

THE COUNCIL

Having regard to Articles 8 and 13 (*a*) of the Convention for European Economic Co-operation of 16th April 1948 ;

Having regard to the Recommendation of the Council of 28th March 1952, concerning the Measures to be taken with regard to the Increase in Overall Production of Member Countries and, in particular, paragraph II-5 of that Recommendation ;

Having regard to the Fourth Annual Report of the Organisation and, in particular, paragraph 462 of that Report [Doc. No. C (52) 365] ;

Having regard to the International Labour Recommendation (No. 86) concerning Migration for Employment and, in particular, Article V, paragraph 16 (2) of that Recommendation ;

Having regard to the Report of 26th February 1953, by two Consultants appointed to examine the manpower organisation of certain Member countries and, in particular, paragraph 376 of that Report [Doc. No. MO (53) 8] ;

Considering the Report of 25th June 1953, of the Working Party on the Liberalisation of Manpower Movements [Doc. No. MO (53) 25] ;

Considering the Report of 14th October 1953, of the Manpower Committee concerning the Liberalisation of Manpower Movements [Doc. No. C (53) 251] ; and

On the proposal of the Manpower Committee ;

DECIDES :

1. (a) Authorities of any Member country shall, unless it is otherwise provided for in this Decision, grant, on application made in the manner required by those authorities, permits in respect of the employment, in its territory, of suitable workers who are nationals of any other Member country, as soon as it is established that suitable labour, national or foreign, forming part of its regular labour force, is not available within the country for the employment in question.

(b) For the purposes of this paragraph and subject to the provisions of sub-paragraph (c), suitable labour shall be deemed not to be available within the country if no suitable applicant has been found within a period of one month, at the latest, after the employer has both notified the vacancy in question to the employment service or any other service recognised officially as competent in the matter, and has also made known to that service his intention to apply for a permit to employ a foreign worker if suitable labour is not forthcoming within the country, always provided that the employer has taken such other steps as are customary in a case of the kind in question to try and fill the vacancy.

(c) In the case of a Member country which notifies to the Organisation that, by reason of practical necessities, the period of one month provided for in sub-paragraph (b) is too short in its case, an alternative period, not normally exceeding two months, to be stated in that notification shall apply.

2. Where a Member country considers that for imperative reasons of national economic policy it is against its interest to increase, or even to maintain at its existing level, the number of workers in particular industries or occupations by the admission of foreign workers, the obligation to grant permits

under paragraph 1 shall not apply in respect of vacancies in any such industries or occupations.

3. The authorities of a Member country shall grant applications for renewals of permits on their expiry unless in any given case it is clear that, owing to a change in the employment situation since the original permit was issued, its renewal would operate to the immediate detriment of national workers or foreign workers with a longer period of residence in that country.

4. The obligation to grant or to renew permits under paragraphs 1 and 3 shall not lie if :

(a) The wages and conditions of employment offered are less favourable than those prevailing for similar work either in the district concerned or in the undertaking in question ; or

(b) The authorities, after consultation, where necessary, with the Trade Unions and employers' organisations concerned, are of the opinion that the granting or renewal of the permit would endanger industrial peace.

5. (a) Authorities of any Member country shall grant in respect of workers who have been regularly employed in its territory for a period of at least five years, such renewals of permits as may be necessary to enable them to continue in employment either in the same occupation or, in the case of particularly serious unemployment in that occupation, in another occupation, unless imperative reasons of national policy necessitate an exception.

(b) Bearing in mind the provisions of Article V, paragraph 16 (2), of the International Labour Recommendation, referred to above, and with the intention of achieving the maximum progress compatible with their economic and social situation towards the liberalisation of manpower movements in conformity with the Recommendation of the Council of 28th March 1952, referred to above, Member countries shall reconsider their policy regarding the number of years of regular employment in their territories which must elapse before workers who are nationals of other Member countries are freed from restrictions on their employment with a view to reducing this period to the minimum.

(c) Reports on the results of the reconsideration undertaken under sub-paragraph (b) of this paragraph shall be made to the Organisation within six months from the date on which the Decision takes effect.

6. (a) Member countries shall transmit to the Organisation periodical reports on the application of this Decision showing the total number of

applications for permits granted and refused in the preceding period, unless such information is not available, in which case all available information shall be supplied. These reports shall state the number and types of case in which :

- (i) Permits have been refused on the grounds that the worker is insuitable or under the provisions of paragraph 2 and 4 (b) respectively ; and
- (ii) Renewal of permits has been refused on the grounds admissible under the provisions of paragraphs 3, 4 (b) and 5 (a).

Where permits have been refused under the provisions of paragraph 2, these reports shall also state the nature of the reasons which have led to the refusal in each type of case.

(b) The period indicated in sub-paragraph (a) of this paragraph shall be six months, save in cases where the Manpower Committee has agreed, on the proposal of a Member country, that in its case the period shall be one year.

(c) The Secretary-General shall circulate notifications and reports transmitted to the Organisation in accordance with paragraphs 1 (c), 5 (c), and sub-paragraph (a) of this paragraph to Member countries.

7. The obligations under this Decision shall be subject to the limitations imposed by the law or practice in Member countries governing permission to foreigners to enter their countries or reside therein and by the fundamental requirements of health, public order, and national security.

8. The obligations assumed under this Decision are in no way prejudicial to more favourable arrangements already existing or which may be adopted in Member countries.

9. Nothing in this Decision shall require Member countries to accord more favourable treatment regarding their employment to nationals of another Member country than that accorded to their own nationals.

10. This Decision shall not apply to the short-term entry of members of the liberal professions or artists, to the entry of student employees, seamen, or persons entering under " au pair " arrangements, nor to any posts in which the employment of a foreigner is prohibited by law.

11. (a) A Manpower Liberalisation Group is established. It shall consist of the Chairman and Vice-Chairman of the Manpower Committee and

five other members who shall be nominated by the Member countries by reason of the knowledge they have of manpower problems and of the standing they enjoy within their administrations. They shall be appointed each year by the Council and shall serve in their individual capacity. They may be re-appointed. The Group shall elect a Chairman and a Vice-Chairman from among its members.

(b) The five members of the Manpower Liberalisation Group who are nominated and appointed in accordance with sub-paragraph (a) of this paragraph shall each designate an alternate. An alternate may attend meetings of the Group and shall exercise the functions of a member if the latter is unable to attend.

(c) The Manpower Liberalisation Group shall :

(i) Consider the notifications and reports transmitted to the Organisation in accordance with paragraphs 1 (c), 5 (c) and 6 (a) and, in the light of them, report to the Manpower Committee every six months regarding the working of the provisions of this Decision ; and

(ii) Report to the Manpower Committee on any other matter relating to this Decision referred to it for consideration.

(d) The Manpower Liberalisation Group shall invite a representative from the Member country concerned to comment on any document transmitted by it to the Organisation which is being considered by the Group. Observers from Member countries may attend meetings of the Group but shall not, unless they are called upon to do so, take part in the discussion.

12. (a) This Decisions hall apply from 1st January 1954 to 31st December 1955, unless it is renewed by the Council.

(b) Bearing in mind that the progressive reduction of obstacles to the free movement of persons forms part of the general obligations of the Member countries under Article 8 of the said Convention of 16th April 1948, the Manpower Committee shall, during the second year of the operation of this Decision, report on the working of its provisions during the first year of its operation and on amendments, if any, required for its application in the future. It shall take into account the reports submitted to it by the Manpower Liberalisation Group.

13. The provisions of this Decision shall apply between all Member countries with the exception of Portugal and Turkey.
