also pointed out that an identical article was contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Safeguards were contained in the provisions of paragraphs 2 and 3 concerning communication to the Secretary-General of the Council of Europe and to other Contracting Parties of information concerning measures derogating from the provisions of the Charter; if there appeared to be abuse, the matter would no doubt be discussed in the Committee of Ministers.

35. The Workers' member of the Federal Republic of Germany then suggested that it might be desirable to define more clearly in paragraph 2 the period of time within which a Contracting Party availing itself of the right of derogation should inform the Secretary-General of the Council of Europe of the measures taken.

Article 29
Restrictions

36. The Workers' members demanded the deletion of this article on the ground that its terms were too sweeping, in particular in that it permitted restrictions necessary "for the protection of public interest, national security, public health, or morals", and might operate to limit existing rights. After discussion, they recognised that the article could not be entirely suppressed; at the same time they asked that the Committee of Ministers should endeavour to find a more restrictive wording for it.

Article 30
Relations between the Charter and Domestic Law or International Agreements

37. No observations were made on this article.

Article 31
Implementation by Collective Agreements

38. The Workers' members proposed an alternative text to this article with the title of "Scope and Implementation of the Charter". Paragraph 1 of this text would provide that the Contracting Parties undertake to ensure the application of the provisions of the Charter which they have accepted in accordance with article 19, paragraph 1, to all persons without distinction of any kind, to the extent that such provisions are applicable to them. The second paragraph would provide for the possibility of accepting certain provisions of the Charter on the basis of collective agreements, but insert the requirement that whatever the means by which the said provisions are implemented, the requirements of paragraph 1 of the article shall be deemed to be satisfied only if, in the reports supplied pursuant to article 20 of the Charter, the Contracting Party proves that these provisions are applied to at least 80 per cent. of the workers employed in the territory in question. It was stated that the amendment was designed to define more clearly the scope of the application of the Charter, which was left too vague in the existing text.

39. The Employers' members stated that in their view the application of the Charter by means of collective agreements raised a number of problems. In some countries several of the subjects

of the Charter were customarily dealt with not by legislation but by collective agreements. In such case a member State which had ratified the Charter would become directly interested in the content and the conclusion of collective agreements which would otherwise be exclusively dealt with by the two parties concerned. This might involve the government putting pressure on the parties in order to ensure the conformity of the agreements with the Charter. The system of ratification on the basis of collective agreements also raised the problem of the responsibility of governments in cases where the clauses of the Charter were no longer fully applied because collective agreements had changed or had expired. The Workers' amendment would make these problems even more difficult. Moreover, the Swedish Government member indicated that his Government was opposed to the possibility of implementing international Conventions by means of collective agreements.

40. The Legal Adviser of the Conference stated that the question of the implementation of international labour Conventions by collective agreements had been actively considered on various occasions, in particular in 1936, 1944 and 1945. Article 19, paragraph 5(d), of the Constitution of the I.L.O. provided that if a Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General "and will take such action as may be necessary to make effective the provisions of such Convention". This provision had been understood as deliberately leaving a wide measure of discretion to each country and permitting the implementation of certain provisions of Conventions, inter alia, by collective agreements. Collective agreements were expressly provided for in international labour Conventions in certain cases.

41. In cases where collective agreements were not in conformity with the Charter after it had been ratified, unlikely though a regression in the standards of collective agreements was, a number of courses were open to the government concerned. It could in countries where this was possible enact legislation supplementing the collective agreements. Alternatively it could encourage the parties to the agreement to bring it into conformity with the Charter, or if that was felt to be excessive interference it might merely call the attention of the parties to the fact of the existence of an international obligation. If all these methods failed, the government might as a last resort have to denounce the Charter.

42. As for the idea of a statistical requirement for compliance with the Charter, it was drawn from the Social Security

(Minimum Standards) Convention, 1952 (No. 102).[1] That Convention laid down specific percentages of employees and residents whose protection was required to meet the standard of the Convention. It further provided that a ratifying Member shall satisfy itself that the relevant percentage is attained. Finally, it required that in reporting on the application of the Convention Members produce evidence of compliance with the statistical conditions.

43. The Government members of the Federal Republic of Germany, Ireland, the Netherlands, Norway and the United Kingdom indicated their preference for the existing text. They pointed out that the article had been included at the request of the Committee of Ministers to meet the situation in countries where certain subjects were normally dealt with in collective agreements. A guarantee of a collective agreement by the government would not be possible in those countries. It was accordingly difficult to have too rigid a text. At the same time, the reporting procedure under which the governments would have to satisfy the Committee of Experts that collective agreements covered the great majority of workers constituted a safeguard. These members also felt that paragraph 1 of the text proposed by the Workers' members was unnecessary.

44. The Belgian Government member stated that he favoured the first paragraph of the text proposed by the Workers' members. As for the statistical requirement contained in the second paragraph, he was also sympathetic to it. Such a requirement would create no difficulties in Belgium, where collective agreements could be rendered obligatory by means of Royal Decree. However, it had to be recognised that in certain countries the fixing of too rigid criteria might create difficulties. In these circumstances, the Committee might note that it was the wish of the Workers' members that the aim should be to cover at least a large, defined proportion of workers; since this was the unanimous wish of the workers, it would seem that it should be given serious consideration by the Committee of Ministers as well as by the Committee of Experts in supervising the implementation of the Charter.

