

members of the Committee on Review and Appraisal and the *Ad Hoc* Intergovernmental Working Group on the Problem of Corrupt Practices until the sixty-second session.

*It was so decided.*

#### COMMITTEE ON NEGOTIATIONS WITH INTER-GOVERNMENTAL AGENCIES ON AN AGREEMENT BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

12. The PRESIDENT suggested that the Council should postpone consideration of the matter until the following day, when a draft decision on the subject was expected to be available.

*It was so decided.*

#### APPOINTMENT OF ONE MEMBER OF THE COMMITTEE ON CRIME PREVENTION AND CONTROL (E/5903)

13. The PRESIDENT invited the Council to confirm the appointment recommended by the Secretary-General in document E/5903.

*It was so decided.*

#### COMMITTEE ON NON-GOVERNMENTAL ORGANIZATIONS

14. The PRESIDENT stated that the Secretary-General had been informed that the Netherlands wished to withdraw from membership of the Committee on Non-Governmental Organizations as from 1 January 1977. The Group of Western European and other States had endorsed the candidature of Sweden for the seat vacated by the Netherlands. He therefore suggested that the Council should elect Sweden by acclamation for a term of office beginning on the date of election and expiring at the end of 1978.

*It was so decided.*

#### CONFIRMATION OF REPRESENTATIVES ON THE FUNCTIONAL COMMISSIONS (E/5897 AND ADD.1-3, E/5898)

15. The PRESIDENT said that, if he heard no objection, he would take it that the Council agreed to confirm the representatives on the functional commissions named in document E/5897 and Add.1-3, and the three representatives listed in document E/5898, who had been nominated to serve as members of the Sub-Commission on Illicit Drug Traffic and Related Matters in the Near and Middle East.

*It was so decided.*

16. Mr. ROUGE (France), supported by Mr. CARANICAS (Greece), proposed that the Secretariat should study the possibility of doing away with the pointless formality the Council had just gone through and report its findings to the Council at the earliest possible opportunity, perhaps under the item on restructuring. Governments had a right to choose their own representatives, and all Governments were prepared to respect the choices of others.

17. Miss ST. CLAIRE (Assistant Secretary of the Council) pointed out that a decision to eliminate the confirmation of representatives on the functional commissions would require the amendment of all the Council resolutions which had set up those commissions, all of which dated back to 1946, as well as rules 12 and 13 of the rules of procedure of the functional commissions.

18. The PRESIDENT suggested that the Secretariat should be asked to prepare a document outlining the steps that would have to be taken in order to eliminate the formality of confirming representatives on the functional commissions.

*It was so decided.*

*The meeting rose at 4.50 p.m.*

## 2043rd meeting

Friday, 14 January 1977, at 11.15 a.m.

*President:* Mr. Ladislav SMÍD (Czechoslovakia).

E/SR.2043

#### AGENDA ITEM 3

##### Basic programme of work of the Council for 1977 (continued)\* (E/5900, E/5905, E/L.1743)

1. The PRESIDENT drew attention to draft decision E/L.1743, which he was submitting in his capacity as President on the basis of the consultative meetings held so far during the Council's session. It had been hoped that in

accordance with tradition there would have been consensus on the draft decision relating to the Council's basic programme of work, but unfortunately, notwithstanding the efforts of delegations, consensus had not been reached on the draft decision in paragraph 4 (e) of document E/L.1743 concerning General Assembly resolution 31/33.

2. Mr. MAKEYEV (Union of Soviet Socialist Republics) said that it would be better to reword agenda item 10, which the draft decision would assign to the sixty-second session, in order to bring it into line with the official title of

\* Resumed from the 2039th meeting.

the United Nations Decade for Women. Accordingly, he suggested that the words "Activities for the advancement of women" should be replaced by the words "United Nations Decade for Women: Equality, Development and Peace".

3. Mr. TEMPLETON (New Zealand) said that his delegation would have no objection to the Soviet suggestion if the new wording of agenda item 10 was understood to include all the questions listed in chapter IV of document E/5900 in the section relating to activities for the advancement of women, including the report of the Commission on the Status of Women. Otherwise, his delegation would object to any narrowing of the wording of agenda item 10.

4. Mr. MARSHALL (United Kingdom) pointed out that the Commission on the Status of Women antedated and had a wider scope than the United Nations Decade for Women. It was necessary therefore to find a more comprehensive title for agenda item 10 than that which had been suggested by the Soviet representative.

