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COUNCIL COMMITTEE OF
NON-GOVERNMENTAL ORGANIZATIONS

INTERNATIONAL COLLABORATION IN REGARD TO ECONOMIC, SOCIAL AND
EDUCATIONAL CONDITIONS IN
NON-SELF-GOVERNING TERRITORIES

Statement submitted by the World Federation of Trade Unions, a non-governmental
organization in category A consultative status

The Secretary-General has received the following statement which is circulated in accordance with paragraphs 22 and 23 of Council resolution 288 B (X).

1. The General Assembly, in paragraph 2 of its resolution 331 (IV) on international collaboration in regard to economic, social and educational conditions in Non-Self-Governing Territories, mentions the application of international labour conventions as one of the fields in which collaboration between international bodies should be developed "with a view to the improvement of economic, social and educational conditions in the Non-Self-Governing Territories".
2. Article 35 of the Constitution of the International Labour Organisation, however, permits States Members not to apply the conventions they have ratified to Non-Self-Governing Territories; in fact it provides that, according to "local conditions", conventions may be applied by States Members "subject to such modifications as may be necessary", or even not at all. Colonial clauses based on Article 35 of the Constitution of the International Labour Organisation

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E/C.2/272

have been introduced into the majority of international labour conventions, thus creating legal sanction for discrimination in social legislation against the workers of Non-Self-Governing Territories.

The colonial States make use of Article 35 and, in the majority of cases, invoke the pretext of special "local conditions" in order not to apply conventions in the Non-Self-Governing Territories. Thus what, at first glance, seems merely an exceptional restriction in the drafting of Article 35 is made a general rule. The Committee of Experts on the Application of Conventions and Recommendations itself recognizes, in its report to the 33rd session of the International Labour Conference, that the position is so, and notes "the readiness with which some reports describe conventions as 'not applicable', without convincing signs appearing that all the possibilities of partial or qualified application have in fact been thoroughly studied".

The colonial clause in article 35 of the Constitution of the International Labour Organisation is a discriminatory clause, conceived as such, which provides colonial States with a legal basis for their cruel exploitation of the workers of the Non-Self-Governing Territories.

3. A study of the state of social legislation, and particularly of labour legislation, in the Non-Self-Governing Territories reveals the insufficiency of such legislation and the absence of any legal protection for the workers of those countries.

The first point to be noted is the non-existence of any labour code, i.e. of a unified and co-ordinated body of law. Yet in some of those countries a labour code is one of the principal demands of workers and their trade unions. However, no Non-Self-Governing Territory enjoys a general unified system of social security, nor even those territories administered by countries which themselves enjoy such a system. Social security laws, in those territories where they exist, are fragmentary and inadequate.

The same is true in other fields of labour legislation. To give a few examples: In Kenya there is no wages law, no industrial accidents law, no occupational health and hygiene laws and no workers' holiday law. In Northern

Rhodesia, neither wages, nor industrial accidents, nor hygiene (except for a law on silicosis), nor hours of work nor holidays are covered by law. In Porto Rico, there is not a single legislative provision, even partial, in the field of social security. In French Equatorial Africa, the law regulates neither hours of work, nor wages, and the French social security system is not applied there any more than it is in the other territories under French administration. In French Somaliland, legislation covers only hours of work, labour cards, arbitration in the event of labour disputes, and labour inspection. In the Belgian Congo there are no legislative provisions with regard to social security or labour inspection.

These few fragmentary examples do not represent exceptional cases but, on the contrary, give a valid picture of the position in that respect in Non-Self-Governing Territories in general. It should, moreover, be added that, to an even greater extent than in metropolitan territories, the existence of certain laws does not mean that they are applied.

4. Examination of the application and ratification of international labour conventions in Non-Self-Governing Territories reveals a similar situation and clearly proves that the colonial States make use of the colonial clause to deprive the workers of those territories of all legal protection. The following are a few examples drawn from the report of the Committee of Experts quoted above.

Australia does not apply the conventions it has ratified to New Guinea and likewise excludes the indigenous sailors of Papua and New Guinea from Convention No. 8 (Unemployment Indemnity) which it has nonetheless ratified. Belgium submits no report on the application of the conventions it has ratified, a silence that is very well explained by the remark of the Committee of Experts to the effect that "the measure of application given a Convention cannot be assessed solely from the terms of existing legislation". The United States of America exclude the Pacific Islands from the benefit of the conventions it has ratified. France, in her last report on the application of conventions, mentions only four and is silent over the application in Non-Metropolitan territories of the 28 other conventions ratified by her. The Netherlands generally exclude the Dutch West Indies and Surinam from the benefit of the

conventions they ratify. The Union of South Africa applies none of the conventions it has ratified to the territory of South West Africa. The United Kingdom, finally, offers numerous examples of conventions the benefits of which are not extended to the Non-Self-Governing Territories and, in particular, the African territories, which it administers; the report of the Committee of Experts quotes in particular the Convention on Minimum Age in Industry.

