

CONSTITUTION OF THE CANADIAN LABOUR CONGRESS

Article 4 - Passed at Convention

Article 4 - Disputes procedures

- 1.** This article does not apply to affiliates and chartered locals in the Province of Quebec. They are governed by the Quebec Federation of Labour Protocol.

- 2.** The interests of unorganized workers can be served best when they join a union that has proven itself by representing workers in the same industry, service (public or private) or trade. Therefore, the Congress encourages affiliates to organize mainly in the jurisdictions they have occupied in the past, where they have the resources and abilities to provide high standards of servicing. This applies equally to the public and private sectors. Following this guideline promotes trust and goodwill, builds cooperation and solidarity, and conserves scarce union resources. If there is an organizing dispute, the Congress is prepared to help resolve it in a fair way that satisfies the parties involved.

- 3.**
 - a.** Settlements under this article are limited to the specific dispute and do not determine the general work or trade jurisdiction of any affiliate.
 - b.** The terms of this article are the sole and exclusive method for settling any disputes described in this article or enforcing any settlement made under this article.

No affiliate will use court or legal proceedings to settle such disputes or enforce any settlement.

- 4. a.** Each affiliate is responsible for any action of any of its subordinate bodies that is contrary to this article.
 - b.** Affiliates must make sure that the Congress does not lose members to an unaffiliated union because of a dispute.
 - c.** Affiliates must support the decision when a claim for justification is denied and assist the affiliate that is being raided.

- 5. a.** Each affiliate respects the established collective bargaining relationships of every other affiliate. No affiliate will try to organize or represent employees who have an established bargaining relationship with another affiliate or otherwise seek to disrupt the relationship.
 - b.** An established collective bargaining relationship is any situation in which an affiliate or any of its subordinate bodies:
 - is recognized by the employer as the bargaining representative for the employees involved for at least one year, or
 - is certified under any federal, provincial or territorial labour law, or
 - is under a government bargaining procedure.

- 6. a.** Affiliates must respect the established work relationships of other affiliates. An “established work relationship” exists where work that members of a union have customarily performed is being done at a particular plant, office, institution or work site, whether the employer is the plant operator, a contractor or other employer.
 - b.** No affiliate shall agree or collude with an employer or use economic pressure to seek work for its members that is already being done by another affiliate, except with the consent of that affiliate.
 - c.** Affiliates shall refer directly to the president cases involving the merger or reorganization of plants or companies that will eliminate or combine bargaining units.

- 7.** No affiliate shall circulate any information designed to publicly discredit another affiliate or the Congress or any information that results in such discredit.

- 8. a.** When any elected or staff member of an affiliate is approached by members of another affiliate they shall:
 - i.** encourage those members to work within the constitutional provisions and policy procedures of their own union; and
 - ii.** immediately pass this information on to the ranking officer of the union that holds the bargaining rights for those members and the President of the Canadian Labour Congress.
- b.** If an affiliate believes that another affiliate is raiding its members in violation of 'Article 4 – Disputes procedures, Sections 5, 6 or 7', the ranking officer shall inform the President of the Canadian Labour Congress (including providing *prima facie* evidence of the alleged raid) and the ranking officer of the affiliate alleged to be involved in the raiding activities.
- c.** If the process above is not followed and/or if the ranking officer of the affiliate alleging it is being raided believes the raiding activity has not ceased, it will request that the President of the Canadian Labour Congress convene a meeting of the ranking officers of the two unions as soon as possible, but no longer than seven days, to attempt to resolve the dispute.
- d.** The national ranking officer of the affiliate alleged to be involved in raiding activities shall have one week to investigate the allegations against their union. If within that time period, the allegations are found to be valid, the ranking officer will direct the activists/staff of their union to immediately cease and desist such activities.
- e.** If at that stage, there is no resolve, the President of the Canadian Labour Congress will immediately refer the dispute to an Impartial Umpire, for a final and binding determination.
- f.** The Umpire shall immediately convene a hearing to determine the validity of the allegation.
- g.** The Umpire will review all the information provided by the unions involved, including any evidence that an affiliate has established or assisted an independent union for the purposes of raiding members of another affiliate.

