



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL
A/36/383
22 September 1981
ENGLISH
ORIGINAL: ENGLISH/SPANISH

Thirty-sixth session
Agenda item 12

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Measures to improve the situation and ensure the
human rights and dignity of all migrant workers

Note by the Secretary-General

The Secretary-General has the honour to circulate to the General Assembly the communications listed below addressed to him, relating to the draft report which was submitted to 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 and which was prepared by the Chairman of the Working Group (A/36/378, annexes XII, XIV and XV).

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I. Communication from the Acting Permanent Representative of Denmark,
on behalf of the Permanent Representatives of Iceland, Finland,
Norway and Sweden, dated 24 July 1981

1. The Acting Permanent Representative of Denmark to the United Nations, also on behalf of the Permanent Representatives to the United Nations of Finland, Iceland, Norway and Sweden, presents his compliments to the Secretary-General of the United Nations and has the honour to refer to the intersessional meeting of the open-ended Working Group of the General Assembly on the drafting of an international convention on the protection of the rights of all migrant workers and their families, which took place in New York from 11 to 22 May 1981.
2. The Working Group was for various reasons unable to consider and approve the draft report submitted to it by its Chairman (A/C.3/35/WG.1/CRP.16 and Add.1 and 2). It is the opinion of the Governments of the Nordic countries that the draft report does not in all respects reflect the discussions which took place in the Working Group. Since the delegations of the Nordic countries did not have the opportunity to comment on the draft report at the meeting, the main amendments, which the Nordic countries would have proposed if the draft report had been considered by the Working Group, are submitted herewith.
3. Should the text of the Chairman's draft report be distributed to the Governments of States Members of the United Nations, the Nordic countries would be grateful if this note and its annex were to be distributed as an official document together with the Chairman's draft report.

ANNEX

Amendments by the Nordic countries to the draft report
of the Chairman of the open-ended Working Group on the
drafting of an international convention on the protection
of rights of all migrant workers and their families
(document A/C.3/35/WG.1/CRP.16 and Add. 1 and 2)

1. Document A/C.3/35/WG.1/CRP.16

Paragraph 3:

Insert the titles of the two most central working papers CRP.7 and CRP.15, with their exact wording. The wording should consequently be used throughout the report, e.g., the headings in the report should be reworded so that it becomes clear to the reader that the Working Group discussed a working paper - not a draft convention.

Add new paragraph 7 (a):

"A number of delegations expressed the view that a global and comprehensive convention under the auspices of the United Nations could be of great value. They also expressed their appreciation of the efforts made by the sponsors of CRP.7 in preparing a very elaborate preliminary draft."

Replace last sentence in paragraph 8 with the following:

"In this sense these delegations were of the view that CRP.7 was quite ambitious, somewhat too detailed and contained provisions overlapping with some existing international instruments."

Paragraph 9:

Delete first sentence. Second sentence: Add: "and Norway, whenever reference is made to the group of countries sponsoring CRP/15."

Replace last sentence in paragraph 10 with the following:

"Certain other definitions in the draft - such as that of 'family' - were also criticized as being too broad and difficult to implement in an egalitarian manner because of differences in the cultural values and jurisdiction of the member States."

Rephrase paragraph 23 as follows:

"The representative of Norway got support for a suggestion that mention should be made of the Commission for Social Development and of United Nations

agencies which have important programmes for the welfare of migrant workers and their families."

Rephrase paragraph 33 as follows:

"The representative of Norway suggested a new preambular paragraph 5 (a) to read as follows: 'Bearing in mind that workers should not be forced by economic circumstances to migrate for the purpose of obtaining employment'. After informal consultation and with the support of India and Algeria the suggested paragraph was withdrawn."

Add new paragraph 33 (a):

"The representative of Norway recommended as background documentation paragraphs 78-91 in document E/CN.9/347: 'Concise report on monitoring of population trends dealing with changes in the pattern of international migration'."

First sentence of paragraph 39 to be replaced by the following:

"The representative of Norway suggested the preambular paragraph 12 either be deleted or made more specific because it in his view did not add anything of substance to the contents of preambular paragraph 13."

Last sentence of preambular paragraph 61 to be replaced by the following:

"The delegations of Belgium, Italy, Norway and the United States suggested a separate paragraph on the basic human rights of 'undocumented workers'."

