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Forty-fourth session
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

1. At the twelfth meeting, on 7 June 1989, the Working Group discussed the future programme of its work and whether the draft Convention should be submitted to the Third Committee of the General Assembly of the United Nations containing any provisions in square brackets.
2. In that regard the representative of the United States of America read out the following statement:

"My delegation is pleased that the Working Group has made substantial progress this session towards completing the draft Convention. We are concerned, however, by the apparent rush to transmit the draft Convention to the General Assembly in 1989. While it would be desirable for the Working Group to finish its work as soon as possible, we recognize that a number of significant unresolved issues remain, particularly with respect to Part V of the Convention (concerning specific categories of migrant workers).

* A/44/50/Rev.1.

"My delegation believes that it is incumbent upon the Working Group to resolve all of these issues, with the possible exception of the funding question, which may be more properly left to the General Assembly. The General Assembly established this Working Group precisely to reach consensus on an unbracketed draft Convention. Accordingly, it would be a dereliction of duty for the Working Group to transmit to the General Assembly an incomplete text or one with numerous brackets.

"In addition, the United States believes that, in any event, the Working Group must reconvene to consider the results of the technical review that is to be performed on the draft Convention. That technical review could begin after this session, but could not be completed until the Working Group has resolved all substantive issues in the Convention. For this reason at least, it is obvious to my delegation that the Working Group will have to meet again to finish its work, in 1990 if necessary and that it would be unwise and unnecessary for the Working Group to transmit an unfinished text to the General Assembly in 1989."

3. The representative of Norway, in connection with the foregoing statement by the representative of the United States of America, made the following declaration: The Norwegian delegation associated itself with the statement just made by the United States delegation, he wished to underline that it must be the Working Group itself which at any time could decide whether to continue its drafting and deliberation or to send the draft text to the General Assembly. If no consensus could be reached regarding all the articles in the draft, the draft might contain either texts, in brackets, or the Working Group might decide to eliminate such articles from the draft text to be sent to the General Assembly. However, it had to be the Working Group itself which made such a decision.

4. The representative of the Netherlands made a statement in which he emphasized that it was important for the Working Group to send a text to the General Assembly which did not contain any square brackets. He therefore indicated that he wished to associate his delegation with the statement made by the representative of the United States. The representatives of Finland, Sweden and Japan also wished to associate their delegations with the statement made by the representative of the United States.

5. The representative of Finland wished to underline the views expressed by the representative of the Netherlands with respect to the necessity of arriving at a text without any square brackets. He understood this to be the common objective of the Group, and expressed his optimism that their objective also would be fulfilled if all delegations continued to adhere to the spirit of compromise as had been the case in the past.

6. The Moroccan delegation considered that the statement by the United States was very useful, especially since in the Third Committee the United States delegation had always voted against the resolution on the draft international convention that the Working Group was in the process of drafting. It would support the inclusion of the statement in the report if it could be amended slightly. The delegations of Finland, India, Sweden and Yugoslavia endorsed that view.

7. Concerning the statement made by the representative of the United States, the representative of Algeria said that if, as some speakers had suggested, the Working Group should seek to produce a text without square brackets, that concern could not reasonably be established as a requirement. Accordingly, she could not support such a step, which might imply that the submission of the draft Convention to the General Assembly would be postponed indefinitely. Hence, her delegation could not associate itself with a statement which might imply that the Working Group could only transmit to the General Assembly a text without square brackets. In effect, the Group might be unable to find a solution for some articles left pending, and in that case the final decision should be taken by the General Assembly, which, in exercise of its supreme authority, would resolve the issues involved.

8. The representative of the Soviet Union agreed that it was the objective of the Working Group to submit a text without brackets to the General Assembly. However, he was of the view that if there were any provisions on which consensus could not be reached, then the draft Convention would have to be submitted with such provisions in square brackets. With reference to the statement by the representative of the United States, the Chairman indicated that there had not been any formal proposal in the Working Group to end its second reading at a fixed date. He stated that it was clear that the Group should do its utmost to submit to the General Assembly a text in which all discrepancies would have been resolved. Still, it was obvious to him that the General Assembly would not expect the Group to delay indefinitely the submission of the draft Convention on the ground that one or a few problems could not be solved within the Group. If, unfortunately, one or two questions keep encountering disagreement in the Group it would be incumbent on the General Assembly to take a decision on them. At any rate, the Chairman added, it is the General Assembly that should decide on how long it will extend the mandate of the Group.

9. At the twelfth meeting, on 7 June 1989, the Working Group took up discussion of a request of the delegation of Japan to submit formally a paper to the Working Group containing proposals relating to Parts I to VI of the draft Convention.

10. While showing sympathy with the delegation of Japan, which admitted that they had not been able to participate fully in past sessions of the Working Group, the Working Group agreed that it would be inappropriate to have at this stage, in an official document of the Group, proposals concerning provisions of the Convention which had already been formally adopted during the second reading, since the Group would not be in a position to consider such proposals. Therefore, the Working Group decided that the delegation of Japan was free to make its position known by circulating unofficially their comments. At the same time the Working Group decided that the Japanese proposals relating to pending provisions would be circulated officially in document A/C.3/44/WG.1/CRP.5.

11. On the proposal by the representative of Finland, supported by a number of other delegations, the Japanese delegation would also be given an opportunity to give a general statement at the beginning of the next session explaining therein its general policies in respect of migrant workers and members of their families.

12. The Working Group tried to resume consideration of Articles 50, 56 and 89 at its 10th and 11th meetings, on 5 and 6 June 1989. However, due to lack of time, the Group decided to postpone further consideration of these Articles, as well as others outstanding at this session to its next session, as contained in document A/C.3/44/WG.1/CRP.6.

13. At its 14th meeting, on 8 June 1989, the Working Group adopted the present report.
