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President: Mr. Manuel PEREZ GUERRERO
 (Venezuela).

AGENDA ITEM 16

Allegations regarding infringements of trade union rights (continued)* (E/4459 and Add.1, E/L.1206 and Corr.1 and 2 and Add.1)

1. The PRESIDENT requested the Council to resume its discussion of agenda item 16 concerning allegations regarding infringements of trade union rights. He recalled that the Council had already taken up the report of the Ad Hoc Working Group of Experts (E/4459 and Add.1) and that it had to take a decision on draft resolution E/L.1206.

2. Mr. KHANACHET (Kuwait), acting on behalf of the sponsors, presented draft resolution E/L.1206 which had been drawn up in the light of the information given in the excellent report of the Ad Hoc Working Group of Experts and following the statement made by the Chairman of the Group at the 1522nd meeting. He pointed out that operative paragraph 4 of the draft resolution was based on the report's most important conclusions and recommendations (see E/4459, paras. 153-170).

3. He drew the Council's attention to the two corrigenda submitted by the sponsors to the operative part of the original text. The first corrigendum (E/L.1206/Corr.1) amended the wording of operative paragraph 7, and the second (E/L.1206/Corr.2) added two operative paragraphs: the first to be inserted between the present operative paragraphs 7 and 8 and the second to become operative paragraph 13.

4. His delegation hoped that the draft resolution would be supported by the Council and was prepared to consider favourably any proposed amendments that would improve its form or substance.

5. Mr. JONKER (International Labour Organisation) recalled that the ILO always welcomed initiatives designed to promote universal acceptance of the international labour code which his organization had been developing since 1919 in the form of conventions and recommendations. The progress made, thanks to the ILO, particularly in matters relating to the right of association and to trade union freedom, was largely due to that organization's tripartite structure, which enabled workers to take an active part in its work.

6. The first two conventions, Convention (No. 84) concerning the right of association and the settlement of labour disputes in non-metropolitan territories, on the one hand, Convention (No. 87) concerning freedom of association and protection of the right to organize, on the other, dated only from 1947 and 1948, respectively, while the first allegations regarding infringements of trade union rights had been dealt with by the ILO Commission of Inquiry as far back as 1920, and certain measures recommended by the Commission at that time had been adopted later by the Government concerned.

7. It would take too long to review in detail the ILO's responsibilities in the matter of freedom of association and trade union rights and to describe the implementation of the ILO's relevant conventions and recommendations; he pointed out, however, that the ILO, in accordance with articles 19, 22 and 35 of its Constitution, was required to make a periodical and annual examination of the situation regarding trade union rights in member States and in the non-metropolitan territories for whose international relations those member States were responsible. Furthermore, articles 24 and 26 of its Constitution enabled States members of the ILO and professional associations, respectively, to complain to the ILO in cases of failure by a member State to comply with any convention. The ILO's procedure for the implementation of its conventions and recommendations was to be found in a report of the ILO,^{1/} a note by the Secretary-General^{2/} and a note by the Director-General of the International Labour Office.^{3/}

8. Turning to new operative paragraphs 7 and 8 of the draft resolution (see E/L.1206/Corr.1 and Corr.2), he expressed the view that, although the principle could be defended from the human rights aspect, it was difficult to deny that the examination of the denial of trade union rights in territories for which an ILO member State was legally responsible did not fall within the constitutional jurisdiction of the ILO.

9. The ILO applauded the efforts made by various United Nations bodies to protect trade union rights and appreciated the concern of the Council and of its subsidiary bodies to promote co-ordination and thus avoid duplication and overlapping. He therefore suggested that draft resolution E/L.1206 should recall the ILO's primary responsibility for all matters concerning trade union rights and observed that, in any case, all decisions taken by the Council on that subject must, in accordance with the ILO's Constitution and

^{1/} See Official Records of the Economic and Social Council, Fortieth Session, Annexes, agenda item 9, document E/4144.

^{2/} Ibid., Forty-second Session, Annexes, agenda item 14, document E/4305.

^{3/} Document E/CN.4/AG.22/11.

*Resumed from the 1522nd meeting.

existing agreements between the Council and the ILO Governing Body, be submitted to the latter.

10. Mr. FIGUEREDO PLANCHART (Venezuela) said he was pleased that the Ad Hoc Working Group of Experts, established under resolution 2 (XXIII) of the Commission on Human Rights, had decided to bring before the Council the allegations regarding the infringements of trade union rights in the Republic of South Africa. The Council would thus be able to recommend the necessary measures to induce the Republic of South Africa, which persisted in implementing discriminatory laws in defiance of the recommendations of the ILO and other bodies concerned, to conform to the generally accepted international standards pertaining to the right to freedom of association.