Add new paragraph 52 (a):

"The representative of Finland indicated that the word 'seeking' would create some problems because this term might be interpreted as including also people like travellers or temporary visitors who would not be legally regarded as migrant workers in all countries."

2. Document A/C.3/35/WG.1/CRP.16/Add.1

Include paragraphs 1 and 2 from CRP.16/Add.2 as new paragraph 14 (a) and (b) in CRP.16/Add.1.

Include paragraph 4 from CRP.16/Add.2 as paragraph 14 (c) in CRP.16/Add.1.

Add new paragraph 14 (d) as follows:

"The representative of Finland pointed out that A/C.3/35/WG.1/CRP.16 contained a proposal concerning the various elements of the proposed article 5 in A/C.3/35/WG.1/CRP.7 as well as proposals concerning the way in which these elements could be regrouped and formulated in the new convention. The representative of Finland, together with a number of other delegations,

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therefore proposed that CRP.15 would be introduced at this stage before continuing with the discussions of the substantive articles in order to avoid double work."

In the subtitle on page 3 of CRP.16/Add.1, replace the words "new framework" by the words "the framework".

Replace paragraph 15 by a new paragraph 15 as follows:

"The delegates of Italy and Finland introduced document CRP.15 with some remarks on its structure and main objectives. The paper was submitted as a first outline of a possible framework for the convention. It constituted a restructuring of many of the subject matters dealt with in CRP.7. Without implying at this stage any acceptance of the substance or wording of A/C.3/35/WG.1/CRP.7 some provisions suggested in CRP.15 were additional to those contained in CRP.7. However, it was not the intention of the cosponsors to present a rigid alternative to CRP.7, but rather a different approach to the problem, with the aim of better achieving the same objectives."

Replace paragraph 16 by a new paragraph 16 as follows:

"The delegate of Italy stressed that the approach followed in CRP.15 was based on a distinction between fundamental rights which should be accorded to all migrant workers (including undocumented or unauthorized migrant workers) and the rights which should be accorded to documented or authorized migrant workers. A second major feature of the proposed framework was the section on the promotion of sound and equitable conditions for international migrations, through co-operation between countries of origin and receiving countries. The third major feature of the framework was a strong implementation machinery, designed to collect information, to review progress made by the States and to help in solving disputes in the field of international migrations."

Add new paragraph 17 as follows:

"The delegate of Finland further elaborated the contents of CRP.15, in particular by pointing out the linkages between CRP.15 and the proposed article 5 of CRP.7. The elements of this article had been incorporated in CRP.15 (by making due reference to the proposed article 5 in CRP.7):

(a) by ensuring the implementation of the basic human rights for all migrant workers (including unauthorized and undocumented migrant workers) and the rights arising out of their work (CRP.15, sect. II, para. 8),

(b) by establishing a general principle of equality and opportunity and treatment in specified fields of society for authorized migrant workers (CRP.15, sect. III, para. 4),

(c) by establishing special social and economic rights for authorized migrant workers (CRP.15, sect. III, para. 5),

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(d) by establishing equality of treatment in the field of labour rights for migrant workers authorized to take up paid employment (CRP.15, sect. IV, para. 1).

Add new paragraph 18 as follows:

"The Danish delegation stated that it was unable to co-sponsor document CRP.15, seeing that some of the elements therein would probably not be acceptable to Denmark, but that it was favourably disposed towards the document in general, its intentions and method, including the structure of the document."

Include paragraph 6 from CRP.16/Add.2 as paragraph 19 in CRP.16/Add.1.

Delete rest of CRP.16/Add.2.

3. Document A/C.3/35/WG.1/CRP.16/Add.2

Reference is made to the remarks under CRP.16/Add.1.

II. Communication from the Permanent Representative of Italy, dated 25 June 1981

1. As you are aware, the open-ended Working Group of the General Assembly on the drafting of an International Convention on the protection of the rights of all migrant workers and their families, which held an intersessional meeting in New York from 11 to 22 May 1981, was unable owing to lack of time to consider and approve the draft report submitted to it by its Chairman and published in document A/C.3/35/WG.1/CRP.16 and Add.1 and 2.

