



GENERAL

E/AC.36/SR.5*

24 October 1951

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AD HOC COMMITTEE ON FORCED LABOUR

SUMMARY RECORD OF THE FIFTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 24 October 1951, at 10.10 a.m.

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* The second, third and fourth meetings of the Committee were held in closed session, and the Summary Records (E/AC.36/SR.2, 3 and 4) have therefore been given restricted distribution.

Present:

Members:

Chairman: Sir Ramaswami MUDALIAR

Mr. BERG

Mr. PALAVICINI

Representatives of non-governmental organizations:

Category B and Register

International Federation of
Free Journalists

Miss de SZEKULA

Secretariat:

Mr. Salkin

Secretary of the Committee

Mr. Zwahlen

Technical Adviser

A. CONSIDERATION OF THE DRAFT RESOLUTION RELATING TO RULES OF PROCEDURE

1. The CHAIRMAN stated that the resolutions which were to be discussed at the present public meeting of the Committee were the result of deliberations in private closed meetings, the results of which had been communicated to the press. He had discussed with his colleagues the work that the Committee had to do and the procedures to be adopted in order that the Committee might achieve the best possible results in the discharge of its duties. He hoped that the resolutions which he was presenting to this meeting would meet with the approval of his colleagues, and wished at that stage to give a brief indication of their content.

2. With regard to the resolution concerning the rules of procedure to be adopted by the Committee, the latter had found that there were certain difficulties in adopting the rules normally applied by committees which met under the jurisdiction of the Economic and Social Council. Nor had it found the standing orders relating to the Governing Body of the International Labour Office satisfactory for its particular purposes. The Committee had therefore decided to adhere to such rules of the Economic and Social Council and to certain provisions of resolutions of that body as would assist it in its work.

3. He then proceeded to read the draft resolution concerning rules of procedure (E/AC.36/6). Having done so, he pointed out that the only change that had been made in the mimeographed document that had been distributed was the substitution of the words "standing orders" for the words "rules of procedure" in paragraph 3, page 1.

4. The SECRETARY then read the consequential amendment to the French text of the draft resolution, namely, the replacement of the words "règlement intérieur du Conseil d'administration du B.I.T." by "règlement du Conseil d'administration".

5. The CHAIRMAN commented briefly on the three paragraphs of the draft resolution. The first related to the formal rules of procedure under which the Committee would operate. The second indicated that the Committee would not adopt fully the arrangements for non-governmental organizations in consultative status

with the Economic and Social Council, but that special arrangements would have to be set up to enable the Committee to work in the most efficient manner. The third paragraph referred to the procedure for dealing with communications relating to forced or corrective labour. The reason why 19 March 1951 had been chosen as the determining date was that that was the day on which the Economic and Social Council had decided to set up the ad hoc Committee on Forced Labour. The existing procedure for dealing with communications concerning human rights was laid down in Economic and Social Council resolution 75 (V). However, after 19 March 1951, communications relating to those violations of human rights which came within the terms of reference of the Committee would be received by the Committee; in the case of communications addressed direct to the Committee, it would decide what action should be taken and if and when such communications might be sent to the Secretary-General for action under other procedures. Furthermore, the Committee wished to take measures to preserve the anonymity of authors of communications, except where such anonymity was not desired. The reason for that procedure was that most violations of human rights were perpetrated by governments and the divulgence of the names of persons alleging that violations had occurred might lead to reprisals against either the author or members of his family. The Committee was just as anxious as the Economic and Social Council that such persons should be fully protected from such possible consequences. The same would apply to witnesses who might appear before the Committee if the Committee eventually decided that witnesses should be heard.

6. Mr. BERG and Mr. PALAVICINI had no objections to the procedure described by the Chairman and agreed to the draft resolution submitted by the Chairman.

The CHAIRMAN declared the draft resolution on rules of procedure, as amended, adopted.

B. CONSIDERATION OF DRAFT RESOLUTION RELATING TO RELATIONS WITH NON-GOVERNMENTAL ORGANIZATIONS

7. The CHAIRMAN then presented and read out the draft resolution relating to relations with non-governmental organizations, set out in document E/AC.36/7.

He pointed out that as he had read the draft resolution out, he had made certain corrections in the text as mimeographed. In paragraph 1 of the introduction, line 3, he had inserted, after the words "Economic and Social Council", the words "or recognized by the International Labour Organisation". On page 2, paragraph 1, line 2, he had replaced the words "by the 1st of January 1951" by the words "before the 1st of January 1951". In paragraph 1, sub-paragraph (c) on page 2, he had added the words "relating to the terms of reference as interpreted" to the end of the sub-paragraph, and in paragraph 1, sub-paragraph (f), line 2, page 2, he had replaced the words "the date fixed by the Committee" by the words "the date and place fixed by the Committee."

