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President: Mr. Hernán SANTA CRUZ (Chile).

Present: The representatives of the following countries:

Belgium, Canada, Chile, China, Czechoslovakia, France, India, Iran, Mexico, Pakistan, Peru, Philippines, Poland, Sweden, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

The representative of the following specialized agency:

International Labour Organisation.

Draft international covenant on human rights and measures of implementation (E/1880 and Corr.1 and E/1880/Add.1 to 7) (*continued*)

[Agenda item 12]

1. Mr. DE LACHARRIERE (France) wished to complete his earlier statement (439th meeting) by replying to certain observations made by members of the Council.

2. In reply to the statement of the representative of the Philippines (440th meeting) that French opposition to General Assembly resolution 421 (V) had been based upon the Assembly's condemnation of the idea of a colonial clause, he stated that his delegation had not voted against the resolution for any reasons connected with the colonial clause.

3. As regards the contention of some delegations (439th meeting) that the Council's role in the matter was being reduced to that of a transmitting agency, he shared the views expressed by the representative of India (440th meeting), who had defended that role as being the proper one in the circumstances.

4. He had previously stressed the many technical difficulties besetting the Council and the Commission on Human Rights in their efforts to draw up an effective covenant on human rights. An even greater

difficulty lay in the tendency of certain States to use the Council's debates for purposes of propaganda. He deeply regretted the turn which the debate had taken in the opening days of the current session, since he felt that a false impression of the Council's normal proceedings was being created.

5. He proposed as an amendment to paragraph 3 of the operative part of the joint draft resolution of Pakistan and Uruguay (E/L.139/Rev.1) that the words "setting up of a joint working group" should be replaced by the words "setting up of one or several joint working groups"; and that the phrase "which will report to the Council" should be added at the end of the paragraph.

6. Mr. SANGUINETTI (Uruguay) and Mr. MAJID (Pakistan), as sponsors of the joint draft resolution, accepted the French amendment.

7. They also accepted the joint amendment of Chile and India (E/L.140), with the reservation that it should be inserted in the form of a separate paragraph.

8. Mr. INGLES (Philippines) was gratified to note that one of the suggestions made by his delegation at the preceding meeting had subsequently been dealt with in amendments to the joint draft resolution which had been accepted by the sponsors. He had expressed the hope that the Commission on Human Rights would consider not only the comments of members of the Council, but also the suggestions of specialized agencies, during the current session of the Council. With respect to amendments to the draft covenant, he had in mind not only those submitted by the Soviet Union delegation but also the comments of his government submitted at the sixth session of the Commission (E/CN.4/353/Add.3).

9. He further noted that of the nine points set forth in the Assembly's resolution 421 (V) which were addressed directly to the Council, only three were reproduced in the joint draft resolution. His delegation

would have preferred to see the remaining six points equally reproduced, since the text as it stood might create the impression that the Council was evading its responsibilities in that regard. In view, however, of the assurances given by the Pakistan delegation that the general reference in the last paragraph of the joint draft resolution was intended to cover all the directives of the Assembly, and inasmuch as the Council seemed ready to take a vote, he would not delay the proceedings by pressing for the specific inclusion of the remaining points.

10. The PRESIDENT proposed the addition of the following paragraph to the text of the joint draft resolution:

"Invites the Commission to take into consideration, in the drafting of the covenant, the records of the discussions at the twelfth session of the Council, the observations presented by Members of the Council and by representatives of the specialized agencies, and the amendments to the draft covenant presented at that session."

11. He pointed out that his proposal contained no new substantial matter, but was merely an expansion of the joint amendment of Chile and India. He felt that his proposal would meet the point raised by the Philippine delegation, by covering not only the amendments presented, but also all other observations made by members of the Council. The position of the new paragraph in the text could be determined by decision of the Council.

12. Mr. SANGUINETTI (Uruguay) and Mr. MAJID (Pakistan) accepted the amendment proposed by the President.

13. Mr. KOTSCHNIG (United States of America) requested that the words "on the lines indicated by the General Assembly", in paragraph 4, should be voted on separately.