2. Since the Italian delegation, which participated in the session, was unable to comment on the draft report owing to the above-mentioned circumstances, I wish to convey to you in writing the text of the following amendments that my delegation would have proposed if the draft had been considered by the Working Group:

(a) Introduction (A/C.3/35/WG.1/CRP.16) - Add the following paragraph 7:

"On the question of the follow-up of the intersessional meeting, a number of delegations insisted on the importance of the presence of experts from capitals, in view of the technical complexity of the subject matter of the Convention to be drafted by the Working Group. They stressed in this regard that experts would find it possible to attend the meetings of the Working Group during the thirty-sixth session of the General Assembly, only if those meetings were to be concentrated on a previously fixed and relatively short (two weeks) period of time rather than scattered over the whole three months of the General Assembly session. Otherwise, it was said, the Working Group would lose much of the momentum it had gained during its intersessional meeting.

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"Other delegations felt that this question would more appropriately be discussed in the Third Committee of the General Assembly."

(b) Replace paragraph 15 in document A/C.3/35/WG.1/CRP.16/Add.1 with the following:

"The delegates of Italy and Finland introduced document CRP.15 with some remarks on its structure and main objectives. The working paper was submitted as a first outline of a possible framework for the Convention. Its purpose was to suggest a restructuring of many of the subject matters dealt with in document CRP.7, without implying at the stage at which it was submitted any acceptance of the substance or wording of the draft contained in document CRP.7. Some provisions suggested in CRP.15 were additional to those contained in CRP.7. However, it was not the intention of the cosponsors to present a rigid alternative to the proposals contained in document CRP.7, but rather a different approach to the problem, with the aim of better achieving the same objectives pursued by the cosponsors of CRP.7."

(c) Replace paragraph 16 in document A/C.3/35/WG.1/CRP.16/Add.1 with the following:

"The delegate of Italy stressed that the approach followed in CRP.15 was based on a distinction between fundamental rights which should be recognized to all migrant workers (including undocumented or unauthorized migrant workers) and the basic rights which should be recognized to documented or authorized migrant workers and categories thereof. A second important feature of the proposed framework was the inclusion of a section on the promotion of sound and equitable conditions for international migrations, through co-operation between countries of origin and receiving countries. Finally document CRP.15 contained proposals for the establishment of an effective implementation machinery, designed to facilitate the collection of information and the review of progress made by States and possibly to help in the solution of disputes in the field of international migrations."

3. Should the text of the draft report of the Chairman be distributed to the Governments of States Members of the United Nations I would be grateful if this letter were also to be distributed as an addendum to that document.

III. Communication from the Permanent Mission of the Kingdom of the Netherlands, dated 18 June 1981

1. The Permanent Mission of the Kingdom of the Netherlands to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to the intersessional meeting of the open-ended Working Group of the General Assembly on the drafting of an international convention on the protection of the rights of all migrant workers and their families, held in New York from 11 to 22 May 1981. The Working Group was unfortunately unable to

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consider and approve the draft report submitted to it by its Chairman and contained in document A/C.3/35/WG.1/CRP.16 and Add.1 and 2.

2. Since the Netherlands Delegation, which participated in the intersessional meeting, was unable to comment on the draft report owing to the above-mentioned circumstances, it wishes to convey in writing the text of the amendments which it would have proposed if the draft had been considered by the Working Group. These amendments are annexed to this note.

3. Should the text of the Chairman's draft report be distributed to the Governments of States Members of the United Nations, the Permanent Mission would be grateful if this note and the annex thereto were also to be distributed as an official document accompanying the Chairman's draft report.

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ANNEX

Amendments submitted by the Netherlands to the draft report
of the Chairman of the open-ended Working Group on the
drafting of an international convention on the protection
of rights of all migrant workers and their families
(document A/C.3/35/WG.1/CRP.16 and Add.1 and 2)

Paragraph 3

Substitute first sentence of paragraph 3 by the following:

"3. In pursuance of General Assembly resolution 35/198, the Working Group held 15 meetings between 11 and 22 May to continue its work; the meetings, which were open to all Members of the United Nations, were attended by representatives of the following States: (to be filled out by the Secretariat) A list of _____ participants should be annexed to the report.

Substitute the last sentence by the following:

"The working papers submitted to the Working Group during the intersessional meeting are annexed to the present report (A/C.3/35/WG.1/CRP.16 and Add.1 and 2). The draft report of the Working Group was prepared under the responsibility of the Chairman."

