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CONVENTION CONCERNING FREEDOM OF ASSOCIATION  
AND PROTECTION OF THE RIGHT TO ORGANIZE

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M E S S A G E .

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION (NO. 87) CONCERNING FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANIZE, ADOPTED BY THE INTERNATIONAL LABOR CONFERENCE AT ITS THIRTY-FIRST SESSION, HELD AT SAN FRANCISCO JUNE 17 TO JULY 10, 1948

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AUGUST 27, 1949.—Convention was read the first time and the injunction of secrecy was removed therefrom. The convention, the President's message of transmittal, the report by the Secretary of State, and a copy of a letter from the Secretary of Labor with respect to the convention, were referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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THE WHITE HOUSE, *August 27, 1949.*

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith an authentic text of the convention (No. 87) concerning freedom of association and protection of the right to organize, adopted by the International Labor Conference at its thirty-first session, held at San Francisco, June 17 to July 10, 1948.

I transmit also for the information of the Senate the report of the Secretary of State regarding this convention, together with a copy of a letter addressed by the Secretary of Labor to the Secretary of State with respect to the convention.

HARRY S. TRUMAN.

(Enclosures: (1) Report by the Secretary of State, (2) copy of letter from the Secretary of Labor, (3) authentic text of convention (No. 87) concerning freedom of association and protection of the right to organize.)

DEPARTMENT OF STATE,  
*Washington, August 26, 1949.*

The PRESIDENT,  
*The White House:*

Under article 19 of the Constitution of the International Labor Organization, which deals with the nature of the obligations of members with regard to the effectuation of conventions and recommendations adopted by the International Labor Conference, members which are federal states undertake to place or make effective arrangements for placing each such convention or recommendation within a given period before the proper authority or authorities for the enactment of legislation or other action.

In accordance with the above-mentioned obligations of the Government of the United States of America as a member of the International Labor Organization, the undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, an authentic text of the convention (No. 87) concerning freedom of association and protection of the right to organize, adopted by the International Labor Conference at its thirty-first session, held at San Francisco, June 17 to July 10, 1948.

Ratification of this convention by the United States is recommended in a letter dated June 30, 1949, from the Secretary of Labor to the Secretary of State. That letter, a copy of which is enclosed, expresses the coordinated view of the interested agencies and departments of the executive branch of this Government, namely, the Department of State, the Department of Justice, the Department of the Interior, the Department of the Navy, the Federal Security Agency, and the Department of Labor. That letter expresses the view, among others, that the subject matter of the convention is appropriate under our constitutional system for Federal action within the meaning of article 19, paragraph 7 (a), of the Constitution of the International Labor Organization, the relevant provisions of which are quoted in that communication.

The view is also expressed in the above-mentioned letter that no new Federal legislation or revision of existing Federal law is necessary to effect compliance by the United States with the terms of the convention. The convention affirms the guaranties provided under the first, fifth, tenth, and fourteenth amendments to the Constitution of the United States. The delineation of appropriate spheres of Federal and State authority under our Constitution is not, of course, affected by anything in the convention.

The subject matter of the convention is of fundamental significance in the field of international regulation of trade-unions because it guarantees, to both workers and employers alike, the basic right of freedom to establish and to join organizations of their own choosing. The question of freedom of association and industrial relations was the subject of resolutions by the Economic and Social Council of the United Nations at its fourth and fifth sessions and by the General Assembly of the United Nations at its second session. The Secretary of Labor states in his letter referred to above that he considers the convention to be of such importance that he plans to transmit it to the governors of the States of the United States for their information.

The substantive provisions of the convention are embodied in the first 11 of the 21 articles thereof. The first 10 articles constitute part I, entitled "Freedom of Association." Article 11 constitutes part II, entitled "Protection of the Right to Organize."

Articles 12 and 13 of the convention, which constitute part III, entitled "Miscellaneous Provisions," relate to application of the convention to Territories. In this connection attention is invited to the relevant provisions of article 35 of the Constitution of the International Labor Organization, quoted in the enclosed letter from the Secretary of Labor, and the recommendation by the interested agencies and departments that the ratification of the convention by the United States should be applied specifically to Alaska, Hawaii, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Territory of the Pacific Islands, of which the United States is the administering authority under the trusteeship agreement which entered into force July 18, 1947 (61 Stat., pt. 3, 3301). That letter also sets forth the coordinated view that no new Federal legislation for those Territories or revision of existing law for such Territories is necessary to effect compliance therein by the United States with the provisions of the convention.

It is contemplated that upon ratification of the convention by the United States discussions will be instituted with the Government of the United Kingdom with respect to the matter of applying the convention to Canton and Enderbury Islands in the South Pacific Ocean. Those islands are under the joint administration of the Government of the United States of America and the Government of the United Kingdom pursuant to an agreement between the two Governments effected by an exchange of notes signed April 6, 1939 (53 Stat. 2219).

Provisions regarding ratification of the convention, its entry into force, denunciation, registration, and revision are contained in part IV, entitled "Final Provisions," and comprising articles 14 to 21, inclusive.

Respectfully submitted.

DEAN ACHESON.

Enclosures: (1) Authentic text of convention (No. 87) concerning freedom of association and protection of the right to organize, (2) copy of letter dated June 30, 1949, from the Secretary of Labor.