14. Mr. BURINSKY (Union of Soviet Socialist Republics) pointed out that his delegation had received the Russian version of the draft resolution and amendments only a few moments before, and consequently had not had sufficient time to study them. Invoking rule 55 of the rules of procedure, he requested a postponement of the vote until the following day.

15. He wished to amplify a part of the statement he had made at the preceding meeting. He had quoted a statement made by a member of the United Kingdom delegation who had visited the Soviet Union in 1950. Under the labour laws of his country, employment of persons under the age of sixteen was forbidden; persons between the ages of fourteen and sixteen were admitted to factory schools for training only.

16. Mr. NOSEK (Czechoslovakia) supported the request of the USSR representative for a postponement of the vote.

17. The PRESIDENT declared that the joint draft resolution of Pakistan and Uruguay, as amended, and the USSR draft resolution would be put to the vote at the following meeting.

Request for the inclusion of an additional item in the agenda (E/1922) (concluded): report of the Council NGO Committee (E/1924)

[Agenda item 2]

18. Mr. DE SEYNES, Acting Chairman of the Council NGO Committee, explained that at the request of the Union of Soviet Socialist Republics, the title of the WFTU proposal had been changed to "Request of the World Federation of Trade Unions for the inclusion of an item in the agenda, as supported by the representative of Poland". By 4 votes to 1, with 1 abstention, the Committee had decided that under the terms of rule 10 of the rules of procedure it could not examine the item, since the request had not been submitted within the prescribed time limit, and since non-governmental organizations were not entitled to submit items for inclusion in the final agenda, but only in the provisional agenda.

19. Following the Committee's decision, the WFTU had requested a hearing on the matter, under the terms of rule 80 of the rules of procedure. By 3 votes to 1, with 2 abstentions, the Committee had upheld the ruling of the Chairman that it could not reopen, under rule 80, a question which had already been the subject of a decision under rule 10.

20. Mr. KATZ-SUCHY (Poland) formally proposed that the Council should reject the report of the Council Committee on Non-Governmental Organizations. In his opinion, the Committee's action had been unilateral and arbitrary. When the President of the Council had referred the WFTU request to the Committee, (438th meeting), the intention had been that the Committee should discuss the matter and report to the Council, not that it should take an arbitrary decision which was not subject to review by the Council. The Committee had based its decision in part upon a differentiation between the provisional agenda and the final agenda; but when he himself had stressed the same point at the 437th meeting, his views had found no support in the Council. Furthermore, the Committee had had no grounds for refusing to hear the views of the WFTU on the matter, since that organization had a clear right to a hearing under the terms of rule 80.

21. The Polish delegation felt that the Committee had failed to fulfil the task entrusted to it by the President of the Council, and had not acted in accordance with the rules of procedure.

22. Mr. BURINSKY (Union of Soviet Socialist Republics) agreed with the representative of Poland that the Committee had not acted in the right way, and supported his proposal that the report should be rejected. The Committee's action, moreover, had been in direct contradiction with the spirit of General Assembly resolution 49 (I), which urged collaboration between the Council and the WFTU.

23. Mr. NOSEK (Czechoslovakia) considered it a legal anomaly that a subsidiary body of the Council should be empowered to take decisions which were binding upon the Council. The Council determined its

own rules of procedure; as the superior body, it must be able to decide whether or not the Committee had utilized its powers in a proper manner. The Committee's status was purely advisory; the Council itself could not evade the responsibility of deciding whether or not an item proposed by a non-governmental organization should be placed on its agenda. It would appear, therefore, that rule 10 was illegal, and, as such, should be deleted or amended; and that any decision based on that rule was also illegal.

24. For those reasons, the delegation of Czechoslovakia endorsed the views expressed by the Polish and USSR delegations, and supported the Polish proposal that the Committee's report should be rejected.