5. Mr. MAKEYEV (Union of Soviet Socialist Republics) proposed that the existing wording of the item should be retained and that the words "United Nations Decade for Women: Equality, Development and Peace" should be added at the end of that wording.

*It was so decided.*

6. Mr. MARSHALL (United Kingdom) proposed that the words "31/33 on adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa" should be deleted from paragraph 4 (e) of document E/L.1743. In operative paragraph 8 of the resolution in question, the General Assembly had invited the Economic and Social Council to undertake a task which, in the view of his Government, was wholly improper, namely, the review, by one organ established under the Charter of the United Nations, of the discharge of their responsibilities by certain member Governments, in another such organ, in accordance with the provisions of the Charter.

7. In extending that invitation to the Economic and Social Council, the General Assembly had set the Council a delicate problem. His delegation respected and fully endorsed the view that the Council should normally do what the General Assembly asked. On the other hand, it did not accept that the Economic and Social Council, a Charter organ, had no discretion whatever as to how it might discharge its responsibilities, or that the only course open to it in the circumstances was that proposed in document E/L.1743. The Council should weigh carefully the consequences of retaining the reference to General Assembly resolution 31/33 in its work programme. Although operative paragraph 8 of the resolution referred specifically to three States Members of the United Nations and a particular issue, the principle involved applied to every Member of the United Nations and to every issue that might come before it.

8. The substance of the issue in question could be debated in the proper place at the proper time. His delegation, for its part, would have no difficulty whatever in justifying the

action taken by its Government. It was grateful to all those who had sought a means whereby the Council could preserve the consensus which was appropriate to handling its work programme. The fact that the Council was not able to agree on paragraph 4 (e) should not be allowed to affect the consensus which had been reached on every other issue or the spirit in which the members of the Council should carry out their work together.

9. Mr. MYERSON (United States of America) said that the significant point was not that the Council had failed to agree on paragraph 4 (e) but that it had been able to agree on everything else. His delegation endorsed the United Kingdom proposal and agreed with the reasoning put forward to support it. What was at issue was not the substance of economic or social policy, but rather a principle involving important political elements. General Assembly resolution 31/33 had been, to some extent, wrong in principle and unwise politically, as would be any decision by the Council to refer the matter to the Commission on Human Rights. His delegation felt strongly about the substance of the issue and continued to hold the views it had expressed on it in the Third Committee of the General Assembly at its thirty-first session. It continued to believe that the best and most effective manner of organizing the Council's work was through true consensus. Such a consensus had not been achieved with regard to the paragraph under consideration.

10. Mr. ROUGE (France) endorsed the views expressed by the representatives of the United States and the United Kingdom. The phrase in question should be deleted for legal and political reasons which did not affect the substance of the issue.

11. Mr. MAHGOUB (Sudan) said that a distinction should be made between the substantive and procedural aspects of the issue before the Council. The deletion from paragraph 4 (e) of the reference to General Assembly resolution 31/33 would be tantamount to a challenge of a General Assembly decision. His delegation understood the difficulties of some delegations with regard to the reference to that resolution and was mindful of its political implications. However, *apartheid* was an economic and social fact of life and the Economic and Social Council could not escape its responsibilities in that matter. His delegation therefore could not agree to any revision of the text contained in document E/L.1743.

12. Mr. BAMBA (Upper Volta) said his delegation regretted that no consensus had been reached on the phrase in question. The General Assembly should be able to remind members of the Economic and Social Council which enjoyed the power of veto in the Security Council of their responsibilities and a study of the consequences of the use of the veto would be quite useful for that purpose. His delegation therefore could not support the United Kingdom proposal.

13. Mr. BENHOCINE (Algeria) said his delegation too regretted that the Council had not been able to reach a consensus on paragraph 4 (e), especially since, from the procedural point of view, all the provisions of document E/L.1743 were in strict conformity with the usual work methods of the Council.

14. Reference had been made by previous speakers to the question of principle. The deletion of the reference to General Assembly resolution 31/33 would call into question a fundamental principle, namely the primacy of decisions taken by the General Assembly as the paramount organ of the United Nations. In the event, the General Assembly had adopted a resolution and certain members of the Assembly did not agree with the substance of it. The provisions of the resolution in question should be discussed elsewhere and delegations which had objections to the substance of the resolution might simply place them on record at the current session, while agreeing to adopt the Council's work programme by consensus. Such a procedure was the one normally followed.

