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*President* : Mr. A. PATIÑO (Colombia)

*Present* :

Representatives of the following States: Argentina, Australia, Austria, Colombia, Czechoslovakia, Ethiopia, France, India, Italy, Japan, Jordan, Senegal, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia.

Observers for the following Member States: Algeria, Belgium, Brazil, Bulgaria, Canada, Central African Republic, Chile, China, Ghana, Hungary, Indonesia, Ireland, Israel, Luxembourg, Mexico, New Zealand, Norway, Portugal, South Africa, United Arab Republic, Venezuela.

Observers for the following non-member States: Federal Republic of Germany, Switzerland.

Representatives of the Following specialized agencies: International Labour Organisation, Food and Agriculture Organization of the United Nations, United Nations Educational, Scientific and Cultural Organization, World Health Organization.

The representative of the International Atomic Energy Agency.

## AGENDA ITEM 12

**Reports of the regional economic commissions (E/3727/Rev.1, E/3820; E/L.1016, E/L.1019, E/L.1020, E/L.1024, E/L.1025) (*continued*)**

1. Mr. PASTORI (Uruguay) said that Uruguay, whose Constitution proclaimed the equality of all men before the law, condemned all forms of racial discrimination. His delegation had opposed *apartheid* whenever the United Nations had dealt with the subject, but it found itself wondering whether the Council was legally competent to adopt such draft resolutions and amendments as were before it. Under Article 62 of the Charter, the Council could draft reports and make any recommendations it deemed useful in economic and social matters, but it was not competent to adopt resolutions of a political character. It had been said that the Council could adopt measures designed to ensure the smooth operation of its own and its subsidiary organs' activities, but it could do so only within its terms of reference. If it acted other-

wise, it would be guilty of an abuse of power; it was undeniable that the motives underlying the draft resolutions and amendments under discussion were of a political nature. The proposed measures were the more serious in that they all more or less involved sanctions, namely expulsion or suspension.

2. Uruguay's position was no hindrance to the African countries' freedom of action provided for under ECA draft resolution II (E/3727/Rev.1, part IV). Uruguay merely wished to help the United Nations settle the matter by appropriate measures, i.e. by submitting it to the competent organ, namely, the General Assembly. By declaring itself not competent, the Council would not be evading its responsibilities. By maintaining its position, his delegation was on the side of those who opposed others who failed to comply with United Nations resolutions and, bearing in mind the interference in the domestic affairs of other countries implied in the draft resolution, it greatly feared that what currently seemed like a remedy might give rise to concern in the future. Uruguay would deeply regret the creation of any precedent that might alter the Council's functions when so many countries had placed the highest hopes in it.

3. Mr. WODAK (Austria), disagreeing with the Uruguayan representative's arguments, said that for reasons already explained at the 1292nd meeting, his delegation was quite satisfied that the Council was competent to settle the matter. It had been alleged at that meeting that the amendments to the draft resolution submitted jointly by Ethiopia and Senegal (E/L.1019) put forward by the United Kingdom (E/L.1024) and Argentina and the United States jointly (E/L.1025) were inconsistent, but that was not so. The delegations submitting those amendments were unwilling to expel South Africa from ECA, but wished to include in the draft resolution mention of the fact that South Africa had decided not to participate in the Commission. If the Council accepted the South African Government's decision, then it became binding and could not be broken unilaterally by South Africa. The joint amendment also made clear that the reason underlying the Council's decision was the current racial policy of the Government of South Africa and not the reason given in the communication from the Ambassador of South Africa in Berne (E/3820). Nevertheless, the new operative paragraph 2 proposed in the joint amendment should be clarified and he would therefore suggest the following text:

"*Decides* that the Government of South Africa shall not participate in the work of ECA until the Council finds that conditions for constructive participation have been restored by a change in its racial policy."

4. Mr. BINGHAM (United States of America) said that the Austrian amendment did not substantially change the sense of the proposed new paragraph. His delegation had no objection to it, but would welcome comments by other delegations.

5. Mr. ARKADIEV (Union of Soviet Socialist Republics) said that the Austrian amendment was an improvement on the text of the joint amendment, but still did not go far enough. Everyone was aware of the recent events in the ILO and that the members of ECA had twice requested the Council to deprive South Africa of membership in the Commission. The original joint amendment in E/L.1025, by speaking of the "status of non-participation" of the South African Government, would have allowed South Africa to return at any time to the Commission without altering its policy of genocide. The proposers of the amendments before the Council were trying to defend South Africa by all the legal devices at their disposal and to weaken the unanimous decision of ECA. His delegation would accept no text except that adopted by the Commission (44 (iv)) and endorsed in the draft resolution proposed by Ethiopia and Senegal.

6. Mr. EL-FARRA (Jordan), also opposing the amendments, said that by taking into account the communication from South Africa, the United Kingdom amendment was really endorsing its tendentious arguments. The communication completely ignored the real reason underlying the decision of ECA and flouted the numerous resolutions adopted by the General Assembly. His delegation therefore requested the United Kingdom to reconsider its amendment.

