

A/C.3/44/WG.1/CRP.7/Add.20  
5 October 1989

ORIGINAL: ENGLISH

Forty-fourth session  
THIRD COMMITTEE  
Agenda item 12

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. Claude HELLER (Mexico)

Vice-Chairman: Mr. Juhani LONNROTH (Finland)

Addendum

Article 60 (continued)

1. At its 13th meeting on 4 October 1989, the Working Group resumed consideration of article 60.
2. As the Working Group was nearing a consensus on action concerning article 60, the representative of Finland stated that his delegation could join the consensus on excluding one part of the category of seafarers from the application of this Convention on the condition that this shall not be interpreted as preventing such migrant workers from the enjoyment of any right that may be granted to them by virtue of existing national legislation or international human rights instruments.
3. The representative of the Federal Republic of Germany placed on record the reservation of his delegation on the exclusion of a provision relating to seafarers. He stated that in order not to block the consensus he would accept the position of his delegation being reflected in the report.
4. The representatives of Portugal and Japan also placed on record the reservations of their delegations on the exclusion of seafarers.

5. The representative of Yugoslavia stated that her delegation could accept the deletion of article 60 only if article 62 is accepted.
6. The Working Group then decided to delete article 60 relating to seafarers and to adopt a new subparagraph (f) for article 3 reading as follows:

Article 3

...

(f) Seafarers and workers on an off-shore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

Article 62 bis

7. At its 13th meeting on 4 October 1989, the Working Group adopted article 62 bis.
8. The representative of Finland stated that his delegation gave its consent to the adoption of this article only on the condition that it is generally understood that its provisions were implemented in conjunction with the definition of specified employment workers under article 2 (2) (g) and cannot be used by the States Parties as an escape clause for normally and indefinitely excluding the majority of migrant workers from enjoying the right of free choice of employment under article 52.
9. The representatives of Australia and Sweden expressed their support for the statement made by the representative of Finland.
10. The representative of France expressed his support for the adoption of the articles as this category of workers is increasing in various parts of the world.
11. The text of article 62 bis as adopted by the Working Group reads as follows:

Article 62 bis

1. Specified employment workers as defined in article 2 (2) (g) shall be entitled to all of the rights relating to migrant workers in part IV of the Convention, excluding those set forth in article 43 (1) (b) and (c); in article 43 (1) (d) as it pertains to social housing schemes; and in articles 52 and 54 (d).

2. Members of the family of specified employment workers shall be entitled to all of the rights relating to family members of migrant workers in part IV of the Convention, excluding those set forth in [article 50 and] article 53.

/...

Paragraph 3 of article 43

12. At its 13th meeting on 4 October, the Working Group adopted paragraph 3 of article 43 as follows:

Article 43

...

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 69, a State of employment may make the establishment of such facilities dependent on the same requirements concerning their installation as generally apply in that State.

13. The representative of Japan stated that her delegation wished to keep the words "whenever appropriate" in paragraph 3 of article 43.

14. The representative of the Federal Republic of Germany stated that his delegation would join the consensus in adopting paragraph 3 of article 43 only if it is not interpreted to impose upon the employer an obligation to build the institutions referred to in the paragraph.

15. Regarding paragraph 3 of article 43, the representative of Finland explained that the earlier proposal for paragraph 3 would be deleted and a new proposal for paragraph 3 would be adopted. He added that it was the understanding of the Group that there was a consensus on the two texts. However, since some delegations did not agree with the new text, he felt that the earlier text should be mentioned for the record.

-----