15. Mr. IBRAHIM (Ethiopia) observed that the organizational sessions of the Council were concerned only with allocating items for which legislative authority existed between the two sessions in each year. There were no legal grounds for deciding at the organizational session not to include an item in the basic programme of work. Delegations which had objections to the substance of some items should raise them when the Council conducted a substantive discussion of the items in question. His delegation therefore believed that it would be wholly inappropriate to put the United Kingdom proposal to a vote.

16. Miss ILIĆ (Yugoslavia) regretted that a consensus had not been reached on paragraph 4 (e) and agreed with the representatives of the Sudan, the Upper Volta and Algeria regarding the necessity of maintaining the paragraph as it stood.

17. Miss BALOGUN (Nigeria) appealed to the United Kingdom delegation not to press its proposal. The General Assembly had adopted a resolution which assigned a specific task to the Economic and Social Council and it would be wrong for the Council to call that decision into question. Moreover, the Council should not discuss at its organizational session how it would deal with any particular item and it would be wrong, therefore, to put the United Kingdom proposal to a vote.

18. Mr. ACEMAH (Uganda) said that his delegation endorsed the views put forward by the representatives of Nigeria, the Upper Volta, Yugoslavia, the Sudan and Algeria. It regretted the inability of the Council to reach agreement in spite of the intensive consultations and the informal meetings which had been held. The question before the Council was a purely procedural one. The Council did not have the power to question a decision of the General Assembly, which was a superior body. His delegation therefore could not agree to the proposal to delete the reference to General Assembly resolution 31/33.

19. Mrs. MAIR (Jamaica) said that her delegation's main concern was for the status within the United Nations of the decisions of the General Assembly. The supremacy of those decisions would be seriously undermined if the Council decided to delete the reference in paragraph 4 (e) to General Assembly resolution 31/33. Her delegation's view on that matter was without prejudice to its position on the substance of the question, which could be considered at an appropriate time and place.

20. Mr. QADRUD-DIN (Pakistan) said that the discussion seemed to revolve around two distinct questions. The first and most important one was the procedural problem as to whether the Council could refuse to carry out directives it had received from the General Assembly. In the view of his delegation, the Council could not do so. The second question related to the difficulty which some delegations had with the substance of General Assembly resolution 31/33. In the view of his delegation, the appropriate place for expressing views on the substance of the resolution had been the General Assembly; a further opportunity would arise during discussions on the item at coming sessions of the Council and the Commission on Human Rights. His delegation could, therefore, not accept the United Kingdom proposal and hoped that that delegation would not press its proposal.

21. Mr. YORK (Federal Republic of Germany) said that his delegation hoped that the draft basic programme of work proposed by the President (E/L.1743) could be adopted by consensus but felt that the proposal made by the representative of the United Kingdom raised an important procedural point, namely whether one body established by the Charter could review the activities of another such body. In adopting the draft as it stood, the Council would simply pass on the problem to the Commission on Human Rights, where it did not belong. For that reason, his delegation supported the United Kingdom proposal.

22. Mr. GAMBOA (Venezuela) recognized that it would be difficult for the Council to arrive at a consensus on the matter but thought that, since a decision had been taken by the General Assembly with respect to resolution 31/33, it would be a dangerous precedent for the Council to accept the amendment proposed by the United Kingdom delegation.

23. Mr. ALSAIDI (Yemen) said that his delegation could not accept any amendment to paragraph 4 (e) and wished the text to be left as proposed by the President.

24. Mr. YANKOV (Bulgaria) said that there were three aspects to the problem. The first was procedural: the General Assembly had adopted a resolution and the Council, under rule 9, paragraph 2, of its rules of procedure, was required to include the item in question in its provisional agenda. Secondly, there was the constitutional aspect of the problem, namely whether the Council was competent to challenge or interpret provisions of the Charter. Such considerations were not appropriate to the matter at issue and should be confined to a special discussion on that topic. Finally, there was the political or substantive aspect of the problem, namely whether the Council should be compelled to make judgements with regard to the principle of unanimity of the permanent members of the Security Council.

25. He agreed with the representative of Ethiopia that a vote could be avoided, as the Council had been specifically invited in paragraph 8 of General Assembly resolution 31/33 to examine a certain question in collaboration with the Commission on Human Rights. He noted that, when the Council began the substantive discussion of the matter, it could declare itself incompetent with regard to the consti-

tutional aspect of the problem. In any case, no formal decision was required at the present time from the Council and the most impartial course of action would be to follow the General Assembly's directives. He appealed to those delegations supporting the United Kingdom amendment not to prejudge the Council's action.