25. The PRESIDENT reiterated that until such time as the rules of procedure should be altered by the Council, he must consider himself bound by those rules; accordingly, he would maintain his ruling.

26. He pointed out once more that there were three ways in which the delegations which objected to that ruling might ascertain the views of the Council. First, any delegation which considered rule 10 illegal could propose its deletion or amendment. Secondly, any delegation which considered the President's ruling incorrect was free to challenge it and have it voted upon by the Council. Finally, if it were thought that the Council would be placed in an embarrassing position by being forced to vote upon the President's interpretation, the Council was at liberty, under the terms of rule 85, to suspend the rule.

27. Mr. KATZ-SUCHY (Poland) pointed out that the Council NGO Committee had not decided to reject the request of the World Federation of Trade Unions for the inclusion of an item on the Council's agenda; it had decided not to consider the request at all. Such a decision was not covered by any of the Council's rules of procedure and the question of the interpretation of rule 10 did not therefore arise.

28. The PRESIDENT said that he personally had no doubt that rule 10 should be interpreted to mean that items proposed by non-governmental organizations should not be placed on the Council's agenda without the backing of the Council NGO Committee. Since, however, he did not wish to lay himself open to the charge of placing a restrictive interpretation on rule 10, which was already sufficiently restrictive, he would put the Polish representative's proposal to the vote.

29. Mr. INGLES (Philippines) said that his delegation was in favour of a liberal interpretation of the rules of procedure, which were designed to expedite, not to obstruct, the conduct of the Council's business. The Council NGO Committee had in fact rejected the request of the WFTU on a mere technicality; but technicalities should not be allowed to tie the Council's hands. While he held no brief for the World Federation of Trade Unions, he considered that a matter of principle was involved and that the Council should avoid taking any decision which might be interpreted as partiality or discrimination.

30. Rule 16 of the rules of procedure permitted the Council to revise its agenda in the course of a session

by adding, deleting, deferring or amending items. Although the rule specified that only urgent and important items should be added to the Council's agenda, the item proposed by the World Federation of Trade Unions could be regarded as such, since the order for the dissolution of the Federation, to which the item referred, was to take effect thirty days after the notification of the decision of the French Ministry of the Interior on 24 January 1951. Therefore, a refusal to consider the inclusion of the item until the next session of the Council, would be an act of injustice.

31. He therefore suggested that the Council should consider the possibility of including the item under rule 16 of its rules of procedure.

32. Mr. BURINSKY (Union of Soviet Socialist Republics) felt that, as the representatives of Poland and the Philippines had suggested, some means could be found of including the item proposed by the World Federation of Trade Unions without departing from the Council's rules of procedure. Millions of workers throughout the world looked to the Council to protect trade-union rights, and that duty was also assigned to it by the Charter. If the Council evaded its duty and prevented the inclusion of the item proposed by the Federation on a procedural pretext with a view to avoiding a discussion of the substance of the question, its prestige and authority would be seriously undermined.

33. Mr. KOTSCHNIG (United States of America) said that, if, as the representative of the USSR believed, some means could be found to meet the request of the World Federation of Trade Unions without departing from the Council's rules of procedure, his delegation would have no objection.

34. The President had, however, drawn attention to a number of legitimate methods by which the item proposed by the Federation could be included on the Council's agenda. The Polish delegation and those who supported its proposal had not seen fit to adopt those methods for the reason that they were opposed to and out to destroy rule 10 of the rules of procedure, which provided for the screening of items submitted by non-governmental organizations in the interest of lightening the Council's work. If that rule was not to their liking, they should take the necessary action to initiate its revision.

35. The PRESIDENT put to the vote the Polish representative's proposal that the Council should reject the report of the NGO Committee notifying the Council of its inability to consider the request of the World Federation of Trade Unions for the inclusion of an item in the Council's agenda.

The proposal was rejected by 12 votes to 3, with 3 abstentions.

36. Mr. DE LACHARRIERE (France) said that his delegation had abstained from voting on the Polish proposal, not because he had no opinion on the application of the Council's rule of procedure, but because his government was directly affected by the substance of the question.