11. His delegation welcomed the report by the Ad Hoc Working Group of Experts (E/4459 and Add.1) which summarized very objectively the present situation in South Africa with regard to the exercise of trade union rights; it supported whole-heartedly the conclusions set forth therein. The South African Government's inhuman and immoral legislation on that subject, in particular, must be abolished. It was essentially the ILO, however, which bore the responsibility of continuing actively to defend freedom of association and the exercise of trade union rights, not only in South Africa but in all countries and regions where those rights and the freedoms were violated.

12. While in general agreement with the draft resolution, he reserved the right to speak later on the subject.

13. Mr. ZAKHAROV (Union of Soviet Socialist Republics) thanked the Ad Hoc Working Group of Experts for its excellent report, which faithfully reflected the present situation in South Africa with regard to the exercise of trade union rights. He whole-heartedly supported the report's conclusions and recommendations which condemned, both as a violation of the right to freedom of association and as a manifestation of the criminal policy of apartheid, the South African Government's continued infringements of trade union rights and the unlawful prosecutions of trade union leaders and workers; such methods were entirely contrary to international standards regarding the right to freedom of association. The South African Government denied to African workers the right to form trade unions, and the existing legislation, with its threat of prosecution and even imprisonment, made it impossible for them to defend their rights. Many victims of inhuman exploitation were living in conditions of forced labour and slavery. It appeared that the Republic of South Africa was thus deliberately and systematically violating international agreements on trade union rights.

14. In his delegation's view, therefore, the Council must, at its current session, take part in the campaign against the inhuman policy of apartheid and take measures to induce the Government of the Republic of South Africa to put an end to violations of trade union rights and to prosecutions of the leaders and members of trade unions.

15. His delegation hoped that all Council members would support the conclusions and recommendations

in paragraphs 153-170 of the report of the Ad Hoc Working Group of Experts (E/4459). He was prepared to support the draft resolution, but would have more to say later on operative paragraph 4 of the draft and on the Secretary-General's note concerning the financial implications of the draft resolution (E/L.1206/Add.1), which called for clarification.

16. Mrs. GAVRILOVA (Bulgaria) said that it was not the first time that the Council had to discuss the fate of workers in a Member State. In recent years, whenever the agenda of a United Nations body had included the question of a flagrant violation of basic rights and freedoms, the policy of apartheid in South Africa had been cited as one of the most odious forms of colonialism, slavery and racial discrimination. That policy had in fact become the symbol of a reign of terror and of the systematic and large-scale violation of workers' rights, human rights and the very right to live.

17. Workers in all countries, of whatever race, origin, income level or education, had ultimately won their freedom to form trade unions, at the cost of countless struggles and untold suffering. The only country in the world where they were still denied those rights was South Africa, which was, moreover, a Member of the United Nations. Its barbarous régime, modelled on nazism, brutally opposed all attempts to defend democratic rights and freedoms, branding them as communism, and it had elevated its enslaving policy of apartheid to the rank of a State ideology.

18. The report of the Ad Hoc Working Group of Experts (E/4459 and Add.1), like previous reports drawn up by United Nations bodies, cited appalling examples of the conditions of servitude and slavery imposed on African workers in South Africa, particularly on the leaders and even on the ordinary members of trade unions, and of the humiliating persecution to which they were subjected. It also drew attention to the laws which forbade African workers to move from one area to another.

19. Her delegation considered it outrageous that, despite the many resolutions adopted by various United Nations organs condemning the policy of apartheid, despite its condemnation by the entire international community, and in disregard of the many appeals made to it by major non-governmental organizations, the Government of the Republic of South Africa was continuing, with the support of certain Western capitalist monopolies, to deprive the African workers of their fundamental rights and to prosecute and imprison them, thereby undermining the prestige of the United Nations and destroying the confidence of world opinion not only in the United Nations but in the very principles on which the Organization was founded.

20. Since the Government exercised strict censorship over the local Press, world opinion had no means of keeping abreast of the current situation in South Africa, and it was essential for the United Nations to organize an international information campaign on apartheid so as to keep the entire world informed about the deplorable conditions of African workers in South Africa and, in particular, the difficulties confronting trade unions in that country. In that connexion, she pointed out that Bulgarian workers were supporting

and would continue to support the African workers' struggle until the final victory was won.

21. Her delegation therefore proposed that the following words should be added at the end of operative paragraph 11 of draft resolution E/L.1206: "and recommends to include the outcome of the research of the Ad Hoc Working Group of Experts about the infringement of the trade union rights in its documents which are designed for wide informative dissemination".

