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FORTY-THIRD (1999) REGULAR SESSION

COMMITTEE OF THE WHOLE

RECORD OF THE SIXTH MEETING

Held at the Austria Center Vienna
on Thursday, 30 September 1999, at 3.30 p.m.

Chairman: Mr. BENMOUSSA (Morocco)

Later: Mr. TOMASZEWSKI (Poland)

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[*] GC(43)/27.

The composition of delegations attending the session is given in document GC(43)/INF/15/Rev.3.

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AMENDMENT TO ARTICLE VI OF THE STATUTE
(GC(43)/12 and Corr.1, GC(43)/29 and Add.1)

1. The CHAIRMAN invited the President of the General Conference to address the Committee.
2. Mr. KADRI (President of the General Conference) said that during the past two days, in an effort to find a consensus solution to the remaining Article VI-related problems, he had held intensive consultations, both within a high-level group comprising representatives of all the area groups and of the Member States which had submitted formal amendment proposals, members of the Secretariat and the Chairman of the Board of Governors and - outside that high-level group - with representatives of individual Member States and groups of Member States. The draft resolution which he was now proposing (in document GC(43)/COM.5/L.13 of 30 September 1999) reflected a difficult but genuine consensus among all the members of the high-level group. He considered that the group had exhausted all possibilities, and he trusted that the fragile balance represented by the final formulation proposed by him would not be upset in the Committee. After a quarter century of discussion, the degree of consensus achieved on the Article VI amendment issue during the past two days was unprecedented.
3. He thanked all the individuals, Member States and area groups concerned for the spirit of co-operation which had been demonstrated by them in the firm belief that a consensus could be achieved. In particular, he was indebted to the members of the Latin American and Caribbean Group (GRULAC) for the major contribution which they had made.
4. The CHAIRMAN, referring to the draft resolution contained in document GC(43)/COM.5/L.13, said that the key question in the final discussions had been subparagraph A.2(c) of the envisaged new Article VI, which was to be the subject of the following Presidential Statement, proposed by GRULAC:

“This seat, as mentioned in paragraph VI.A.2(c) in the draft resolution proposed by the President of the General Conference concerning “Amendment to Article VI of the Statute”, shall be filled in conformity with the requirements of the Statute on a rotational and alternate basis and equally shared by these two areas [Latin America and Eastern Europe]. This rotation shall begin first with Latin America.”
5. In addition, he suggested that a minor amendment be made in the proposed text of subparagraph A.1, where the word “the” should be inserted before the word “eighteen”.
6. He took it that the Committee wished to endorse the Presidential Statement and to recommend to the General Conference the adoption of the draft resolution contained in document GC(43)/COM.5/L.13 as just amended.
7. It was so agreed.
8. Mr. IKEDA (Japan), speaking as the previous Chairman of the Board of Governors, said that a few delegations had informally raised questions of interpretation

regarding the linkage between paragraph A and paragraph K of the envisaged new Article VI. Those questions were based on concerns that paragraph A could enter into force in advance of paragraph K, or that when paragraph K entered into force, either the new paragraph A would prematurely replace the existing paragraph A or the existing paragraph A would prematurely disappear, resulting in a “blank” paragraph A in the Statute. As the original author of paragraph K of the amendment, he wished to state that it had not been his intention that the paragraphs operate in such ways. While he considered the interplay between the two paragraphs of the amendment to be obvious, he nonetheless wished to make, for the record, a brief clarification which he understood was also the view of the Agency’s Legal Division.

9. Firstly, paragraphs A and K were two parts of the ONE amendment to be approved as a whole; likewise, the amendment as a whole was to be made the subject of instruments of acceptance deposited by Member States. Secondly, in accordance with the normal procedure, paragraph K would enter into force as soon as the requirements of Article XVIII.C of the Statute had been met. Thirdly, the new paragraph A could not enter into force until all the conditions set out in paragraph K had been fulfilled - namely, not only acceptance of the amendment by two thirds of the Agency’s Member States, but also adoption by the Board and confirmation by the General Conference of the list of all Member States of the Agency referred to in paragraph K.

10. If that list had not been adopted and confirmed by the time that instruments of acceptance of the entire amendment had been deposited by two thirds of the Agency’s Member States, the new paragraph A would still not enter into force. The old paragraph A would remain in force, with the existing size of the Board, until the list had been adopted and confirmed and the depositary Government so informed. At that point, the depositary Government would inform the Agency’s Member States that, as the conditions set out in paragraph K had been fulfilled, the new paragraph A had entered into force.