37. Mr. INGLES (Philippines) said he had abstained from voting because he did not consider that the Polish proposal was the proper method of disposing of the point at issue.

Trade-union rights: allegations regarding infringements of trade-union rights (E/1882 and E/1882/Add.1 and 2)

[Agenda item 14]

38. Mr. HUMPHREY (Secretariat, reminded the Council that, under its resolution 277 (X), the Secretary-General had been requested to bring to its attention allegations regarding infringements of trade-union rights received from governments or trade-union or employer organizations, notwithstanding the provisions of resolution 75 (V) as amended. In implementation of that resolution, the Secretary-General had prepared and distributed documents E/1882, E/1882/Add.1 and E/1882/Add.2.

39. The first communication (E/1882, section I) was from the Union General de Trabajadores de España en Exilio and referred to a country which was not a member of the United Nations or of the International Labour Organisation. In view of the general nature of the relevant part of resolution 277 (X), the Secretary-General considered it his duty to bring the communication to the Council's attention and to leave it to the Council to decide how to deal with it.

40. The second communication (E/1882, section II) was from a Dutch trade union alleging infringement of trade-union rights by employers in the Netherlands. The Netherlands was a member both of the United Nations and of ILO.

41. The third communication (E/1882, section III) was from the World Federation of Trade Unions and related to Japan, which was a member neither of the United Nations nor of ILO. The same considerations applied to that communication as to the communication relating to Spain.

42. The fourth communication (E/1882, section IV) was from the International Confederation of Free Trade Unions and related to the USSR, which was a member of the United Nations but not of ILO. Under the terms of resolution 277 (X), the Secretary-General, acting on behalf of the Council, was required to seek the consent of the government concerned before acting on allegations regarding any Member of the United Nations which was not a member of ILO. As the footnote to the title of that communication in document E/1882 indicated, the Secretary-General had requested the Government of the USSR on 8 December 1950 to inform him whether it was willing to give its consent. No reply had so far been received.

43. The fifth and sixth communications (E/1882, sections V and VI), one from the Confédération générale du Travail and the other from the Syndicats unifiés des Pays-Bas, related to Japan. Since that country was not a member of the United Nations or of ILO, the same considerations applied as to the communication relating to Spain.

44. The seventh communication (E/1882, section VII) was from the Union des Syndicats confédérés

du Cameroun and related to a Trust Territory. In accordance with the agreement between the Economic and Social Council and the Trusteeship Council (E & T/C.1/2/Rev.1.), under which all petitions to organs of the United Nations emanating from or relating to conditions in Trust Territories were dealt with by the Trusteeship Council in conformity with Article 87, paragraph (b), for the Charter, that communication had been issued as a Trusteeship Council document and was being examined by that Council at its current session.

45. The eighth communication (E/1882, section VIII) was from the Pancyprian Federation of Labour and related to Israel, which was a member both of the United Nations and of ILO.

46. The ninth communication (E/1882/Add.1) was from the International Confederation of Free Trade Unions and related to Czechoslovakia, Hungary and Romania. Czechoslovakia was a member both of the United Nations and of ILO; Hungary of ILO but not of the United Nations and Romania of neither.

47. The tenth, eleventh and twelfth communications were reproduced in document E/1882/Add.2. The tenth communication was from the Confédération de Trabajadores de Cuba and related to France, which was a member both of the United Nations and of ILO. The eleventh was from the All-Union Central Council of Trade Unions and also related to France. The twelfth communication, from the Union internationale des syndicats des transports terrestres et aériens, referred to Argentina, which was a member both of the United Nations and of ILO.

48. Mr. KORNEYEV (Union of Soviet Socialist Republics) protested against the consideration of the allegation by the International Confederation of Free Trade Unions as it was slanderous and aimed at discrediting the USSR. As announced at the opening meeting of the Council, his delegation would make a full and detailed statement on the important part played by trade unions in the USSR.