- h.** The hearing shall be completed and a report as soon as possible. The Umpire's report shall be final and binding. It shall contain either:

 - i. a determination as to whether an affiliate has been involved in a raid and therefore in violation in whole or in part of 'Article 4 – Disputes procedures, Sections 5, 6 or 7'.

or
 - ii. a determination that both parties have mutually reached an agreement to a resolve to the dispute.
 - i.** If there is a determination by the Umpire that a raid has occurred, sanctions will be automatically applied pursuant to Article 4, Section 11.
- 9.** In keeping with the principle that union members at times may have valid reasons which may justify changing unions, the following justification process is available to all members of Canadian Labour Congress affiliates:
- a.** Where the Canadian Labour Congress receives a request from a group of workers wanting to leave their own union, the Canadian Labour Congress shall encourage those members to work within the constitutional provisions and policy procedures of their own union. The Canadian Labour Congress will also contact the ranking officer of the members' union to convene a meeting within one week with the workers and their union in an attempt to mediate and resolve the situation.
 - b.** When an affiliate is made aware of workers wanting to join another union, that affiliate has the obligation to immediately inform the ranking officer of the union that currently represents the members and the President of the Canadian Labour Congress.
 - c.** Where the Canadian Labour Congress receives a request for justification pursuant to a. above or notification pursuant to b. above, the Canadian Labour Congress will immediately contact the ranking officer of the unions involved, to convene a meeting within one week in an attempt to mediate and resolve the situation.

- d.** If a resolution to the situation is not reached within two weeks, the matter will be referred to an Investigator/Mediator. The affiliates involved will cooperate fully with the work of the Investigator/Mediator.
- e.** The investigation, mediation and resolution process is based on early intervention and is intended to provide affiliates with a timely, transparent, and professional process to deal with instances when workers indicate they wish to change unions. During this process, the unions involved are encouraged to work on finding their own solutions and may agree on proposals to remedy the situation. The process is also intended to give the affected union the time and ability to address the problems giving rise to the situation.
- f.** The panel of Investigator/Mediators will be persons who have the confidence of the affiliate leadership, are skilled in negotiations, mediation and informal adjudication, and who will be available on short notice. The panel members will be recommended by the Executive Committee to the Canadian Council. The Investigator/Mediators will not be current officers or staff of affiliates, the Canadian Labour Congress or Federations of Labour.
- g.** An Investigator/Mediator shall be appointed to a case by the President. The Investigator/Mediator shall not be or have been formally associated to the parties involved in the case.
- h.** The terms of reference for the Investigator/Mediator will be to investigate the issue, suggest remedies to the parties, and report to the President of the Canadian Labour Congress in accordance with the following:
 - i.** Have as a primary objective, working with the affected members and the affiliate, to have them remain with their union;
 - ii.** Convene meetings/discussions, in order to provide a forum for the parties involved to present information, address issues raised, provide clarification and have an opportunity to be heard;

- iii. Decide whether or not the affected union needs time to address the underlying issues and if it can remedy the issue;
- iv. Identify if there is a case for justification;
- v. Where necessary, make recommendations to the President on the following:
 - a) the appointment of an ombudsperson or monitor to work with the union to rebuild the relationship;
 - b) provide for a cooling-off period;
 - c) to establish a directly chartered affiliated local of the Canadian Labour Congress in accordance with 'Article 6 – Directly chartered local unions' of the Canadian Labour Congress Constitution; and
 - d) any other recommendations to the parties involved in the dispute as deemed necessary to resolve the matter;
 - e) whether there is interference from another organization;
 - f) whether there is *prima facie* evidence that a raid is occurring and there are grounds for a formal raiding charge.
- vi. The Investigator/Mediator shall be authorized to make final and binding determinations on whether justification is to be granted and a vote held. The findings and the determination will be forwarded to the CLC President.
- vii. Consider any claim that an affiliate has established or assisted an independent organization for the purpose of interfering with the members of a Canadian Labour Congress affiliate.