26. Mr. BARCELO (Mexico) felt that the statement by the representative of Bulgaria made it clear that the matter was entirely procedural and that, under the rules of procedure, the Council must include in its provisional agenda all items transmitted to it by the General Assembly. There was no necessity even to vote on the matter.

27. Miss BALOGUN (Nigeria) said that, in her view, the President of the Council had the authority to rule that the matter required no discussion, as the Council had no authorization at its organizational session to refuse to carry out its obligations. Many Member States had difficulties with various resolutions but they had not requested, and indeed they had no right to request, the deletion of matters which ran counter to their interests. She appealed to the President to rule on the matter and end the discussion.

28. Mr. KANAZAWA (Japan) said that his delegation had already expressed its reservations with regard to General Assembly resolution 31/33, particularly its constitutional aspects, and supported the United Kingdom proposal to delete the reference to that resolution from paragraph 4 (e).

29. Mr. IBRAHIM (Ethiopia) felt that the statement made by the representative of Bulgaria had helped to clarify the issue. In his view, the Assembly had transmitted an entire item, which could not be divided or amended, for inclusion in the Council's provisional agenda. He asked the President to rule on the matter.

30. Mr. DIRAR (Observer for the Organization of African Unity) said that his organization attached great importance to the substance of resolution 31/33 and was concerned at the dangerous precedent being established by the current procedural debate in the Council. OAU fully supported the inclusion of the entire item in the Council's provisional agenda.

31. Mr. MYERSON (United States of America) said that his delegation had carefully avoided any discussion of the substance of the item, since the organizational session was not the appropriate forum. He wished, however, to avoid any possibility of misunderstanding. The position of his delegation with regard to *apartheid* and majority rule in southern Africa was quite clear and known to all and had not changed. His delegation had difficulties with a number of the items and resolutions listed in the provisional agenda, but felt that the procedural difficulty caused by the reference to resolution 31/33 was unique and important and raised a question of principle related to powers established under the Charter.

32. Mr. YANKOV (Bulgaria) said that the powers of the Council and the General Assembly were clearly established in the Charter and that Article 66 stated the relationship between those two bodies.

33. The Council should now decide on the preliminary question whether to take a decision on the inclusion or

non-inclusion of an item in its agenda. The issue was whether the matter should be the subject of a formal decision or consensus.

34. He noted that rule 9, paragraph 2, of the Council's rules of procedure, which covered the drawing up of the provisional agenda, had been drafted in conformity with Article 66 of the Charter and that the Council could, therefore, not take a decision on the receivability of an item, only on its merits.

35. He supported the Ethiopian request that the President should rule on the matter or have the Council take a decision on the preliminary question.

36. Miss BALOGUN (Nigeria) suggested that informal consultations should be held; if the matter could not be settled by informal consultations, her delegation reserved the right to invite the President of the General Assembly to give his opinion.

37. The PRESIDENT suggested that the Council should vote on the Bulgarian motion, which, in accordance with rule 56 of the rules of procedure, called for a decision on the competence of the Council to adopt the United Kingdom proposal.

38. Mr. MARSHALL (United Kingdom) said that the comments of the representative of Bulgaria were only partly relevant to and only partly explained the issue. The provisions of rule 9, paragraph 2, of the rules of procedure, which that representative had cited, were not at issue. The purpose of his delegation's proposal was to avoid taking a decision replete with political, constitutional and procedural considerations, namely, the decision to refer the matter at the current stage to the Commission on Human Rights. That was a point to which the representative of Bulgaria had not addressed himself.

39. Miss BALOGUN (Nigeria) suggested that the Council should vote on the Bulgarian motion.

40. Mr. IBRAHIM (Ethiopia) suggested that the Council should vote on the United Kingdom proposal.

41. Miss BALOGUN (Nigeria) reiterated her suggestion that the Council should vote on the motion that it was not competent to consider the proposal made by the United Kingdom delegation.

42. Mr. YORK (Federal Republic of Germany) said that rule 9 of the rules of procedure was clearly not pertinent to the issue, because the Council secretariat had already included the item in the draft basic programme of work. The relevant provision was to be found in rule 13, paragraph 1, of the rules of procedure, which, if it meant anything, must signify that the Council could adopt an agenda of its own choice and that the agenda finally adopted need not necessarily be the one drawn up by the Secretariat. In that context, the purpose of the United Kingdom proposal was to determine whether or not resolution 31/33 should be referred to the Commission on Human Rights.