11. While it was not specifically stated in the proposed amendment, part I of the Japanese proposal for amending paragraph A should be understood to mean the following: “Replace paragraph A of Article VI of the Agency’s Statute by the following, upon its entry into force pursuant to the provisions of new paragraph K below:”.

12. Mr. GREGORI (Chairman of the Board of Governors), after thanking the President of the General Conference for his remarkable efforts of the past two days, said that the basis for the agreement just arrived at in the Committee had been established during many years of Board discussion. He was grateful to the many Board members who had made, sometimes very reluctantly, the necessary concessions and to all those who had worked so assiduously in helping to resolve the Article VI issue.

The meeting was adjourned at 3.50 p.m. and resumed at 3.55 p.m.

Mr. Tomaszewski (Poland) took the Chair.

STRENGTHENING THE EFFECTIVENESS AND IMPROVING THE EFFICIENCY OF THE SAFEGUARDS SYSTEM AND APPLICATION OF THE MODEL PROTOCOL (resumed)

(GC(43)/22)

13. Mr. RAGHURAMAN (India), recalling his suggestion that there be an additional operative paragraph with a reference to “innovative, proliferation-resistant nuclear reactors and fuel cycles” and the comment made by the representative of Japan on that suggestion, said he envisaged that the Secretariat would merely monitor progress in the development of such reactors and fuel cycles and explore the opportunities offered by their development as regards - inter alia - reducing safeguards inspection costs. The advent of proliferation-resistant nuclear reactors and fuel cycles was admittedly a long way off, but the Scientific Forum taking place in parallel with the General Conference’s current session had demonstrated that there was a great deal of interest in such reactors and fuel cycles.

14. Mr. STRATFORD (United States of America) said that his Government had allocated US \$3 million for a project to develop the concept of a proliferation-resistant reactor in collaboration with the Russian Federation and that in his delegation’s view there was no need for the Agency to become involved in such an activity at the present stage.

15. Mr. NEVE (United Kingdom) said that in his delegation’s view the question of proliferation-resistant nuclear reactors and fuel cycles, raised by the representative of India, and that of import/export controls, raised by the representative of the Islamic Republic of Iran, fell outside the scope of the draft resolution under consideration.

16. He called for retention of the word “intensify” in operative paragraph 2 of the draft resolution and said that his delegation could go along with the suggestion for modifying operative paragraph 10 which had been made by the representative of the Legal Division.

17. Mr. CASTERTON (Canada) said that, as a sponsor of the draft resolution, his delegation would not like to see “continue” rather than “intensify” in operative paragraph 2 and “accept” rather than “provisionally apply” in operative paragraph 10.

18. With regard to the suggestion made by the representative of India, his delegation was interested in achieving reductions in safeguards inspection costs but considered that issue to be covered adequately elsewhere in the draft resolution. The suggested focus on the development of proliferation-resistant nuclear reactors and fuel cycles might blur the focus on the development of new safeguards approaches.

19. Mr. HERRERA ANDRADE (Mexico) said that also in his delegation’s view the questions raised by the representatives of India and the Islamic Republic of Iran fell outside the scope of the draft resolution under consideration.

20. Mr. RAJA ADNAN (Malaysia) expressed support for the inclusion in the draft resolution of a preambular paragraph and an operative paragraph about the role of the Agency as “the competent authority responsible to verify and assure compliance ...”.

21. Mr. ARAR (Turkey) said that his delegation could go along with the modified version of operative paragraph 10 which had been suggested by the representative of the Legal Division.

22. The CHAIRMAN suggested that the Committee go through the draft resolution paragraph by paragraph.

23. Preambular paragraphs (a) and (b) were accepted.

24. Mr. SCHMID (Austria), recalling that the representative of the Islamic Republic of Iran had suggested during the previous meeting that a reference to the role of the Agency as the competent authority responsible to verify and assure compliance in the area of the peaceful utilization of nuclear energy be added at the end of preambular paragraph (c) and a corresponding operative paragraph be inserted after operative paragraph 4, said that in his delegation's view it would be better to use wording closer to that of principle 9 of the decision on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament" taken in 1995 by the NPT Review and Extension Conference, which spoke of the role of the Agency as the competent authority responsible to verify and assure compliance with its safeguards agreements.

25. Mr. SALEHI (Islamic Republic of Iran) said that his delegation could go along with that idea.

26. Mr. STRATFORD (United States of America) suggested that the additional wording in preambular paragraph (c) read as follows: ", including with respect to the role of the Agency as the competent authority responsible to verify and assure compliance with its safeguards agreements".