## INTERNATIONAL LABOR CONFERENCE

### CONVENTION (No. 87) CONCERNING FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE.

The General Conference of the International Labour Organisation, Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948;

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;

Considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the

principle of freedom of association" to be a means of improving conditions of labour and of establishing peace;

Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress";

Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;

Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;

adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

## PART I. FREEDOM OF ASSOCIATION

### ARTICLE 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

### ARTICLE 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

### ARTICLE 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

### ARTICLE 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

### ARTICLE 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

### ARTICLE 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

## ARTICLE 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

## ARTICLE 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

## ARTICLE 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

## ARTICLE 10

In this Convention the term "organisation" means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

## PART II. PROTECTION OF THE RIGHT TO ORGANISE

## ARTICLE 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

## PART III. MISCELLANEOUS PROVISIONS

## ARTICLE 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating—

(a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;

(b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

#### ARTICLE 13

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office—

(a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or

(b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General of the International Labour Office a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

## PART IV. FINAL PROVISIONS

## ARTICLE 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

## ARTICLE 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

## ARTICLE 16

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

## ARTICLE 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

## ARTICLE 18

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

## ARTICLE 19

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

## ARTICLE 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## ARTICLE 21

The English and French versions of the text of this Convention are equally authoritative.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Thirty-first Session which was held at San Francisco and declared closed the tenth day of July 1948.

In faith whereof we have appended our signatures this thirty-first day of August 1948.

*The President of the Conference,*  
JUSTIN GODART.

*The Director-General of the International Labour Office,*  
EDWARD PHELAN.

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DEPARTMENT OF LABOR,  
OFFICE OF THE SECRETARY,  
*Washington, June 30, 1949.*

The honorable the SECRETARY OF STATE,  
*Washington, D. C.*

MY DEAR MR. SECRETARY: This letter will express to you the coordinated view of the interested agencies and departments of the executive branch with respect to the convention concerning freedom of association and protection of the right to organize (convention No. 87), adopted at the thirty-first session of the International Labor



Conference at San Francisco, Calif., from June 17 to July 10, 1948. The Department of State, the Department of Justice, the Department of Interior, the Department of the Navy, the Federal Security Agency, and the Department of Labor have considered this matter. Their position, together with appropriate references to the constitution, as amended, of the International Labor Organization, is as follows:

Article 19, paragraph 7, of the constitution relates to the obligations of federal states relative to conventions adopted by the International Labor Organization. Article 19, paragraph 7 (a), provides: in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States.

It is our view that the subject matter of this convention is appropriate under our constitutional system for federal action within the meaning of article 19, paragraph 7 (a).

Article 19, paragraph 5, of the constitution, which relates to the obligations of members which are not federal states with respect to conventions adopted by the International Labor Organization, provides, in part:

5. In the case of a Convention—

- (a) the Convention will be communicated to all Members for ratification.
- (b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than eighteen months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

It is our view that this convention should be ratified by the United States, and we recommend that the President of the United States transmit this convention to the Senate of the United States with a request for the advice and consent of the Senate to its ratification. It is also our view that no new Federal legislation or revision of existing Federal law is necessary to effect compliance by the United States with the terms of the convention.

Article 35 of the constitution relates to the obligations of members relative to conventions adopted by the International Labor Organization with respect to "non-metropolitan territories for whose international relations they are responsible." Paragraph 1 of article 35 provides:

The Members undertake that Conventions which they have ratified in accordance with the provisions of this Constitution shall be applied to the non-metropolitan territories for whose international relations they are responsible, including any trust territories for which they are the administering authority, except where the subject matter of the Convention is within the self-governing powers of the territory or the Convention is inapplicable owing to local conditions or subject to such modifications as may be necessary to adapt the Convention to local conditions.

Paragraph 2 of article 35 relates to reporting relative to the action of a member pursuant to paragraph 1 of article 35; paragraph 3, permits modification "from time to time" of action taken pursuant to paragraph 1; paragraph 4 relates to the obligations of a member under the exception provided in paragraph 1 "where the subject

matter of the Convention is within the self-governing powers of the territory." Paragraph 5 provides:

A declaration accepting the obligations of any Convention may be communicated to the Director-General of the International Labour Office—

(a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or

(b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

Paragraphs 6 and 7 relate to reporting relative to, and modification "from time to time" with respect to, action taken pursuant to paragraphs 4 and 5. Paragraph 8 provides reporting obligations with respect to territories to which paragraphs 4 and 5 relate, "if the obligations of a Convention are not accepted on behalf of" such territories.

We have assumed for the purpose of our deliberations that Alaska, Hawaii, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands are the "non-metropolitan territories for whose international relations [the United States is] responsible," within the meaning of article 35, paragraph 1. It is our view that ratification by the United States should be rendered applicable specifically to all of these nonmetropolitan Territories. It is also our view that no new Federal legislation for such Territories or revision of existing law for such Territories is necessary to effect compliance by the United States with the terms of the convention in such nonmetropolitan Territories.

It is our view that paragraphs 5, 6, 7, and 8 are applicable to Canton Island and that it may, therefore, be appropriate for the United States to institute discussion with the United Kingdom relative to joint action pursuant to those provisions.

In view of the importance of the convention concerning freedom of association and protection of the right to organize (convention No. 87), it is my plan to transmit the convention to the governors of the States of the United States for their information and to indicate to them that it has been transmitted to the Senate of the United States with the recommendation that it be ratified.

Yours very truly,

MAURICE J. TOBIN,  
*Secretary of Labor.*

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