Paragraph 5

Mention should be made of the representatives of other intergovernmental organizations like United Nations Educational, Scientific and Cultural Organization, and the European Economic Community, and of non-governmental organizations, like IFCTU.

Paragraph 6

Substitute the first sentence with the following:

"During a broad exchange of views on the manner in which the Working Group should proceed, several delegations insisted that the reports of the Working Group to the General Assembly must be as comprehensive and complete as the working group reports adopted by the Commission on Human Rights and must summarize all major points of view expressed by the participating delegations. It was pointed out by several delegations that it would be important to have a substantive report which would enable the General Assembly to form an opinion on the work accomplished during the intersessional meeting. A report of the nature as contained in document A/C.3/35/13, submitted by the Chairman/Rapporteur to the Third Committee during the thirty-fifth session of the General Assembly, would not serve that purpose, it was widely felt. In order to ensure that such a substantive report would be achieved, several delegations also strongly urged that the Working Group elect a rapporteur to assist the Chairman. They wondered whether the combination of

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the functions of chairman/rapporteur would not be too heavy a burden for one person in view of the fact that the Working Group is drafting an international convention and that in such a case travaux préparatoires are of extreme importance. Moreover, it was felt that by splitting these two functions, the Chairman would be able to concentrate fully on the conduct of business while the Rapporteur would concentrate fully on the reporting on the discussions."

Title of Chapter I, I: "General debate"

Add a new paragraph:

"During a general exchange of views several delegations stated that, although they had questioned the competence of the United Nations General Assembly to draft an international convention on the rights of migrant workers, they were willing to co-operate with the other members of the Working Group and to negotiate a generally and universally acceptable text for a convention. They expressed, however, a scepticism about the drafting of a convention on labour rights outside the auspices of the International Labour Organisation. They maintained that no working group of the General Assembly could equal the ability of the tripartite committees of the ILO General Conference and the ILO secretariat to draft international labour instruments reflecting the interests of workers, employers and Governments. Moreover, they noted that a convention concluded outside the ILO would not have the benefit of the lengthy experience of the ILO's secretariat, Committee of Experts and the Conference Committee on the Application of Conventions and Recommendations at implementing and monitoring labour standards, nor the ILO's machinery for doing so through a detailed reporting system and well-established programme of direct contacts with member States.

After the general exchange of views, the working group then proceeded to begin a first reading of the text contained in document A/C.3/35/WG.1/CRP.7, which contains a preamble and an operative part. It was understood that such a first reading would allow participants to present preliminary remarks and substantive suggestions which, at this stage, would not commit any delegation, since several of them had not had the opportunity to receive specific instructions from the governments concerning the contents of CRP.7. In particular, several delegations, including those of the Netherlands, Norway and the United States of America, expressed appreciation for the efforts that had produced CRP.7 and promised a thorough review of CRP.7 but declared, in essence, that their delegations were not in a position to agree to any provision of the proposed convention and must reserve their positions in this respect."

Paragraph 44

Revise third sentence as follows:

"Other delegations stated that, while fundamental human rights should be accorded to everyone, the entitlement to extensive labour rights for

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undocumented or unauthorized migrant workers was unacceptable because it would put those who abide by the law on the same footing as those who violate the law."

Add a new paragraph after 49:

"During the course of the debate on the preambular paragraphs of the proposed convention, several delegations repeatedly requested the Chairman to prepare a preliminary draft report on the work of the first week of the intersessional meeting."

Paragraph 50:

Substitute by the following:

"Several delegations, including those of France, the Netherlands, the United States of America, suggested that definition of the term 'migrant worker' in the proposed convention should be formulated in a manner comparable to the definition in the European Convention on the Legal status of migrant workers, namely, "a person authorized to reside in the territory of a State of which he is not a national in order to take up paid employment". In view of the fact that the proposed convention was concerned with human rights rather than with labour rights some delegations also questioned the appropriateness of maintaining the same exclusions from the definition of 'migrant worker' that are present in ILO Convention No. 143 and the European Convention".

Paragraph 54

Substitute by the following:

"Several delegations declared that the proposed convention must contain separate definitions for documented migrant workers and undocumented or unauthorized migrant workers in order to avoid total confusion throughout the proposed convention. These delegations maintained that it was not possible to discuss proposed substantive provisions without an agreed definition of migrant workers."