43. Mr. WARSAMA (Somalia) said that the Council could not ignore the fact that the General Assembly had

addressed an invitation to it in resolution 31/33, paragraph 8. The pertinent issue was therefore whether the Council could refuse to consider an item referred to it by the Assembly.

44. Mr. BENHOCINE (Algeria) said that the United Kingdom proposal seemed to mean different things to different delegations. In his delegation's view, adoption of that proposal would be tantamount to the Council's failing to act on a request from the General Assembly at the appropriate time. The Assembly had asked the Council to study the question and to submit a report to it at its thirty-third session. Consequently, if the item was not referred to the Commission on Human Rights immediately, it would not be possible to complete the study by the appointed date. He believed that the Council should take a decision as to whether it was competent to vote on the United Kingdom proposal.

45. Mr. LINDENBERG SETTE (Brazil) said that he tended to agree with the representative of Algeria. If the point at issue was simply whether or not the Council would require the collaboration of the Commission on Human Rights, a subsidiary body, he would be inclined to agree with the view that the Council might dispense with such collaboration if it so desired. However, the item must appear somewhere in the Council's agenda since the Council could not simply ignore a request by the General Assembly.

46. Mr. AMIRDIVANI (Iran) said that his delegation considered the United Kingdom proposal to be an amendment in accordance with rule 66 of the rules of procedure.

47. Mr. BAMBA (Upper Volta) agreed with the representative of Brazil that, even if the question was not referred to the Commission on Human Rights, it must be included in the Council's agenda. At the same time, he was not at all sure that the Council was empowered to question the General Assembly's judgement that the Commission on Human Rights was the competent body to study the item.

48. Mr. MARSHALL (United Kingdom) said that the motion concerning the Council's competence to decide whether or not it could delete some wording in its draft work programme was misleading. The substance of his delegation's proposal was simply that the Council should not decide at the present juncture to refer the matter to the Commission on Human Rights. It was ridiculous to assert that the Council was not competent to take such a decision.

49. Mr. YANKOV (Bulgaria) said that he disagreed with the reasoning of the United Kingdom delegation. The United Kingdom proposal was unconstitutional, and it was therefore necessary for the Council to decide first of all whether the proposal could be the subject of a formal decision.

*The meeting rose at 1 p.m.*

## 2044th meeting

Friday, 14 January 1977, at 4.45 p.m.

*President:* Mr. Ladislav ŠMÍD (Czechoslovakia).

E/SR.2044

### AGENDA ITEM 3

#### Basic programme of work of the Council for 1977 (concluded) (E/5900, E/5905, E/L.1743)

1. The PRESIDENT invited members of the Council to comment on the two proposals made orally at the preceding meeting, and urged them to be flexible with regard to the application of the rules of procedure.

2. Mr. EHSASSI (Iran) proposed that the words referring to General Assembly resolution 31/33 in document E/L.1743, paragraph 4 (e), should be voted on separately. He was making the proposal on the understanding that the representatives of the United Kingdom and Bulgaria would allow it to be given priority.

3. Mr. RIVAS (Colombia) said that, in view of the situation in which the Council found itself, he supported the Iranian proposal. Although his delegation did not find the United Kingdom proposal acceptable, it did not believe that it constituted a challenge to the Council's competence, since the United Kingdom representative had said his sole concern was that the Council should not decide at the

current stage whether to refer resolution 31/33 to the Commission on Human Rights. If the United Kingdom proposal was put to the vote directly, it might lead to a reopening of the discussion on the document as a whole and thus prolong the debate. The Iranian proposal would give an opportunity to delegations which had expressed reservations to register them formally through their votes.

4. Mr. YANKOV (Bulgaria), reiterated his view that, although any member of the Council had the right to make any proposal or amendment, the United Kingdom proposal could not be put to the Council for a decision because to do so would have procedural and constitutional implications that might create confusion in other instances. It would be unconstitutional for the Council to challenge a resolution adopted by the General Assembly. Nevertheless, in a spirit of accommodation, he would not press for a vote on the constitutionality of the United Kingdom proposal.

5. Mr. QADRUD-DIN (Pakistan), reiterating his delegation's position on the constitutional question, said that the Council should not take a position that would contravene the directives of the General Assembly. The Iranian proposal offered a way out of the dilemma facing the