22. Mr. ALLEN (United Kingdom) congratulated the Ad Hoc Working Group of Experts on its report (E/4459 and Add.1) and said that his delegation was prepared to accept the conclusions contained in that document.

23. With regard to draft resolution E/L.1206, although the paragraphs concerning the past work of the Ad Hoc Working Group were acceptable to his delegation, it could not accept the provisions for the renewal of its mandate and its extension to other Territories, which had not been anticipated at the time of its establishment in 1967.

24. In that connexion, it should be recalled that the situation in Southern Rhodesia was different from that in South Africa. The latter was no longer a member of the ILO, so that there was no longer any machinery for the investigation of allegations made by South African trade unions. Such was not the case in Southern Rhodesia, for, under article 35 of the ILO Constitution, the United Kingdom and Southern Rhodesia had joint responsibility in the matter, and, since the United Kingdom was a member of the ILO, it was to that organization that allegations regarding infringements of trade union rights in Southern Rhodesia should be addressed. The ILO representative had, moreover, mentioned that some allegations were currently before the competent organs of the ILO. The United Kingdom in no way wished to oppose the carrying out of appropriate investigations, but it was the ILO which should conduct them. A broadening of the mandate of the Ad Hoc Working Group of Experts would be contrary to the provisions of Council resolution 277 (X) of 17 February 1950 concerning the division of powers between the ILO and the United Nations.

25. Mr. GREGH (France) said that his delegation had always unreservedly condemned the policy of apartheid and racial discrimination practised in South Africa. France deplored that policy in all its manifestations, and particularly in the infringement of trade union freedoms which it entailed. His delegation would therefore have welcomed an opportunity to associate itself with a general appeal to the Government of South Africa to comply with recognized international standards in the matter. The principles set forth in the 1944 Declaration of Philadelphia, which had been incorporated in the ILO Constitution, formed an international code binding on all States.

26. His delegation regretted, however, that it was unable to vote for draft resolution E/L.1206, because it considered that no organ of the United Nations could claim the right to exercise judicial powers of investigation and decision with regard to an allegation concerning a State Member of the Organization. Furthermore, it should be noted that the States which had

international responsibility for some of the Territories mentioned in the draft resolution, namely the United Kingdom and Portugal, were members of the ILO. It was therefore clear that any allegation made against those States regarding infringements of trade union rights in the Territories in question should be considered by the competent organ, namely the Fact-Finding and Conciliation Commission on Freedom of Association established by the ILO, and not by the Ad Hoc Working Group of Experts of the Commission on Human Rights. The Council should, in that connexion, respect the rules established for the division of powers between the United Nations and the specialized agencies. Moreover, the resolution in question did not refer to any specific allegation addressed to the Council or the ILO, whereas Council resolution 277 (X) on freedom of association laid down strict rules in that regard.

27. Mr. JHA (India) said he wished to associate himself with the congratulations addressed to the Ad Hoc Working Group of Experts by various delegations. The Ad Hoc Working Group's report (E/4459 and Add.1) marked an extremely important stage in the struggle against the policy of apartheid. His delegation had emphasized on a number of occasions how important it was to draw the attention of public opinion, particularly in the Western countries, to the deplorable effects of the policy of apartheid practised in South Africa. In the absence of sanctions against the South African Government, that was still the only possible method of inducing trade unions in Western countries to put pressure on their respective Governments to take effective action against that policy. No effort and no sacrifice should be spared in achieving that end.

28. With regard to operative paragraph 7 of draft resolution E/L.1206, he recalled that it was precisely for the reasons cited by the ILO representative that the sponsors of the draft resolution had amended the text of that paragraph (see E/L.1206/Corr.1). Some delegations had expressed the view that Southern Rhodesia should not be mentioned. It was, however, clear that the United Kingdom had ceased to exercise its responsibilities in Southern Rhodesia. The Council should not use technical arguments as a pretext for non-intervention when trade union rights were being infringed in that Territory.

29. In conclusion, his delegation considered that the Ad Hoc Working Group of Experts was fully qualified to investigate, with ILO assistance, the question of infringements of trade union rights in Southern Rhodesia.