Add a new chapter to the report entitled "Future work of the working group"

"By the end of the intersessional meeting the delegation of the Netherlands suggested that the Working Group discuss its future methods of work and make recommendations to the General Assembly. It stated that the Working Group would maintain the momentum it had gained during the intersessional meeting if the Working Group would meet during the thirty-sixth session of the General Assembly during a previously fixed and relatively short (two weeks) period of time rather than scattered over the three months' session. This suggestions met with support by several delegations among which those of Italy and the United States of America."

IV. Communication from the Permanent Representative of Spain,
dated 24 July 1981

The latest meeting of the Working Group on the drafting of an international convention on the protection of the rights of all migrant workers and their families did not make substantial progress in discussing the report submitted by the Chairman in document A/C.3/35/WG.1/CRP.16. In this connexion, I have the honour to transmit to you the text of the amendments which my delegation would have proposed had the above-mentioned document been discussed. I should be grateful if you would have the attached text of the amendments proposed by the delegation of Spain distributed to States Members of the United Nations as an addendum to document A/C.3/35/WG.1/CRP.16.

ANNEX

Amendments proposed by the delegation of Spain to
document A/C.3/35/WG.1/CRP.16 on migrant workers
and their families

Paragraph 9:

The paragraph should end after the words "as to substance and in its form." in line 2.

Add paragraph 9 bis to read:

"The delegations of Finland, Greece, Italy, Portugal, Spain and Sweden submitted document A/C.3/35/WG.1/CRP.15 in order to offer a new approach which would enable the Group to discuss systematically what principles to include in the future Convention."

Paragraph 10:

Recraft as follows: "As regards the substance of the draft, certain delegations felt that, apart from the enjoyment of fundamental human rights, which must be guaranteed for authorized and unauthorized migrant workers alike, the proposal contained in document A/C.3/35/WG.1/CRP.7 went too far in assimilating authorized migrant workers and undocumented migrant workers; in their view, the text ..." (rest of paragraph remains the same).

Add paragraph 41 bis to read:

"Other delegations, in particular the sponsors of document A/C.3/35/WG.1/CRP.15, expressed the view that, in addition to and as a vital part of the protection of the rights of migrant workers, the Convention should also include provisions to suppress illegal migration, the adverse effects of which were suffered precisely by migrant workers."

Paragraph 8 of document A/C.3/35/WG.1/CRP.16/Add.1:

Amend the second sentence as follows: "in the view of certain representatives, however, some of these provisions were sometimes unclear and repetitious and the absence of a clear structure for the substantive articles impeded the progress of the Group's work. Some delegations considered, in particular, ...".

V. Communication from the Permanent Mission of the United States of America dated 26 June, 1981

1. The Permanent Mission of the United States of America presents its compliments to the Secretariat of the United Nations and has the honour to transmit herewith the attached revisions and amendments to the draft report of the Chairman on the intersessional meeting 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, which met in New York from 11 to 22 May 1981. The Working Group was unable to consider and adopt the draft report on its intersessional meeting prepared by its Chairman and published in documents A/C.3/35/WG.1/CRP.16 of 19 May 1981, A/C.3/35/WG.1/CRP.16/Add.1 of 20 May 1981, and A/C.3/35/WG.1/CRP.16/Add.2 of 21 May 1981.

2. In view of the fact that the delegations which participated in the intersessional meeting had an opportunity to comment only on the first few paragraphs of the draft report, the Government of the United States of America submits the attached revisions and amendments, which the United States delegation would have proposed if the Chairman's draft report had been considered in its entirety by the Working Group.

3. In light of the Working Group's failure to adopt any report on the intersessional meeting, the Government of the United States of America would consider distribution of the Chairman's draft report to Member States and other parties to be inappropriate. AS the only written record of the intersessional meeting, and with a title that does not clearly reflect the fact that it is a draft report by the Chairman which was not adopted by the Working Group, the Chairman's draft report might, if distributed by the Secretary-General, be accorded greater weight by Member States than is justified under the circumstances.

4. In the event that the Secretary-General nevertheless decides to distribute the Chairman's draft report to the Governments of Member States, competent organs of the United Nations system and interested international organizations, the Government of the United States of America hereby requests the Secretary-General also to distribute simultaneously this note and the attached United States delegation revisions and amendments as an official document accompanying the Chairman's draft report.