49. Mr. CORLEY SMITH (United Kingdom), noting that Council resolution 277 (X) called for different action in the case of States of different international and legal status, suggested that it might expedite the Council's work if the allegations were considered in four different groups depending upon the status of the States to which they related. The Council might thus consider, first, allegations regarding States which were members of the United Nations and of ILO, then those regarding States which were Members of the United Nations only, then those concerning States which were members of ILO only, and lastly, those concerning States which belonged to neither organization.

50. Mr. KATZ-SUCHY (Poland) thought that the United Kingdom proposal would result in prolonging the debate rather than expediting it as the same questions would have to be discussed several times. The Council should therefore proceed in the usual manner and begin with a general debate on the question of infringements of trade-union rights. The question of

the legal status of the States concerned would come up only later when the Council had to decide what action it would take on the different allegations. He reserved the right to make a statement in the general discussion.

51. Mr. CORLEY SMITH (United Kingdom) said that he did not attach too much importance to his proposal, the only purpose of which was to facilitate the Council's work. There was no need for a general debate on the question since the Council, in conjunction with ILO, had set up a fact-finding commission for the specific purpose of examining charges of that nature, taking into account the views of the government concerned. The only question before the Council at the current stage was what action, in accordance with its resolution 277 (X), it should take with respect to the different allegations, and in that connexion the procedure he had proposed might be more expedient.

52. Mr. KOTSCHNIG (United States of America) supported the useful suggestion of the United Kingdom representative. The procedure was by no means as unusual as the Polish representative maintained, and had been applied successfully at the tenth session—during which, unfortunately, the Polish representative had been absent. The Agenda Committee had recommended at the time that, pursuant to Council resolution 277 (X), certain allegations should be referred directly to the Governing Body of the International Labour Office for transmission to the fact-finding body. The Council had unanimously approved that recommendation without further discussion. That had been a wise procedure, inasmuch as it took full advantage of the special machinery set up to assure fair and objective consideration of the allegations made.

53. He therefore supported the United Kingdom proposal for which a precedent already existed in the Council.

54. Mr. KORNEYEV (Union of Soviet Socialist Republics) supported the Polish proposal, as the question of violation of trade-union rights affected millions of workers throughout the world and should be discussed fully by the Council.

55. As regards the United States representative's reference to the resolution adopted by the Council at its tenth session, he pointed out that the USSR dele-

gation considered as illegal all the decisions taken at that session in view of the fact that they had been adopted in its absence.

56. Mr. NOSEK (Czechoslovakia) supported the proposal made by the Polish representative for the reasons given by the latter.

57. Mr. KATZ-SUCHY (Poland) said that the remarks made by the United States representative, who seemed to attach much greater importance to the United Kingdom proposal than the author himself, showed the inherent dangers of such a procedure. It was clear that the United States representative supported it as a means to limit the debate and avoid any questions which might prove embarrassing to it. It had always been customary for the Council to give full and objective consideration to allegations regarding infringements of trade-union rights and to permit the States concerned to present their views. That was the only possible approach to the question; any other approach would be contrary to the letter and spirit of the Charter and of the Universal Declaration of Human Rights, in which trade-union rights were recognized as fundamental human rights, as well as to Council resolution 84 (V) and General Assembly resolution 128 (II).

58. The United States representative had stated that he regretted the Polish delegation's absence during the tenth session of the Council; it was precisely because it had not been present at the time and because it was not represented on the fact-finding body that the Polish delegation wished to state its views on all the aspects of the problem of infringements of trade-union rights.

59. Mr. KOTSCHNIG (United States of America) regretted that the Polish representative persisted in deliberately misinterpreting every statement made by the United States delegation. He had supported the United Kingdom proposal merely for the sake of expediency and not in order to avoid any embarrassing discussions, as none of the allegations related to the United States of America.

60. The PRESIDENT put the United Kingdom proposal to the vote.

The proposal was adopted by 11 votes to 3, with 3 abstentions.

The meeting rose at 6 p.m.