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President: Mr. Milan KLUSÁK
(Czechoslovakia).

Present:

Representatives of the following States, members of the Council: Belgium, Cameroon, Canada, Czechoslovakia, Dahomey, France, Gabon, Guatemala, India, Iran, Kuwait, Libya, Mexico, Morocco, Pakistan, Panama, Peru, Philippines, Romania, Sierra Leone, Sweden, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Venezuela.

Observers for the following Member States: Brazil, China, Japan, South Africa, Ukrainian Soviet Socialist Republic.

Representatives of the following specialized agencies: International Labour Organisation, United Nations Educational, Scientific and Cultural Organization.

The representative of the International Atomic Energy Agency.

AGENDA ITEM 26

Confirmation of members of the functional commissions of the Council (E/4311 and Add.1-4)

1. The PRESIDENT suggested that the Council should confirm the members of the functional commissions listed in document E/4311 and Add.1-4.

It was so decided.

AGENDA ITEM 8



Land reform (E/4310)

REPORT OF THE ECONOMIC COMMITTEE (E/4379)

2. The PRESIDENT suggested that the Council should adopt the draft resolution recommended by the Econ-

omic Committee in its report on land reform (E/4379 para. 5).

The draft resolution was unanimously adopted.

AGENDA ITEM 7

Report of the Statistical Commission (E/4283 and Add.1)

REPORT OF THE ECONOMIC COMMITTEE (E/4382)

3. The PRESIDENT suggested that, in accordance with the recommendations of the Economic Committee (E/4382, para. 5), the Council should take note with appreciation of the report of the Statistical Commission at its fourteenth session (E/4283 and Add.1) and unanimously adopt the draft resolutions on statistical co-ordination and principles and recommendations for the 1970 population and housing censuses contained in the report of the Economic Committee.

It was so decided.

AGENDA ITEM 14

Allegations regarding infringements of trade union rights (*continued*)* (E/4305, E/L.1156/Rev.1)

4. Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that, in operative paragraph 2 of the revised four-Power draft resolution (E/L.1156/Rev.1), the words "the principles underlying" should be inserted after the words "Supports fully" and the words "concerning the allegations" should be replaced by the words "and their application to the allegations".

5. Mr. HUDA (Pakistan) said that the words "International Labour Organisation" in the second preambular paragraph and operative paragraph 2 of draft resolution E/L.1156/Rev.1 should be amended to read "International Labour Office". Operative paragraph 1 of the draft resolution should be amended to read:

"Notes with appreciation the diligence with which the International Labour Office communicated to the Economic and Social Council the allegations of the World Federation of Trade Unions concerning the flagrant violations of trade union rights in the Republic of South Africa."

6. Mr. TEVOEDJRE (Dahomey) proposed that the words "to it" in operative paragraph 2 should be deleted, since the complaint in question had not been submitted directly to the Council.

It was so decided.

7. Mr. BLAU (United States of America) said that he could support the revised draft resolution (E/L.1156/Rev.1), as orally amended by the sponsors,

*Resumed from the 1465th meeting.

and with the amendment proposed by Dahomey. However, he was still uneasy about the use of the word "unlawful" in operative paragraph 3. While he condemned the legislation and practices of the Republic of South Africa, he was not sure whether it would be correct to term the prosecution of the trade union workers unlawful if it was carried out in accordance with the legislation of the country concerned; the word "unjust" might be a suitable alternative.

8. Mr. TEVOEDJRE (Dahomey) said that, in general, he welcomed the revised text of the draft resolution. However, it should be recorded that the Council's vote on the draft resolution was not only a condemnation of the situation in the Republic of South Africa but a warning to other political régimes which were playing the role of sorcerer's apprentice in trade union matters. The draft resolution was applicable not only to the extreme case of South Africa, but to all so-called democratic countries which were now, or which might in the future, infringe trade union rights for their own immediate aims.

9. Mr. ATTIGA (Libya) said the United States representative's views might be met if operative paragraph 3 of the revised draft resolution spoke of the lack of due process of law in the prosecution of trade union workers.

10. Mr. VARELA (Panama) agreed with the United States representative that the word "unlawful" was inappropriate in the present context; the prosecution could hardly be unlawful if it were carried out in accordance with the Constitution and legislation of the Republic of South Africa, however absurd that Constitution and legislation might be. It might be preferable to speak of prosecution which was not in line with internationally recognized principles.

11. Mr. WALDRON-RAMSEY (United Republic of Tanzania) said he would resist any attempt to change the word "unlawful" in operative paragraph 3 of the revised draft resolution. The Council was not the appropriate place for a discussion of the legal principles of the issue. It was considering allegations regarding infringements of trade union rights, and not the laws of South Africa. The question of law would be examined by the Ad Hoc Working Group of Experts under the terms of operative paragraph 5 of the draft resolution.