7. The amendment submitted by Argentina and the United States merely confused the issue. In the proposed addition to the preamble it merely noted the existence of South Africa's racial policy and the reaction of the General Assembly. In the suggested new paragraph 2 the use of the term "non-participation" was alien to the Charter and the paragraph merely accepted the position adopted by the South African Government. If the Council adopted such a paragraph, it would subject itself to severe criticism when the matter came before the General Assembly. The Austrian proposal was certainly an improvement on the original text of the amendment, but it still failed to reflect what the African countries really wanted.

8. Finally, he agreed with the Austrian representative that the Council was competent to decide the matter forthwith.

9. Mr. WAKWAYA (Ethiopia) formally requested the United Kingdom representative to withdraw his amendment because it implied that the Council accepted the entirely false allegations made in the communication from South Africa.

10. Mr. UNWIN (United Kingdom) explained that the object of his amendment was to clarify the reference in the joint draft resolution to "new developments relating to the membership of the Republic of South Africa in the Economic Commission for Africa". The gist of the communication from South Africa was one

of those new developments. Obviously, some reference should be made in the draft resolution to the situation resulting from the South African Government's action. The Council need not discuss the communication, and the reasons given by that government for no longer taking part in ECA were immaterial. The Jordanian representative had suggested that the amendment implied acceptance by the Council of the contents of the communication, but that was not the intention; nor was it his delegation's understanding. All the United Kingdom sought to do was to record the fact without commenting on it in any way. He would propose that the words "Taking into account" in his amendment should be replaced by the even more colourless phrase "Having been informed of", in the hope that that might prove more acceptable.

11. Mr. MIGONE (Argentina) said that some confusion had crept into the discussion. The USSR representative had argued that ECA had the power to expel a Member State. The only organ competent to expel a State member of a regional economic commission, and only in the interest of the Commission's efficient operation, was the Council itself. The USSR representative had also said that, under the second joint amendment, South Africa could rejoin ECA when it thought fit, whereas that amendment explicitly stated that the status of non-participation of the South African Government would continue "until the Council finds that conditions for constructive participation have been restored". The joint amendment was designed to ensure a dispassionate application of the principles of the Charter.

12. Neither he nor the United States representative insisted on the retention of the expression "status of non-participation". Their sole intention had been to describe a *de facto* situation, not to confirm the allegations contained in the South African communication. Accordingly, they had no objection to the new wording proposed by the United Kingdom representative.

13. Some representatives had mentioned recent events in the ILO, but the ILO was an independent specialized agency. The Argentine and United States amendment was based solely on resolutions 1663 (XVI) and 1761 (XVII) of the General Assembly condemning racial discrimination in South Africa. Those resolutions gave the Council the necessary legal basis for acting within its competence, namely, to ensure its own smooth operation. It enabled the Council to take note of a *de facto* situation and to declare that that situation would persist until South African policy had changed.

14. The Argentine and United States delegations thought that the Austrian amendment clarified the situation considerably.

15. Mr. JEVTIC (Yugoslavia) said that the United Kingdom amendment was unacceptable, even with the change in the opening words. That amendment, even if it were to be followed by a paragraph acknowledging the fact that the policy of South Africa constituted a violation of the Charter, nevertheless leaned more to the position of South Africa than to that unanimously taken by the African States. Such an approach would ignore the fact

that it was South Africa that had violated the Charter and the African States that demanded redress.

16. The attitude expressed by the Government of South Africa in communication constituted an open defiance of United Nations principles and decisions. That attitude was not new, as shown by operative paragraph 3 of the ECA resolution, which noted with indignation that South Africa based its refusal to participate in the fourth session of ECA precisely on the Commission's intention to study the economic and social consequences of racial discriminatory practices. It would be deplorable if the Council were to tolerate a renewal of those same tactics on the part of South Africa.

17. The first joint amendment expressly recognized that the racial policy of the Government of South Africa constituted a "violation of the Charter of the United Nations". Nevertheless, it referred in its operative paragraph to the "status of non-participation of the Government of South Africa". He could not accept that wording, which had been taken from the South African communication: the clearly expressed intention of the members of ECA was to deprive South Africa of membership.

18. The wording suggested by the Austrian delegation was somewhat clearer but still inadequate. It was not enough to ensure that South Africa did not reverse the status quo by its unilateral action; it was essential to impose a sanction in the form of its exclusion until its racial policy changed.

19. In conclusion, he would urge the Council to support ECA, whose African members, of whom there were more than thirty, had unanimously decided to deprive Portugal and South Africa of membership as a sanction against the policies of those countries.

20. Mr. DUCCI (Italy) felt that the discussion on the important issue of competence had thrown considerable light on the amendments under discussion. The Council was undoubtedly competent to deal with the matter before it, but what were its powers? There could be no doubt that the Charter did not empower the Council to impose any penalty or sanction; under Article 6 of the Charter, a Member of the United Nations could be excluded or expelled by the General Assembly only on the recommendation of the Security Council.

