

Memorandum for Cabinet by the Hon. the Prime Minister  
and the Hon. Minister of Labour and Social Welfare

Amendments to the Constitution  
of the International Labour Organization

Three Instruments for the Amendment of the International Labour Organization Constitution, copies of which are available in the Office of the Secretary to Cabinet, were adopted by the International Labour Conference at its 48th Session in 1964. These amendments will come into force upon being ratified by two-thirds of the members of the I.L.O., including five of the ten members which are represented on the Governing Body as Members of chief industrial importance in accordance with article 7 of the I.L.O. Constitution.

The scope of the amendments is summarised hereunder:

A. Instrument of Amendment (No.1) 1964

2. The amendment is designed to eliminate from the Constitution of the International Labour Organization all reference to non-metropolitan territories.
3. When ratified by the necessary majority of members, the amendment will eliminate Article 35 of the Constitution which deals with the application of Conventions to non-metropolitan territories, and will add a new paragraph to Article 19 which deals with the obligations of member countries in respect of International Labour Conventions and Recommendations.
4. The proposed addition of Article 19 restates much of the substance of Article 35 and in particular it safeguards the principle of autonomy of self-governing territories. It recognizes that it is not always practicable for a Convention ratified by a member state to be applied immediately and unconditionally to every territory for the International relations of which the Member is responsible.
5. Member countries ratifying the Instrument of Amendment shall under this amendment, accept the provisions of Conventions ratified by them so far as practicable in respect of all territories for whose international relations they are responsible.
6. As an independent state Malta is autonomous as far as legislation goes and the retention or elimination of article 35 from the Constitution makes no difference to Malta.

7. Furthermore Malta is not responsible for the international relations of any territory outside Malta and hence the proposed addition to Article 19 has no practical effect in Malta.

8. In view of the foregoing, and of the universal support which this amendment obtained at the 48th session of I.L.O. ( 300 votes in favour, none against, 31 absentions) it is recommended that the amendment be ratified by Malta.

B. Instrument of Amendment (No.2) 1964

C. Instrument of Amendment (No.3) 1964

9. In 1961 the Conference had requested the Republic of South Africa to withdraw from the organization in view of its apartheid policy which runs counter to the very concept of the I.L.O. That advice was challenged by the South African Government which continued to send delegations to subsequent Conferences.

10. At the 1963 session of the Conference active pressure was brought to bear on the Government of South Africa by the delegates from the African, Asian and a large number of other countries. At one time the work of the Conference was disrupted but nothing could be done as the suspension of a Member and the outright expulsion from membership of the Organisation were not contemplated in the Constitution.

11. The two proposed amendments which would meet similar cases were placed before the 1964 Conference by the I.L.O. Governing Body on the recommendation of the Governing Body's special Committee on questions concerning South Africa.

12. Instrument of Amendment (No.2) when ratified would empower the Conference, by a two-thirds vote, to suspend from participation in its proceedings any member country found by the United Nations to be flagrantly and parsistently pursuing by its legislation a declared policy of racial discrimination. This amendment was adopted by the Conference on the 9th July, 1964 by 179 votes in favour, 27 against and 41 abstentions.

13. Instrument of Amendment (No.3) would empower the Conference by a two-thirds vote, to suspend or expel from membership of the I.L.O. any member country having been suspended or expelled by the United Nations. This amendment was adopted on 9 July, 1964 by 238 votes in favour, none against and 2 abstentions.

14. The number of delegates voting against Amendment No. 2 indicates that it was not so popular or clear-cut as the other amendment. In fact it would appear that a member state could, perhaps for political motives, bring up the plea in the United Nations that another Member State was, from their view point, pursuing a policy of racial discrimination. Again for political reasons, such a plea might find support both in the United Nations and in the I.L.O. Moreover, it is considered that all forms of discrimination ( and not only racial) should be equally repugnant to the ideals of the I.L.O., and to censure one form and not another seems to introduce into the I.L.O. an element of that very discrimination which it is sought to condemn. For these reasons it is not recommended that Malta should ratify Amendment No. 2.

15. As regards Amendment No. 3, no objection is seen to the principle that a member state which has been expelled or suspended from membership of the United Nations should be liable to expulsion or suspension from the I.L.O., and subject to Hon. Ministers' agreement, it is proposed to ratify this amendment.

16. In conclusion, Hon. Ministers are invited to recommend:

- (a) Ratification of instruments of Amendments Nos. 1 and 3 .
- (b) Non-Ratification of Instrument of Amendment No. 2.