12. He did not feel the word "unjust" would be at all pertinent in the present context; nor would it be appropriate to speak of a lack of due process of law since that phrase had relevance to but a single legal system. Those who wished to defend the practices of the Government of South Africa should not seek to hide behind a veneer of legal arguments.

13. Mr. COX (Sierra Leone) said that the word "unlawful" seemed to him appropriate, because, while the prosecution of trade-union workers might be lawful in South Africa, it was certainly unlawful to the international community.

14. Mr. LOBANOV (Union of Soviet Socialist Republics) thought that apartheid and racial discrimination could hardly be compared with such minor infractions of the law as unprovoked insults and were not adequately covered by the word "unlawful". The

argument that national legislation differed from country to country merely complicated the question and led to absurd conclusions. Could it be said that what was happening in South Africa was legal? If so, illegality would become permissible and the Charter of the United Nations would no longer guide the actions of States. For that reason, he considered the Panamanian suggestion unhelpful and proposed that such wording as "contrary to generally accepted international standards and incompatible with the letter and the spirit of the Charter of the United Nations" should be added to the text of operative paragraph 3 to explain the word "unlawful".

15. Mr. JHA (India) suggested that the wording proposed by the Soviet Union representative should be inserted after the words "unlawful prosecution".

16. Mr. VARELA (Panama) said that the indirect accusations of the representative of the United Republic of Tanzania did not perturb him because he knew they were often lightly made. As early as 1946 his country had enacted one of the world's most advanced codes in which racial discrimination had been condemned and prohibited. In addition, he himself had always fought for the principle that all racial discrimination and disrespect for human rights in South Africa should be vigorously condemned. However, the significance of the word "unlawful" was national not universal; the word "anti-juridical" would be far more appropriate to an international text.

17. Mr. ARCA PARRO (Peru) supported the Panamanian representative's suggestion. His country's position on apartheid and racial discrimination in South Africa was well known.

18. Mr. ATTIGA (Libya) withdrew his suggestion. In his view, the word "unlawful" covered not only acts at variance with the law but also laws which were enacted by improperly constituted authorities. Since the word suggested by the Panamanian representative was inapplicable to the English text, he felt that the Council should adopt operative paragraph 3 as it stood.

19. Mr. BLAU (United States of America) said that he would not press for the replacement of the word "unlawful" and would vote in favour of the draft resolution.

20. Mr. TEVOEDJRE (Dahomey) said that some delegations were apparently reluctant to condemn South Africa and he wondered whether the difficulty that had arisen about the use of the word "unlawful" might be a manoeuvre to defend that country. The Council must be aware of its responsibilities and assume them: the fact was that both the legislation and practice of South Africa in the matter of trade union rights were illegal according to international law. Most delegations wished to state that fact explicitly; the only difficulty was one of drafting. In his view, the amendment proposed by the USSR representative was perfectly clear and should be acceptable to all representatives.

21. Mr. NAVA CARRILLO (Venezuela) said that operative paragraph 3 condemned not only the infringement of trade union rights but also the legal

basis sanctioning such infringements, as the word "unlawful" implied. He could not accept the words "unlawful prosecution" without amplification. It might be better to replace those words by "illegal effects of the prosecution of trade union workers".

22. Mr. BAL (Belgium) said that his delegation also doubted the appropriateness of the word "unlawful", which could be interpreted, on the one hand, as a judgement in reference to the legislation of South Africa—which he assumed was not the Council's intention—or as meaning "contrary to generally accepted principles concerning the right of free association and trade union rights", an interpretation which his delegation could support. The word "unlawful" was a technical word not used in United Nations documents in matters of disapproval of the legislation or policy of a Member State; it created difficulties for his delegation. It might be better to stress that the prosecution of trade union workers was contrary to the principles of the Charter and the resolutions of the United Nations.

23. Mr. BLAU (United States of America) wondered whether the simplest solution might not be merely to use the word "unlawful" in operative paragraph 3 and include an explanatory note in the Council's report interpreting its meaning.

24. Mr. WALDRON-RAMSEY (United Republic of Tanzania), supported by Mr. ATTIGA (Libya), moved the adjournment of the debate under rule 55 (3) of the Council's rules of procedure.

25. The PRESIDENT invited the Council first to take a decision on the oral amendment to operative paragraph 3 proposed by the USSR and modified by India.

The amendment was adopted.

26. Mr. SCHREIBER (Secretariat), reporting on the financial implications of draft resolution E/L.1156/Rev.1, said that the funds already appropriated for the Ad Hoc Working Group of Experts might possibly be sufficient to finance the new activities it was proposed to entrust to the group. However, much would depend on the methods which would be adopted by the Ad Hoc Group to perform that new function and the period of time during which that work would be done. The Secretary-General was studying the matter and would endeavour to give the Council more precise information before the end of the current session.

27. Mr. TEVOEDJRE (Dahomey), having ascertained that the French version of the USSR amendment to operative paragraph 3 would be to his satisfaction, said that he would accept the amendment in a spirit of co-operation and with a view to avoiding further discussion.