45. It was pointed out by several members that the list of articles which might be implemented by means of collective agreements could only be determined by the Committee of Ministers after the terms of Part II of the Charter were finally settled. The Employers' members indicated that, in their view, article 31, paragraph 1, would have to mention all the provisions of Part II liable to be applied by collective agreements.

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[1] This Convention has been ratified by the following Members of the Council of Europe: Denmark, Federal Republic of Germany, Greece, Italy, Norway, Sweden, United Kingdom.

Article 32
Territorial Application

46. The Workers' members expressed some hesitation about the drafting of this article, which seemed to leave to the metropolitan countries discretion as to whether the benefit of the provisions of the Charter should or should not be extended to the populations of non-metropolitan territories. It was explained by the French Government member that such an article was inevitable for as long as the international relations of non-metropolitan territories were assured by the metropolitan governments, and that it did not in the least preclude the prior consultation of the territories concerned.

Article 33
Signature, Ratification and Entry into Force

Paragraph 1.

47. The Belgian Government member proposed that provision be made for the submission of the Charter, accompanied by a commentary indicating the steps proposed to give effect to its provisions, by each government to its Parliament within 18 months from the date of signature or, preferably, from the date of the adoption of the final text by the Committee of Ministers.

48. The Employers' members and some Government members stated that they preferred to keep the standard Council of Europe procedure for ratification, which was as follows: after approval by the Committee of Ministers, a text was opened for signature; the appropriate constitutional procedures were then engaged in each country with a view to ratification. The Committee of Ministers had at one stage recommended that Conventions adopted under the auspices of the Council of Europe should be submitted to the authorities competent to decide ratification within a period of from one year to 18 months, but this was a mere recommendation.

49. Some other Government members, while expressing sympathy with the proposal, pointed out that there were legal difficulties in the way of providing in the text of a charter which had no legal force prior to ratification for procedures to be followed before ratification. In this the Charter was very different from international labour Conventions where the requirement of submission to the competent authorities was contained in the Constitution of the Organisation, which was binding on all member States. The Government member of the Federal Republic of Germany shared the view that this question could not be dealt with in the Charter, since such a provision would be out of place there; he pointed out at the same time that, if necessary, the question could be settled by means of a Protocol of Signature.

50. The United Kingdom Government member further suggested that if any provision were to be made for the submission of the text of the Charter to the competent national authorities, the text of such proposal should follow more closely the relevant part of the text of article 19 of the Constitution of the I.L.O.

Paragraph 2.

51. The Workers' members proposed that the Charter should come into force as from the thirtieth day after the date of deposit of the second instrument of ratification and not as provided in the existing text after the fifth instrument of ratification. They explained that this would make the Charter a valid legal instrument as soon as two States considered themselves bound by it. International labour Conventions also came into force after the second ratification.

52. The proposal was opposed by the Government members of the Netherlands and the Federal Republic of Germany. In their view it was more appropriate for an instrument such as the Charter, which, unlike international labour Conventions dealt with a large number of different social questions, to come into force only when a more substantial number of ratifications had been received. The proposal received no support from any other Government or from the Employers' members.

Paragraph 3.

53. No observations were made on this paragraph.

Paragraph 4.

54. It was agreed that the paragraph should provide that the Secretary-General of the Council of Europe shall, in addition to notifying all the Members of the Council, notify the Director-General of the I.L.O. of the entry into force of the Charter, the names of the Contracting Parties which had ratified it, and the subsequent deposit of any instruments of ratification.

Article 34
Amendments

55. It was agreed that the article should provide that the Secretary-General of the Council of Europe shall notify the Director-General of the I.L.O. of the entry into force of amendments.

referred this question to the Committee of Ministers. When the Ministers' Deputies discussed the question, there was no majority in favour of opening the Charter to accession by non-member States, although it was agreed not to take a final decision until after the Tripartite Conference. Pending that decision, paragraph 4 of article 35 was retained, but the question had not been thoroughly discussed.

68. The Legal Adviser of the Conference advised the Committee that there was a clear legal distinction between the accession of non-member States to the Charter and the question of continued obligations thereunder of a member State which withdrew from the Council of Europe. International labour Conventions were not open to accession by non-member States, but it had been definitely settled that member States withdrawing from the Organisation remained bound by the provisions of ratified Conventions. This had been recognised in the case of a number of States which left the Organisation between 1934 and 1940, and some of these even continued to furnish reports on Conventions ratified by them. At that time there were no special provisions on the subject either in the Constitution or in Conventions. However, in 1946 a provision was inserted in article 1 of the Constitution to the effect that where a Member had ratified an international labour Convention, withdrawal from the Organisation "shall not affect the continued validity for the period provided for in the Convention of all obligations arising thereunder or relating thereto".

69. The Government member of the Federal Republic of Germany agreed that the deletion of paragraph 4 of article 35 should be envisaged. It was undesirable that a State leaving the Council of Europe for quite different reasons should immediately be able to rid itself of its obligations under the Charter. The deletion of the paragraph would give the Charter additional weight. Most of the other Government members, as well as the Workers' members, also indicated their agreement with the proposal. The Employers' members stated that in their view the question was one for Governments to decide but that they had no objection to the deletion of the paragraph. The Irish Government member reserved the position of his Government.

Proposal for a New Paragraph (5)

70. The Workers' members proposed the insertion of a paragraph providing for the registration of the Social Charter by the Secretary-General of the Council of Europe with the Secretary-General of the United Nations in conformity with article 102 of the