27. The CHAIRMAN asked whether the Committee was prepared to accept preambular paragraph (c) with the additional wording just suggested.

28. Preambular paragraph (c), with the additional wording, was accepted.

29. Preambular paragraphs (d) and (e) were accepted.

30. Preambular paragraph (f), with the date changed to 1 October and the number of States and other Parties changed to 45, was accepted.

31. Preambular paragraph (g) was accepted.

32. Operative paragraph 1, with "adopted" replaced by "contained in document GOV/2807 and endorsed", was accepted.

33. Mr. WALLER (Deputy Director General for Management) said that the wording of operative paragraph 2 ("Requests the Secretariat to intensify its efforts ...") could imply a need for additional resources. He therefore suggested that ", within available resources," be inserted after "intensify".

34. The CHAIRMAN proposed - after comments by Mr. MCINTOSH (Australia), Mr. BOURITA (Morocco) and Mr. YANG Dazhu (China) - that the Committee accept

operative paragraph 2 with the addition suggested by the Deputy Director General for Management.

35. Operative paragraph 2, with the addition, was accepted.

36. The CHAIRMAN invited the Committee to consider the suggestion made by the representative of India for an additional operative paragraph reading “Requests the Secretariat to explore all possibilities of achieving reductions in safeguards inspection costs through, inter alia, the development of innovative, proliferation-resistant nuclear reactors and fuel cycles”.

37. Mr. CASTERTON (Canada) said that many delegations were clearly having difficulties with the reference to proliferation-resistant nuclear reactors and fuel cycles.

38. Mr. RAGHURAMAN (India) said that he would not insist on the retention of that reference.

39. Mr. BOURITA (Morocco), supported by Mr. SALEHI (Islamic Republic of Iran), said that in his view the first part of the suggested text - down to “... safeguards inspection costs” - should be added to the draft resolution.

40. Mr. MCINTOSH (Australia) questioned the need for the first part of the suggested text.

41. Mr. YANG Dazhu (China) said that his delegation was flexible with regard to the suggestion made by the representative of India. In its view, however, the question of proliferation-resistant reactors was one which should not be ignored by the Agency.

42. The CHAIRMAN suggested that the Committee go on to operative paragraph 3 and revert to operative paragraph 2 later. He asked the Committee whether it could accept operative paragraph 3 with “agreed” replaced by “contained in document GOV/2807 and endorsed by the Board of Governors in 1995”.

43. Operative paragraph 3, with that change, was accepted.

44. Operatives paragraphs 4, 5, 6, 7, 8 and 9 were accepted.

45. The CHAIRMAN asked the Committee whether it was prepared to accept operative paragraph 10 modified, as suggested by the representative of the Legal Division, to read “... to take the necessary measures to bring them into force or provisionally apply them as soon as their national legislation allows”.

46. Operative paragraph 10, as modified, was accepted.

47. Operative paragraph 11 was accepted.

48. The CHAIRMAN suggested, in the light of the discussion, that the Committee agree to the inclusion in the draft resolution - after operative paragraph 2 - of an operative

paragraph reading “Requests the Secretariat to explore all possibilities of achieving reductions in safeguards inspection costs”.

49. Mr. SUGANUMA (Japan) said that the Secretariat was already considering ways to reduce safeguards inspection costs and suggested that the wording be modified to read “... to continue to explore all possibilities ...”.

50. Mr. RAGHURAMAN (India) said that he could go along with that modified wording.

51. The CHAIRMAN said - after comments by Mr. NORMAN (United States of America), Mr. CASTERTON (Canada), Mr. MCINTOSH (Australia), Mr. BOURITA (Morocco) and Mr. PAPADIMITROPOULOS (Greece) - that he took it that the Committee could agree to the addition, after operative paragraph 2, of an operative paragraph reading “Requests the Secretariat to continue to explore all possibilities of achieving reductions in safeguards inspection costs”.

52. It was so agreed.

53. The CHAIRMAN suggested, in the light of the discussion, the inclusion in the draft resolution - after operative paragraph 3 - of an operative paragraph reading “Requests the Agency to fully implement its role as the competent authority responsible to verify and assure compliance with its safeguards agreements”.