ANNEX

Revisions and amendments submitted by the delegation of the United States of America to the Chairman's draft report on the intersessional meeting 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, held in New York from 11-22 May 1981

Revisions and amendments to document A/C.3/35/WG.1/CRP.16 of 19 May 1981

Paragraph 3:

Line 3: Delete "delegations of all regions" and replace with "delegations representing (list all participating Member States, international intergovernmental organizations, and nongovernmental organizations)".

Add the following sentence after the list of delegations: "The Annex to this report sets forth the names and titles of the individual participants in the intersessional meeting".

Lines 5-7: Revise as follows:

"a working paper submitted by the delegations of Algeria, Mexico, Pakistan, Turkey and Yugoslavia, subsequently joined by Egypt and Barbados, containing a proposed preliminary draft of an international convention"

Line 16: Add following language after "(A/C.3/35/WG.1/CRP.15)":

"containing proposals for the framework of the proposed convention."

Add the following sentence at the end of paragraph 3:

"During the intersessional meeting, the draft report of the working group was prepared under the responsibility of the chairman."

Add new paragraph 5 bis as follows:

"During a broad exchange of views on the manner in which the working group should proceed, several delegations insisted that the report of the working group to the General Assembly must be as comprehensive and complete as the working group reports adopted by the Commission on Human Rights and must summarize all major points of view expressed by participating delegations. In order to ensure that this result would be achieved, several delegations also strongly urged that the working group elect a rapporteur to assist the chairman."

Add new paragraph 5 ter as follows:

"During a preliminary discussion, several delegations questioned whether the United Nations General Assembly was the appropriate forum for drafting a
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convention of the nature proposed, but also declared their readiness to participate constructively in negotiating a text. In particular, several delegations expressed skepticism about drafting a convention on labor rights, as well as human rights, outside the auspices of the International Labor Organization. They maintained that no working group of the General Assembly could equal the ability of the tripartite committees of the ILO General Conference and the ILO Secretariat to draft international labor instruments reflecting the interests of workers, employers, and governments. Moreover, they noted that a convention concluded outside the ILO would not have the benefit of the lengthy experience of the ILO's Secretariat, Committee of Experts, and Conference Committee on the Application of Conventions and Recommendations at implementing and monitoring labor standards, nor the ILO's machinery for doing so through a detailed reporting system and well-established program of direct contacts with Member States."

Add following new paragraph 5 quater:

"The representative of the Netherlands suggested that the working group discuss its future method of work and make recommendations to the General Assembly. In particular, the representative of the Netherlands proposed that the working group's meetings during the thirty-sixth United Nations General Assembly be concentrated in a two or three week period in order to permit technical experts from Member States to be present. This proposal was supported by several delegations, including Finland, Italy, Sweden, and the United States."

Title of I: "General Debate"

Paragraph 6:

Transfer from Introduction to Section I (General Debate) and replace with the following:

"The working group proceeded to begin a first reading of the text contained in document A/C.3/35/WG.1/CRP.7, which contains a preamble and an operative part. It was understood that such a first reading would allow participants to present preliminary remarks and tentative suggestions which, at this stage, would not commit any delegation, since several of them had not had the opportunity to receive specific instructions from their Governments concerning the contents of CRP.7. In particular, several delegations, including Belgium, the Netherlands, Norway, the United Kingdom, and the United States, expressed appreciation for the efforts that had produced CRP.7 and promised a thorough review of it. However, they declared, in essence, that their delegations were not in a position to agree to any provision of the proposed convention and must reserve their positions on all aspects of the working group's activities relating to the proposed convention itself."

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Paragraph 7:

Line 1: Delete "the preliminary draft Convention contained in"

Lines 10-12: Change beginning of sentence to read: "They also believed that CRP.7 duly took"

Paragraph 9: Add Norway

Paragraph 10:

Line 1: Replace "the draft" with "CRP.7"

Line 2: Replace "assimilating" with "equating"

Line 6: Add "or unrealistic" after "broad"

Paragraph 11:

Lines 3-4: Revise as follows: "... inherent to all migrant workers, both illegal or undocumented migrant workers, and additional"

Title of II: "First reading of the preamble of CRP.7"

Paragraph 12:

Line 2: Replace "forwarded" with "supported"

Paragraph 14:

Add first sentence: "The representative of the United States proposed deletion of the phrase 'permanent validity'".