30. Mr. BARTON (World Federation of Trade Unions) recalled that the allegations regarding infringements of trade union rights in the Republic of South Africa had first been submitted by the World Federation of Trade Unions (WFTU) to the ILO, which had referred them to the Council when South Africa had ceased to be a member of the ILO. The consideration of those allegations by the Council had made it possible to widen the scope of the investigation to include consideration of legislation and practice with regard to trade union rights under the apartheid system. It had also made it possible to hear witnesses who had thrown light on the methods used in applying the

policy of apartheid and hindering the normal exercise of trade union rights. The Federation wished to congratulate the members of the Ad Hoc Working Group of Experts on the excellent report (E/4459 and Add.1) which they had prepared on the matter. Their objective report demonstrated with actual examples the immorality of the South African régime and the denial of due process of law which characterized it.

31. For years, the WFTU had had such cases referred to it, especially with regard to the South African Congress of Trade Unions, which was the only multiracial trade union organization in the Republic of South Africa. Not only were trade unions as such subject to discriminatory legislation but the trade union leaders themselves were prosecuted in their personal capacity under such laws as the Suppression of Communism Act and the General Law Amendment Act. The provisions of the latter, under which any person could be detained for 180 days, had often been applied to prevent trade union leaders from pursuing their activities. The report cited many examples of the way in which trade union leaders and militants were persecuted, imprisoned, placed under house arrest or expelled from the country. In spite of such repressive measures, the workers showed great courage and continued to strike and to fight for their trade union rights.

32. It was not simply a question of the denial of trade union rights. Those measures were an integral part of the policy of apartheid and were designed to crush trade unions which sought to combat the exploitation of the African population. It was because of that situation and following the Sharpeville massacres that WFTU and other African and non-African trade union organizations had decided in 1960 to establish the International Trade Union Committee for Solidarity with the Workers and People of South Africa, which had met recently at Dar es Salaam and had considered means of increasing international support for the struggle being waged by the African people against all forms of racial discrimination and colonial oppression. It had been decided that measures should also be taken to combat the effects of the racial policy being pursued in South West Africa and Zimbabwe (Southern Rhodesia).

33. Indeed, the infringements of trade union rights in South Africa were being repeated in the same form in South West Africa, a Territory unlawfully occupied by the South African Government, and in Southern Rhodesia, which was controlled by the illegal Smith régime. In South West Africa, the provisions of the Industrial Conciliation Ordinance of 1952 did not apply to African workers. As a result, only those trade unions which had no African members could be registered and enjoy the benefits of the law. In Southern Rhodesia, attacks on trade unions sometimes assumed a different form, but the results were the same. Under the Industrial Conciliation Act of 1959, only "non-racial" trade unions could be registered. A registered union was required not to have the goal of promoting the interests of its members on the basis of race, colour or religion, and its constitution must not contain any provision excluding a person by reason of his race, colour or religion. Nevertheless, union members were to be assigned to different sections according to race or colour. Moreover, provision was

made for a privileged vote for minorities or skilled workers, that is to say, workers belonging to the white race. Thus, the Act, although seeming at first glance to prevent discrimination, in reality only encouraged it. All-African unions could not be registered; they could exist as unregistered unions but were thereby excluded from the benefits of the law with regard to collective bargaining or conciliation procedures.

34. In view of that situation, WFTU welcomed the proposal to renew and broaden the mandate of the Ad Hoc Working Group of Experts so as to enable it to continue its inquiry not only in South Africa but also in South West Africa and Southern Rhodesia. Some would argue that under the terms of Council resolution 277 (X) such an inquiry was the responsibility of the ILO, but closer analysis of that resolution showed that it related to special cases of violation of trade union rights and did not apply to a general situation. What was proposed in the present instance was a general inquiry into the denial and violation of trade union rights as part of the system of racial discrimination and oppression. The ILO should, of course, be invited to take part in that work, but the Ad Hoc Working Group of Experts was quite competent to handle a study of such wide scope, as it had already done in the case of South Africa.

35. The Federation also hoped that a summary of the report of the Ad Hoc Working Group of Experts (E/4459 and Add.1) would be published and widely circulated, particularly through trade unions. That would make workers throughout the world aware of the situation created by the policies of apartheid and enable them to combat Governments which pursued or encouraged those policies, and it could also hamper the recruiting of specialized foreign workers by South Africa. Despite the favourable terms being offered to them, many of those workers would probably refuse to go to South Africa if they were better informed about the South African Government's racist policies.

36. It might also be advisable for the Council, referring to certain resolutions already adopted by the United Nations, to call upon the States concerned to change their policies and stop supporting the racist régime in South Africa by authorizing investments in that country. The Council might also ask international agencies, particularly the International Bank for Reconstruction and Development, to stop assisting the South African régime. Every possible means should be employed in order to alert world opinion and help the African workers victimized by the apartheid régime, and WFTU hoped that the Council would intensify its efforts to fulfil its obligations to the people of South Africa.

37. Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that his delegation would have expected the representatives who had spoken so far to make a thorough analysis of the report of the Ad Hoc Working Group of Experts (E/4459 and Add.1) instead of taking up side issues and talking about a draft resolution which concerned the future. Their behaviour was a further example of the devious and evasive policy pursued by some delegations which refused to deal forthrightly with the question of the hateful system of apartheid. Thus, the Council had heard the legalistic

arguments raised by the representatives of France and the United Kingdom and the statement of the ILO representative, whose position had not been clear to his delegation apart from a constitutional argument which failed to demonstrate that it was impossible to study and attack the evil system of apartheid on several fronts at once. His Government believed that no means should be neglected and no opportunity missed to expose what was going on in South Africa and Zimbabwe (Southern Rhodesia), where a white minority was attempting to humiliate the African inhabitants. South Africa and Southern Rhodesia formed a bloc which threatened the very heart of Africa. Some delegations which pretended to condemn the régimes in those countries were in reality supporting them.

38. It was impossible to accept the absurd contention that the United Kingdom was in fact the Administering Authority in the case of Southern Rhodesia and that because it was a State member of the ILO the United Nations had no right to consider the infringement of trade union rights in that country. Everyone knew that the United Kingdom had no more than purely theoretical authority in Southern Rhodesia and was powerless to restore order there. Moreover, the United Kingdom Government changed its tune whenever it seemed convenient and asserted that it had no power over the rebel régime, particularly with regard to applying sanctions against it, although the United Kingdom had itself asked for those sanctions. At the present meeting, however, the representatives of France and the United Kingdom had argued that the United Kingdom was the representative of lawful authority in Southern Rhodesia. If that were true, all the United Kingdom had to do was to show the validity of that argument by crushing the régime which had seized power in Southern Rhodesia. Furthermore, the United Kingdom Government had demonstrated on other occasions its ability to suppress revolts in its former colonies, while in the case of Southern Rhodesia it went so far as to hold discussions with representatives of the rebels and give them safe conduct back to their country of origin. Had it done the same for Archbishop Makarios, for the Prime Minister of Guyana or for those it had called the Irish "rebels"?

39. He pointed out that the discriminatory Industrial Conciliation Act had not entered into force under the Smith régime but long before the rebellion and had been adopted with the full knowledge, if not the complicity, of the United Kingdom Government. The British colonialists had themselves laid the foundation for apartheid through their racist policies.

40. The fact that the ILO dealt with allegations regarding infringements of trade union rights in Southern

Rhodesia should not serve as an excuse for the United Nations to evade its responsibilities and refuse to take up the problem for itself.

41. Was not intervention justified by the facts set out in paragraphs 156, 160 and 161 of the report of the Ad Hoc Working Group of Experts (E/4459). Should those violations of human dignity not also concern the United Nations and the Council. The Master and Servant Acts referred to in paragraph 161 of the report were also applied in Southern Rhodesia, and it was not the Smith régime but the United Kingdom which had put them into effect long before the rebellion. The Council should discuss the facts presented in those paragraphs and in paragraph 162 instead of engaging in fruitless legal disputation.

42. Operative paragraph 6 of the draft resolution (E/L.1206) provided for extending the mandate of the Ad Hoc Working Group of Experts to the Territory of South West Africa. The United Nations had direct responsibility for that Territory, and he therefore could not see what basis certain delegations had for contending that the United Nations and its Ad Hoc Working Group of Experts were not competent to consider violations of trade union rights which occurred there.

43. In addition, operative paragraph 8 of the draft resolution requested the Director-General of the International Labour Office to extend every possible assistance to the Ad Hoc Working Group (see E/L.1206/Corr.2). That kind of co-operation seemed implicit in the agreements between the United Nations and its specialized agencies. There was no contradiction, legal difficulty or jurisdictional conflict in the present case.

44. In conclusion, he urged the Council to adopt the draft resolution.

45. Mr. BRADLEY (Argentina) expressed his gratitude to the Ad Hoc Working Group of Experts for its report (E/4459 and Add.1). His delegation had no objections to raise with regard to the draft resolution. In connexion with operative paragraph 7 (see E/L.1206/Corr.1), however, he wished to emphasize the remarkable achievements of the ILO in the matter and the vast experience it had accumulated over the years in every part of the world. The question of co-operation with the ILO was not very clearly defined in the draft resolution, and it might even be supposed that the Council wished to brush that organization aside. His delegation noted with concern that the draft resolution did not provide for co-operation with the ILO in connexion with the consideration of infringements of trade union rights in Southern Rhodesia.

The meeting rose at 1 p.m.