21. The Council, however, had the power to take note of the facts as they stood and to draw the necessary conclusions. The first fact was the unanimous wish of the other States of the African continent not to have South Africa in ECA until it reversed its racial policies. The second was the communication from South Africa, the form of which was immaterial, although his own delegation deplored it. The clear intention had been expressed by the South African Government not to participate in the future work of ECA. It was therefore appropriate to take note of that fact, and, in that respect, he did not agree with the Yugoslav representative and considered that the new wording of the United Kingdom amendment involved a substantial change. He was, however, somewhat puzzled at the last preambular paragraph of the

joint draft resolution which referred to "new developments relating to the membership of the Republic of South Africa" in ECA. In point of fact, those developments did not relate to the membership of South Africa, but to its participation in the work of ECA.

22. As to the second joint amendment, the wording suggested by the Austrian representative would avoid any misunderstanding regarding the legal position. That wording also adequately expressed the logical conclusions that could be drawn by the Council from the violation of the Charter by South Africa and the decision by that country not to participate in the work of ECA. If, however, any delegation wished to demand sanctions, it could do so by applying to the appropriate organs of the United Nations, namely the Security Council and the General Assembly.

23. Mr. HAJEK (Czechoslovakia) expressed the view that the Council was competent, under Article 68 of the Charter, to adopt the draft resolutions before it. If the Council could set up commissions, it could also determine their membership.

24. The Council's function was not to impose sanctions, but to adapt the membership of ECA to the needs of the situation, with a view to facilitating the Commission's work. The attitude of South Africa and Portugal obviously constituted a systematic impediment within ECA and was also at variance with the principles of the Charter. Moreover, when the Council had rejected at the resumed thirty-fourth session an earlier draft resolution of ECA, its right to take a decision on the subject had not been disputed. Accordingly, ECA draft resolution and the joint draft resolution were quite logical.

25. The sole effect of the amendments submitted would be to weaken the logic of the joint draft resolution. That emerged clearly from the United Kingdom amendment, which merely requested the Council to sanction a unilateral declaration by the South African Government. The aim of the joint amendment was similar, as was clearly apparent in the original version, which suggested acceptance of the South African decision as the basis of a *de jure* status. The oral amendment submitted by the Austrian representative was an attempt to dissipate the confusion caused by the second joint amendment. But the proposed new wording introduced no substantial improvement, and had, moreover, the effect of weakening the impact of the joint draft resolution.

26. Mr. ARKADIEV (Union of Soviet Socialist Republics) stressed that there could be no doubt of the position regarding the competence of the Council. No one had disputed that competence in respect of rejecting recommendations by ECA regarding its membership; it was only logical that the same competence should be recognized in respect of endorsing a recommendation by ECA on the same subject. Again, no one disputed the power of the Council to enlarge the membership of the regional commissions; by the same token, it could enlarge the membership of ECA. Moreover, the delegations of Argentina and the United States, by submitting an amendment, had accepted the competence of the Council to discuss the substance of the matter.

27. He would cite the relevant passages of General Assembly resolutions 1663 (XVI) and 1761 (XVII), and point out that the latter invited Member States to "inform the General Assembly at its eighteenth session regarding actions taken, separately or collectively, in dissuading the Government of South Africa from pursuing its policies of *apartheid*". All members of the Council, as Members of the United Nations, were thus called upon to report to the General Assembly on the action which they had taken to implement that important decision.

28. Lastly, the same resolution requested the Security Council "to take appropriate measures, including sanctions, to secure South Africa's compliance with the resolutions of the General Assembly and of the Security Council on this subject and, if necessary, to consider action under Article 6 of the Charter". The General Assembly's decision thus implied the possibility of excluding South Africa from membership in the United Nations.

29. He earnestly hoped that Ethiopia and Senegal would stand firm by their draft resolution and press for its adoption without any of the proposed amendments.

30. Mr. WAKWAYA (Ethiopia) pointed out that, on considering the question of South Africa, ECA had arrived at the conclusion that no co-operation was possible between that country and the African States so long as South Africa maintained its policy of racial discrimination.

31. South Africa had not hesitated to boycott the fourth session of ECA simply because one of the items on the agenda for that session concerned the economic and

social consequences of racial discriminatory practices. Very appropriately, therefore, ECA had decided that South Africa should be suspended from membership. The issue was not a political one; the suspension was based on the fact that South Africa could not make any contribution to, or derive any benefit from, ECA meetings on social and economic matters so long as its policy remained unchanged.

32. The desire expressed by the Council to discuss the question itself and not to transmit it to the General Assembly conclusively established its competence in the matter. He felt certain that, if a formal vote were taken, the Council would decide in favour of its own competence.

33. As to the Italian representative's remarks concerning the last preambular paragraph of the joint draft resolution, when the text had been drafted, the sponsors had been unaware that the Government of South Africa would be submitting its communication. He would strongly emphasize that that paragraph was not intended to refer to the communication, and therefore had no connexion whatsoever with the United Kingdom amendment. The purpose of the reference to "new developments" was to cover, inter alia, the action taken by the representatives of African countries at the recent ILO Conference, the statements made at the Summit Conference of Independent African States at Addis Ababa and the action by the African countries to refer the question of South Africa to the Security Council.

The meeting rose at 1.5 p.m.