54. It was so agreed.

MEASURES AGAINST ILLICIT TRAFFICKING IN NUCLEAR MATERIALS AND OTHER RADIOACTIVE SOURCES (GC(43)/13)

55. Mr. MANNINEN (Finland), introducing the draft resolution contained in document GC(43)/COM.5/L.3, said that the sponsors envisaged that the report by the Director General to the General Conference provided for in operative paragraph 8 would be based on the report to the Board provided for in operative paragraph 5, so that there would be little duplication of effort.

56. Mr. BENINSON (Argentina) suggested the addition to the draft resolution, after preambular paragraph (e), of a preambular paragraph reading “Noting further that some of the activities were covered by the Secretariat Action Plan regarding the safety of radiation sources and the security of radioactive materials developed pursuant to resolution GC(42)/RES/12, which was endorsed by the Board and by the General Conference in resolution GC(43)/RES/...”.

57. In that connection, he said his delegation was concerned about the possibility that adoption of the draft resolution under consideration and of the draft resolution on “The safety of radiation sources and the security of radioactive materials” would result in duplication of reporting and - more important - of substantive Secretariat activities.

58. Mr. ARAR (Turkey) emphasized the importance which his country's authorities attached to combating illicit trafficking in nuclear materials and other radioactive sources and outlined the steps they were considering taking at the national level.
59. Mr. SALEHI (Islamic Republic of Iran) said that in his view the draft resolution should include a reference to the illicit dumping of radioactive waste.
60. Mr. SENSENEY (United States of America) said that President Clinton, addressing the United Nations General Assembly on 21 September, had emphasized the importance of keeping existing stocks of fissile materials from the wrong hands. In that connection, he proposed the addition to the draft resolution - after preambular paragraph (d) - of a preambular paragraph reading "Noting further the need to keep existing stocks of fissile materials from the wrong hands and the fact that an informal Open-Ended Experts Meeting will take place on 15-19 November 1999 to discuss the Convention on the Physical Protection of Nuclear Material".
61. Referring to operative paragraph 6, he expressed the hope that the plan to be developed by the Director General would be comprehensive and describe all the activities to be undertaken.
62. His delegation, which greatly favoured a "one-house" approach within the Secretariat, shared the concern of the delegation of Argentina about possible duplication.
63. Mr. VEGLIA (Monaco) said that the Agency, with its special expertise, had an important role to play in addressing the problem of illicit trafficking.
64. Mr. CASTERTON (Canada), having expressed concern about possible duplication, said that operative paragraphs 2 and 3 of the draft resolution did not cover the full range of activities undertaken by the Secretariat. His delegation hoped that the report requested of the Director General in operative paragraph 5 would cover more than just the activities mentioned in operative paragraphs 2 and 3.
65. With regard to operative paragraph 6, he suggested that the phrase "the various activities to be undertaken" be replaced by "the future activities to be undertaken".
66. Mr. MCINTOSH (Australia), expressing concern about possible duplication, said it was his delegation's understanding that the plan envisaged in operative paragraph 6 of the draft resolution would be implemented by the Department of Safeguards acting in close collaboration with the Department of Nuclear Safety.
67. Mr. MANNINEN (Finland), referring to the comment made by the representative of the Islamic Republic of Iran, said that the issue of the illicit dumping of radioactive waste was quite distinct from that of illicit trafficking.
68. With regard to the question of duplication, the overlapping of General Conference resolutions need not lead to duplication of effort within the Secretariat.

69. The proposal made by the representative of the United States regarding an additional preambular paragraph was acceptable to his delegation, which would, however, prefer it if the phrase “the need to keep existing stocks of fissile materials from the wrong hands” were omitted.

70. Mr. YANG Dazhu (China), referring to operative paragraph 5 of the draft resolution, which spoke of “further improving the international standards ... particularly with regard to security of nuclear material”, said that revised Agency recommendations for the physical protection of nuclear material and nuclear facilities had recently been issued in document INFCIRC/225/Rev.4 (Corrected). Experts from China had participated in the revision exercise, and his delegation was wondering whether the sponsors of the draft resolution were contemplating a further such exercise in the near future.

71. Regarding operative paragraph 4, he proposed that it be modified to read “Invites all States to participate in the illicit trafficking database programme on a voluntary basis”.

72. Mr. SCHMID (Austria) expressed support for the additional preambular paragraph proposed by the representative of the United States of America, without the phrase “the need to keep existing stocks of fissile materials from the wrong hands”, and said that a distinction should be made between the issue of illicit dumping and that of illicit trafficking.

73. With regard to the question of duplication, he called for efficient co-ordination within the Secretariat, especially between the Department of Safeguards and the Department of Nuclear Safety.

The meeting rose at 6.15 p.m.