5. The Economic and Social Council, when considering the question and making the necessary recommendations, should take into account the economic, social and political changes which have occurred in the Non-Self-Governing Territories as a whole since the Constitution of the International Labour Organisation was drafted. Even after the revision of 1946, Article 35 of its Constitution is quite inappropriate to the situation in such countries. The workers and peoples as a whole of the Non-Self-Governing Territories have, as a result of the war, become conscious of the possibility of putting an end to the exploitation to which they are subjected, and have noted the total failure of the colonial system, whether direct or disguised, and the need for them to liberate themselves in order at last to be able to live in decent conditions and to develop freely. They are aware of the achievements of the Soviet Union in the Asiatic Republics and territories, in which all discrimination has been abolished and which have developed magnificently in the economic, social, political and cultural spheres. The workers accordingly aspire to independence and national liberation movements have grown in strength. The peoples no longer hesitate to resort to armed force when the colonial powers seek by war to maintain the privileges of the international monopolies and the exploitation which is rampant in those countries.

The workers in the Non-Self-Governing Territories voice their demands with ever-increasing vigour and can tolerate no longer the discrimination to which they are subjected in the legislative, as in all other fields.

6. The World Federation of Trade Unions has taken account of the situation of those workers and of their demands, which it defends. The Second World

Congress of Trade Unions, held at Milan in July 1949, declared in its resolution on colonial and semi-colonial countries that it was necessary:

- "to put an end to the system of colonies, protectorates and dependent territories as spheres of economic exploitation,
- to develop Trade Union organizations in those countries without any discrimination of race, colour, nationality and religion, and to establish working-class legislation ensuring the protection of the workers and their effective participation in the formulation and direction of economic policy of those countries,
- to struggle against all social, economic or political discrimination based on race, colour, religion or sex; to struggle for the application of the principle of equal wages for equal work, both in private industry and in the public services; to oppose any restriction of immigration based on racial discrimination;
- to help the peoples of those countries to obtain the application of their right to dispose of themselves and to attain complete national independence,
- to ensure for colonial and economically backward countries the necessary aid for the development of their national economy, without the interference or control of international trusts and monopolies and of foreign powers."

In accordance with that resolution, the World Federation of Trade Unions submitted to the ninth session of the Council a report on discriminatory measures with regard to workers in the economic and social field, which report the Council referred to the International Labour Organisation.

7. The General Assembly has taken account of developments in the Non-Self-Governing Territories, in particular by explicitly deleting the colonial clause from a number of conventions adopted by the League of Nations: the 1921 Convention for the Suppression of the Traffic in Women and Children, the 1933 Convention relating to the Suppression of the Traffic in Women of Full Age (General Assembly resolution 126 (II)), the 1923 Convention for the Suppression of the Circulation of and Traffic in Obscene Publications. Similarly the

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (General Assembly resolution 317 (IV), Article 23) contains a special clause providing for its application ipso facto to all the territories for which the Contracting States are internationally responsible.

8. It is the duty of the Economic and Social Council, under the Charter, to recommend to the International Labour Organisation the deletion of the colonial clause from its Constitution and from international labour conventions. Article 55 (paragraph c) and Article 62 (paragraph 2) of the Charter entrust the Council with the task of supervising the abolition of discriminatory measures.

Under Articles 57, 62 (1), 63 (2) and 64, the Council co-ordinates the activity of the specialized agencies, makes recommendations to those bodies and examines their reports. In exercising those functions, the Council should above all make sure that the specialized agencies respect the basic principles of the Charter, the provisions of which prevail over those of any other international instruments concluded before the entry into force of the Charter. It is hence the duty of the Council to ensure that the International Labour Organisation respects the principle of non-discrimination which figures on a number of occasions in the Charter.

In drawing the attention of members of the Council to the importance of this problem and to the need to put an end to the discriminatory measures practiced by the International Labour Organisation, the World Federation of Trade Unions is fulfilling its task of defending all workers. The World Federation of Trade Unions will never cease to struggle for the rights of the millions of over-exploited workers of the colonial and dependent territories and hopes that the Council will not, once again, turn a deaf ear to the voices of those workers who are resolved to tolerate no longer the conditions of slavery in which they are kept by the colonial system.