28. Mr. RANKIN (Canada) said that his delegation would vote for the draft resolution as amended, in order to save time. But the new version of operative paragraph 3 was worse than the original. The persecutions referred to were obviously not "unlawful" in South Africa. The problem could have been solved to everyone's satisfaction by replacing "unlawful" with "discriminatory".

29. Mr. VARELA (Panama) said that, in a spirit of co-operation, his delegation would support the draft

resolution as amended, without asking for a separate vote on operative paragraph 3. He pointed out, however, that the term "unlawful" as applied to the practices carried on in any country was only meaningful in terms of that country's domestic legislation. His delegation would therefore vote for the spirit rather than the letter of the paragraph.

30. Sir Samuel HOARE (United Kingdom) said that since his delegation had not supported the appointment of the Ad Hoc Working Group of Experts in the first place, it would be unable to vote for any extension of its terms of reference. It would accordingly abstain on the revised draft resolution.

31. Mr. PAOLINI (France) said that his Government disapproved of the policies of apartheid and racial discrimination systematically applied in South Africa, and would have liked to associate itself with a Council resolution generally condemning those policies, particularly with regard to trade union rights. Trade union legislation in South Africa assuredly constituted a violation of human rights. But operative paragraph 3 of the revised draft condemned, as facts, the very practices whose alleged existence other paragraphs of the same resolution would have the Ad Hoc Working Group of Experts investigate.

32. In regard to the complaint of the World Federation of Trade Unions, since there was no procedure or precedent in the matter, the general principles of the Organization were applicable, as in the case of any other violation of human rights by a Member State. His delegation had been opposed to any extension of the mandate of the Commission on Human Rights authorizing it to investigate specific violations of human rights; similarly, his delegation could not agree that any other body should be invested with quasi-judicial powers of examination and decision. In the absence of any treaty obligation on the part of the Government concerned, the principle of non-interference in the domestic affairs of States must, in his delegation's view, prevent the Council from taking such a step.

33. A more satisfactory solution could have been found in legal terms. The proposal of the representative of the United Republic of Tanzania that the matter should be referred back to the International Labour Office with a request for suggestions as to what ought to be done might have offered a solution. But his delegation would have to abstain on the revised draft resolution as it stood.

34. Mr. NAVA CARRILLO (Venezuela) said that his delegation's vote in favour of the revised draft resolution, and in particular operative paragraph 3, should be understood as a condemnation of the legal basis on which the persecution of trade union workers was carried on in South Africa.

35. The PRESIDENT invited the Council to vote on the revised draft resolution, (E/L.1156/Rev.1), as amended.

At the request of the representative of the United Republic of Tanzania, the vote was taken by roll-call.

Belgium, having been drawn by lot by the President, was called upon to vote first.

In favour: Belgium, Cameroon, Canada, Czechoslovakia, Dahomey, Gabon, Guatemala, India, Iran, Kuwait, Libya, Mexico, Morocco, Pakistan, Panama, Peru, Philippines, Romania, Sierra Leone, Sweden, Turkey, Union of Soviet Socialist Republics, United Republic of Tanzania, United States of America, Venezuela.

Against: None.

Abstaining: France, United Kingdom of Great Britain and Northern Ireland.

The revised draft resolution, as amended, was adopted by 25 votes to none, with 2 abstentions.

36. Mr. TEVOEDJRE (Dahomey) expressed satisfaction that the resolution had been adopted almost unanimously. It was regrettable, however, that certain members of the Council, confronted with injustice in South Africa, sought to make things more complicated than they really were, thus playing into the hands of South African authorities. Those who supported human rights should be more realistic.

37. Mr. BAL (Belgium) said that while his delegation had voted for the draft resolution, it had some reservations. It had been prepared to support a Council resolution expressing disapproval of the laws and practices in South Africa, which, in general, entailed

violations of the freedom of association and of union rights. His delegation's understanding of operative paragraph 3, therefore, was that it referred to general manifestations of apartheid in the trade union sphere, and not to the individual cases which had been referred to the Council and on which the Council might be called upon to take a decision subsequently. His delegation also had reservations about the word "unlawful" which, although it must of course be understood in context, could give rise to confusion. The Council must weigh carefully the meaning of the terms it used in its resolutions. But the use of the word "unlawful" raised crucial questions relating to the competence of the United Nations in general and of the Economic and Social Council in particular.

38. His delegation had approved the operative paragraphs referring the communications in question to the Ad Hoc Working Group of Experts, bearing in mind the specific nature of the phenomenon of apartheid as practised in South Africa, and the fact that the United Nations had adopted many resolutions over the years calling on South Africa to put an end to those practices. Finally, it would be for the Council freely to decide what steps should be taken, if necessary, when it received the report of the Ad Hoc Working Group of Experts.

The meeting rose at 1.15 p.m.

