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THIRD COMMITTEE
Item 12 of the preliminary list*

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Draft report of the open-ended Working Group on the Drafting of an
International Convention on the Protection of the Rights of All
Migrant Workers and Their Families

Chairman: Mr. Antonio GONZALEZ DE LEON (Mexico)

Vice-Chairman: Mr. Juhani LONNROTH (Finland)

Addendum

Article 60

1. The Working Group considered article 60 concerning seafarers and workers on offshore installations at its 12th and 13th meetings on 7 and 8 June 1988 on the basis of article 60 as contained in document A/C.3/39/WG.I/WP.1 reading as follows:

"(1) Seafarers, as defined in article 2 (c), workers on permanent offshore installations, as defined in article 2 (2) (d), and members of their families shall enjoy the following rights:

"(a) If the said workers have been authorized to take up residence in the State of employment, they and the members of their families shall be entitled to the rights provided for in parts II and III of this Convention;

"[(b) If the said workers have not been authorized to take up residence in the State of employment, they shall be entitled to all of the above-mentioned rights which could be applied to them by reason of their

* A/43/50.

presence or work in the State of employment, excluding rights relating to or arising out of residence [and rights arising out of article 45].]

"(2) For the purpose of this article, the State of employment means the State under whose flag or jurisdiction is operated the ship or installation or which the migrant worker is engaged."

2. The Working Group also had before it a revised text for article 60 submitted by the MESCA Group reading as follows:

"(1) Seafarers, as defined in article 2 (c), workers on permanent offshore installations, as defined in article 2 (2) (d), shall enjoy the following rights:

"(a) If the said workers have been granted residence permit in the State of employment, they and the members of their families shall be entitled to the rights provided for in part IV of this Convention.

"(b) If the said workers have not been authorized to take up residence in the State of employment, they shall be entitled to all of the above-mentioned rights which could be applied to them by reason of their presence or work in the State of employment, excluding rights relating to or arising out of residence.

"(2) For the purpose of this article, the State of employment means the State under whose flag or jurisdiction is operated the ship or installation on which the migrant worker is engaged."

3. The Working Group first held a discussion on article 60 as a whole. The representatives of the Federal Republic of Germany and the Netherlands stated that part IV of the Convention should not apply to seafarers as this was a specialized category. They thus preferred the deletion of the article. The representative of the Netherlands in particular said that the jurisdiction of a State over a ship was not the same as in its territory; for example in his country a whole set of social security legislation would not apply to seafarers. If this category of workers were to be included, the formulation of the article should be very limited. In that regard reference to residence permit was very important.

4. The Chairman pointed out that the Working Group at its first reading had carefully reached the conclusion to establish some rights for seafarers because there is a connection between those persons who work on ships with the State of the flag of the ship. Those persons are under the jurisdiction of the State of the flag. The formulation proposed did not contradict the ILO Convention on Social Security for Seafarers. Reference could also be made in article 60 to part III of the Convention.

5. The representative of Norway agreed with the representative of the Netherlands that this group of workers was too specialized to be included in the Convention. Especially in view of the recent ILO Convention on Social Security for Seafarers adopted in 1987, article 60 should be deleted. The representative of France agreed

with the representative of Norway. He said that his delegation was willing to obtain a consensus, but that should be based on paragraph 1 (a).

6. The representatives of Italy and Greece stated that it was very important to include this category of workers in the Convention and protect them. The representative of Italy pointed out a distinction between paragraphs 1 (a) and 1 (b). Paragraph 1 (a) referred to workers admitted in a certain State for residence and working on ships, while paragraph 1 (b) referred to those not authorized to take up residence. The representative of Italy also stated that in his view the difference between provisions applying to workers on a ship and those on an offshore installation was not clear and should be taken into account.

7. The representative of the Philippines said that the discussion had shown just how important this article was and stated that her delegation supported its retention in the Convention.

8. The representative of Norway said that in the view of his delegation a distinction must be made between seafarers on mobile and non-mobile platforms.

9. The Working Group decided to postpone consideration of this article until its next session.