- i.** Consideration of concerns expressed by members about their union or a claim of justification by a union should be guided by those principles set out in 'Article 24 – Code of union citizenship' and in 'Article 25 – Code of ethics' of the Canadian Labour Congress Constitution.
 - j.** If the Investigator/Mediator concludes that another affiliate has attempted to influence or interfere with an affiliate's membership either directly or indirectly, in any matter covered by this protocol, the offending affiliate will not be entitled to exercise any rights under this protocol, 'Article 4 – Disputes procedures', or be on a ballot with respect to the issue.
 - k.** Where there is a determination that justification is to be granted, the affiliates agree to cooperate in a vote organized by the CLC.
 - l.** If the members vote to leave their union, that union will cooperate in the process to transfer the bargaining rights.
 - m.** If a claim for justification is not granted and an affiliate proceeds to sign up the member involved, they are violating Section 5. This will result in the automatic application of the sanction in section 11.
- 10. a.** If a bargaining unit leaves its affiliate before the disputes procedure is finished, the unit must apply to the president to become a directly chartered local. If granted, the charter will be issued for a maximum of three years. Then the existing transfer procedure would take place.
- b.** Any affiliate that seeks to take members from a directly chartered local without following the transfer procedure is subject to sanctions in section 11.

- 11.** Any affiliate found in violation of section 5 will be placed under sanctions.
- a.** The affiliate will immediately lose the following:
 - the right of any representative to vote on the Canadian Council
 - the right to take part in Congress committees
 - access to all Congress services, such as attending education functions, conferences and the Labour College
 - access to the justification and transfer procedures.
 - b.** After three months if the dispute is not settled, the affiliate will also lose the following:
 - right of any representatives to vote at Canadian Councils or boards of federations of labour and labour councils
 - right to take part in federation and labour council committees
 - access to services of federations and labour councils.
 - c.** After another three months if the dispute is not resolved, the affiliate will also lose the following:
 - any seat it holds on the Congress Canadian Council
 - access to their disputes procedures
 - any seat it holds on an Canadian Council or board of a federation of labour or labour council
 - right to participate in these chartered bodies.
 - d.** If the affiliate continues to violate section 5 or refuses to pay its per capita tax, the president, subject to Executive Committee approval, may apply all sanctions prior to the set time.
 - e.** When applying sanctions, the president will notify the Canadian Council and the affiliates.
- 12.** Sanctions can be applied to an affiliate in a situation where it is part of a joint certification or a multi-union bargaining unit.

- 13. a.** An affiliate that is under sanctions may apply to the president to have the sanctions lifted. The president will notify the affiliates involved. If these affiliates consent, the Canadian Council will remove the sanctions.

b. If any of these affiliates opposes the application, the matter comes before the next meeting of the Canadian Council. The sanctions are lifted only under these conditions:

 - i)** the non-complying affiliate says, in writing, that it will comply with the provisions of this article
 - ii)** the non-complying affiliate does what is necessary and feasible to remedy the situation
 - iii)** the non-complying affiliate pays all per capita taxes owing to the Congress
 - iv)** two thirds of those present and voting at the executive council or a majority at a convention approve the application.

- 14.** Where two or more affiliates of the Congress are seeking to organize the same members, and the unions involved cannot come to an agreement in order to allow only one union to proceed, the CLC may intervene at the request of one of the unions or the members involved in the organizing drive. In these situations, the president shall make his decision based on the following criteria:

 - a.** the chronology of contacts clearly established by the unions involved
 - b.** the type of members the unions generally represent and whether or not a successorship is involved
 - c.** the ability of the unions to provide adequate service to the workers being organized
 - d.** the possibility that the unions involved can carry out a successful organizing campaign, and
 - e.** the union ethics of the affiliates involved.

- 15.** Where it is determined that another affiliate has attempted to influence or interfered with an affiliate's membership, in any matter covered by the Raiding and Justification Protocol, the offending affiliate will not be entitled to be on any ballots or to exercise rights under this Article or the Protocol with respect to the application.

Where the president determines that the interference may make it difficult to determine the wishes of the members, the president may consider the appointment of a CLC monitor to work with the affiliate and the members.

- 16.** A majority vote at convention can amend this article.

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