8. The SECRETARY read out the consequential amendments to the French text as follows:

- (a) Page 1, first paragraph, line 3, add after "conseil économique et social" the words: "ou reconnues par l'Organisation internationale de Travail".
- (b) Page 1, third paragraph, line 4: "par les Commissions du Conseil" to read: "pour les Commissions du Conseil".
- (c) Page 1, fourth paragraph, line 6: "les éclaircissements que celui-ci estime utiles...." should read: "les informations que celui-ci estime utiles".
- (d) Page 2, sub-paragraph (c): "porter à la connaissance du Comité" should read: "faire savoir au Comité".
Add at the end: "et qui seraient en rapport avec le mandat du Comité tel qu'interprété par lui".
- (e) Page 3, sub-paragraph (f): "de la date fixée par le Comité" should read: "de la date et du lieu fixés par le Comité".
- (f) Lastly, on page 2, paragraph 1, after the words "catégories A et B" the word "et" should be inserted.

9. Commenting on the draft resolution, the CHAIRMAN stated that certain rights normally pertaining to non-governmental organizations had not been modified, but in some other cases the Committee had thought it necessary to limit those rights

in some respects and to enlarge them in others, with the object of facilitating the work of the Committee. With regard to the right of non-governmental organizations to submit matters for inclusion in the agenda of meetings of the Economic and Social Council or of its Committees, that right was obviously excluded under the terms of reference of this Committee,

10. With regard to the right of representatives of non-governmental organizations to submit written statements of not more than 2,000 words on items on the agenda of the Council or of its Committees, clause (c) stated that the non-governmental organizations might be permitted to submit documentary material and information relating to the terms of reference of the Committee, and that memoranda not exceeding 1,000 words in length could be forwarded to the Committee for its consideration. With regard to that latter point, he wished it to be plainly understood that the Committee envisaged two stages in its consideration of documentary material. In the first stage it would examine the memoranda presented to it for consideration, and that material, limited as it would be to 1,000 words for each memorandum, would be carefully considered by the Committee. Such information would represent merely a précis of the sort of material available to the organization presenting the memorandum, and would include sources of material and the types of documentation that the organization possessed. If the Committee decided that that material related to the terms of reference of the Committee, the Committee would then ask the organization or institution concerned to send the relevant material in its possession. There would be no limitation on the material provided at that second stage.

11. With regard to the third paragraph, he pointed out that in the discussions of the Economic and Social Council and its Committees representatives of non-governmental organizations merely made statements relating to items on the agenda. However, for the work of the present Committee what was required was not general discussions of items, but a close examination of sources of material with a view to evaluating the information presented to the Committee. Merely to listen to allegations made before the Committee would not be of much help. The relations of the Committee with non-governmental organizations in that respect would differ from the relations of the Economic and Social Council with non-governmental organizations. In conclusion, he stated that the special rules adopted in respect of non-governmental organizations were designed to facilitate the work of the Committee and were in no way intended to restrict the rights normally enjoyed by such organizations.

12. Mr. BERG and Mr. PALAVICINI expressed their approval of the draft resolution as verbally amended by the Chairman.

13. The CHAIRMAN declared the draft resolution on relations with non-governmental organizations, as amended, adopted.

C. CONSIDERATION OF DRAFT RESOLUTION RELATING TO DRAFT QUESTIONNAIRE TO GOVERNMENTS

14. The CHAIRMAN then turned to consideration of the draft resolution relating to a draft questionnaire to governments. He explained that the enquiries to be made by the Committee were not geographically limited in any way and that the Economic and Social Council and the Governing Body of the International Labour Office had asked for as wide a survey as possible. The questionnaire was therefore to be addressed to all governments. What further enquiries might be sent to particular governments would be decided in the light of the responses received at the next session of the Committee. He then read the draft resolution in document E/AC.36/8. There was one slight verbal amendment to the English text on page 4, paragraph I, sub-paragraph (c), namely the substitution of the word "these" for the word "the" before the word "authorities". He explained that the first part of the draft resolution related to procedural questions. It had been considered desirable to include a preamble, to give governments an idea of what type of information was sought.

15. The SECRETARY stated that the necessary charges would be made to the French text to bring it into conformity with the English text.

16. Messrs. BERG and PALAVICINI had no further amendments to propose to the draft resolution as verbally modified, which they approved.

17. The CHAIRMAN declared the draft resolution on the draft questionnaire to governments, as amended, adopted.

D. CONSIDERATION OF DRAFT QUESTIONNAIRE RELATING TO CONSULTANTS

18. The CHAIRMAN then presented the draft resolution relating to

consultants (E/AC.36/9). He explained that the questionnaire which the Committee had prepared would be sent out to all governments as specified; however, experience had shown that some governments would not reply, and that replies received from other governments might not be sufficiently clear. The primary task of the Committee was the collection of legal texts and administrative practices, but it had to be remembered that defective application of those texts and variations in administrative practices might make it necessary for the Committee to go behind the framework of the Laws or of the Constitution of a given country in order to establish what the actual practice was, and in order to ascertain whether systems of Forced Labour, such as came within the terms of reference of the Committee were in operation. In order to do that, the Committee might have to avail itself of the services of certain eminent persons in a country or a region. The Committee had not as yet decided what steps it would take in that connexion, as that would depend on the material made available by governments, but the possibility of investigators being appointed had been envisaged in statements made at sessions of the Economic and Social Council, and the Committee had felt that it might be necessary to appoint consultants. Hence, in agreement with his colleagues, he had drafted a resolution envisaging that possibility. He then read out the text of the draft resolution.