Paragraph 15:

Add the following sentence at the end: "The representative of the United States asserted that the term 'instruments' covered both conventions and non-binding United Nations declarations but suggested use of the phrase 'treaties and other instruments'".

Paragraph 18:

Revise beginning as follows: "The representative of the United States directed the working group's attention to the pertinent report of the Secretary-General (A/C.3/35/WG.1/CRP.1) and suggested that the group should consider listing the ILO instruments mentioned therein, but should seek the guidance of the ILO representatives on this point."

Paragraph 21:

Add after first sentence: "These delegations believed that concerns in this area were covered by earlier references to the Universal Declaration and the International Covenants."

Paragraph 22:

Line 4: Replace "essential role" with "primary competence and ongoing capabilities"

Add after first sentence: "Several delegations suggested that the ILO Committee of Experts be consulted by the working group for guidance, perhaps by reviewing the reports of the working group."

Paragraph 31: Translate proposal by Mexico

Paragraph 41:

Revise last sentence as follows: "The delegations of Belgium, Italy, Norway, and the United States suggested a separate paragraph on the basic human rights of 'undocumented workers'."

Paragraph 44:

Revise third sentence as follows: "Other delegations stated that, while fundamental human rights should be accorded to everyone, the entitlement to extensive labour rights for undocumented or illegal migrant workers was inappropriate, unrealistic, and generally unenforceable by governments."

Add following sentence at end: "The representative of the United States noted that, although delegations which formulate General Assembly resolutions and proposed conventions regarding migrant workers may unilaterally attempt to broaden the scope of the exercise to include labour rights, the title of the agenda item under which the working group operates is limited to human rights."

Paragraph 49 bis:

"During the course of the debate on the preambular paragraphs of the proposed convention, several delegations repeatedly requested the chairman to prepare a preliminary draft report on the work of the first week of the intersessional meeting."

Paragraph 50:

Revise as follows: "One representative, supported by the representatives of the Netherlands, the United States and several other delegations, suggested that the definition of the term 'migrant workers' in the proposed convention should be formulated in a manner comparable to the definition in the European

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Convention on the Legal Status of Migrant Workers, namely 'a person authorized to reside in the territory of a State of which he is not a national in order to take up paid employment'. In view of the fact that the proposed convention was to concern human rights rather than labour rights, some delegations also questioned the appropriateness of maintaining the same exclusions from the definition of 'migrant worker' (frontier workers, seamen, artists, members of a liberal profession, trainees, seasonal workers, and workers on short-term assignments) that are present in ILO Convention No. 143 and the European Convention."

Paragraph 51:

Add at end: "... and unquestionably included undocumented or illegal migrant workers."

Paragraph 54:

Revise as follows: "Several delegations, including Italy, the Netherlands and the United States, supported by a number of other delegations, declared that the proposed convention must contain separate definitions for documented migrant workers and undocumented or illegal migrant workers in order to avoid endless confusion throughout the proposed instrument. These delegations maintained that it was not possible to discuss proposed substantive provisions without an agreed definition of 'migrant workers'".

Paragraph 56: Translate into English

Paragraph 63:

Revise as follows: "The representative of the United States pointed out that the working group did not know whose families were being discussed in attempting to define 'families of migrant workers' because the group had not decided on the definition for 'migrant worker'. If only the families of documented migrant workers were concerned, the representative of the United States suggested that 'family' be limited to spouse and unmarried children under age 21, as well as other persons expressly covered in applicable laws of the State of destination and/or bilateral agreements. In the event of a conflict between the laws of the State of origin and the State of destination, several delegations, including the Netherlands and the United States, insisted that the law of the State of destination must govern."

U.S. delegation revision and amendments to UN document
A/C.3/35/WG.1/CRP.16/Add.1 of 20 May 1981

Paragraph 11:

Revise as follows: "It was the suggestion of the representative of the United States that, inasmuch as the provision was intended by the sponsors to cover undocumented or illegal migrant workers, it should speak in terms of 'fair treatment' or 'due process' rather than 'full equality before the law' with the citizens of a host State."

/...

Paragraph 14:

Revise as follows: "In the view of the representative of the United States, the right to repatriate earnings and savings should be recognized only 'in accordance with applicable legislation and currency regulations of States of destination'."

Add an Annex to the report which sets forth the names and titles of the individual participants in the intersessional meeting.