19. Mr. BERG and Mr. PALAVICINI agreed that the draft resolution should be adopted without change.

20. The CHAIRMAN declared the draft resolution on consultants adopted.

21. The SECRETARY wished to make two suggestions at that stage. In the first place he considered it might be desirable to number the resolutions adopted by the Committee. If that were done, the resolution relating to Rules of Procedure would be Resolution No. I; the resolution concerning Non-Governmental Organizations would be Resolution II; the resolution concerning Questionnaires to Governments would be Resolution III; and the resolution concerning Consultants would be Resolution IV.

22. In the second place, he thought that while the summary records of public meetings of the Committee would have general distribution, the Committee might wish to state expressly that the summary record of the present meeting should be distributed to all non-governmental organizations, to keep them fully informed of the procedures adopted by the Committee.

23. The Committee agreed to the suggestions made by the Secretary and formally adopted them.

E. FUTURE PROGRAMME OF WORK.

24. The CHAIRMAN then proceeded to outline the further work to be undertaken by the Committee. He pointed out that the present session would end on Saturday 27 October with a public meeting, at which he suggested the Committee might adopt a progress report to be forwarded to the Economic and Social Council and to the Governing Body of the International Labour Office.

25. He stated that his colleagues and he had decided that in view of the time it would take to receive replies from governments and to collate those replies and any information transmitted by non-governmental organizations, and having regard to the fact that it would be necessary for the Secretary and the Technical Advisor to communicate with the Chairman and other members of the Committee, it would not be advisable to hold the next session of the Committee until the last week of May, 1952, probably from 26 May until 3 July. The documentation that the Committee would have to study would include that transmitted by governments and the memoranda submitted by non-governmental organizations.

26. At its second session, the Committee would cross-examine the representatives of non-governmental organizations, and as a result of such cross-examination it might decide to have the memoranda submitted supplemented by further and fuller memoranda, or to examine persons who offered themselves as witnesses. That question would be decided at the next session. If the Committee decided to examine witnesses it would be necessary to give them sufficient notice to enable

them to make the necessary arrangements to appear before the Committee. That would mean that the Committee would have to hold a third session for hearing witnesses and in order to facilitate that task it should remember that witnesses might be available in Europe, in Africa or in the Americas. It would therefore probably be advisable for the Committee to meet, not in one place alone, but in two places, for example, in Geneva, where it would hear witnesses from Europe and surrounding areas, and in New York, where it would hear witnesses from North and South American countries. In that case, the third session of the Committee would probably be held in the last quarter of 1952. It would then be necessary to hold a fourth session for the consideration of the Committee's draft report to the Economic and Social Council and to the Governing Body of the International Labour Office. That would probably entail a meeting in the first quarter of 1953. However, if it was decided not to examine witnesses, then the third session to be held in the last quarter of 1952 would be devoted to the adoption of the Committee's report. Both these contingencies had to be kept in mind at the present stage.

27. He remarked that not only non-governmental organisations in consultative status with the Economic and Social Council or recognized by the International Labour Organization were invited to transmit to the Committee any communications which they deemed appropriate, but that any organizations not having consultative status, and any private individuals, were also at liberty to communicate to the Committee any information, or offers to testify, relating to the Committee's work as defined in its interpretation of its terms of reference.

28. In that connexion, he wished to indicate that there would be two addresses to which such communications might be forwarded. The Secretariat would, under the undivided responsibility of the Secretary, function both in Geneva and in New York. In order to facilitate the work of the committees, the Technical Adviser would receive all correspondence addressed to Geneva and the Secretary would receive correspondence addressed to New York.

29. In elaboration of the Chairman's remarks, the SECRETARY wished to clarify the

position for non-governmental organizations and persons in respect of the addresses to which they could forward documentation, or at which they could make inquiries. The address in Geneva would be that of the Technical Adviser, c/o the International Labour Office. The address of the Secretary in New York would be the Headquarters of the United Nations.

30. Referring to the Chairman's invitation to private organizations and individuals, he suggested that the dispositions taken in respect of non-governmental organizations in consultative status as set forth in sub-paragraphs (d), (e) and (f) of paragraph 1 of Resolution No.II, should apply also to such other organizations and persons as might wish to make contact with the Committee.

31. The CHAIRMAN then formally proposed that in addition to the non-governmental organizations mentioned above, other organizations and individuals should have the possibility of transmitting to the Committee any documentary material they might have, and of expressing the wish to be heard and questioned. It was understood that such information must relate to the terms of reference of the Committee as it had interpreted them, and that it would be subject to the conditions laid down in resolution II above, and in particular to the provisions of paragraph 1, (d), (e) and (f).

32. It was so agreed.

33. Mr. PALAVICINI thought that that decision should be made very clear to all interested parties.

34. The CHAIRMAN recalled that the Committee would hold its final public meeting for the present session at 10 a.m. on Saturday, 27 October 1951.

The meeting rose at 12 noon.