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International Atomic Energy Agency

# GENERAL CONFERENCE

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## FORTY-THIRD (1999) REGULAR SESSION

### GENERAL COMMITTEE

#### RECORD OF THE SECOND MEETING

Held at the Austria Center Vienna  
on Thursday, 30 September 1999, at 9.20 a.m.

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[\*] GC(43)/27.

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## ATTENDANCE AT THE MEETING

### Chairman

Mr. KADRI (Algeria), President of the General Conference

### Members

Mr. ADAM (Belgium), Vice-President of the General Conference

Mr. MORGAN, representing Mr. DUBOIS (Canada), Vice-President of the General Conference

Mr. SOERIAATMADJA (Indonesia), Vice-President of the General Conference

Mr. Ki-Moon BAN, representing Mr. Jung-Uck SEO (Republic of Korea),  
Vice-President of the General Conference

Ms. BALLÓN de AMÉZAGA, representing Mr. CHAUNY de PORTURAS-HOYLE  
(Peru), Vice-President of the General Conference

Mr. PAVLINOV, representing Mr. ADAMOV (Russian Federation), Vice-President of  
the General Conference

Mr. BENMOUSSA (Morocco), Chairman of the Committee of the Whole

Mr. ROGATCHEV, representing Mr. KASTCHIEV (Bulgaria), Additional Member

Mr. HOOP (Liechtenstein), Additional Member

Mr. HERRERA ANDRADE, representing Ms. PELLICER (Mexico),  
Additional Member

Mr. NÉMETHY, representing Mr. HAMŽÍK (Slovakia), Additional Member

Ms. KENNEDY, representing Mr. RICHARDSON (United States of America),  
Additional Member

### Chairman of the Board of Governors

Mr. GREGORIČ (Slovenia)

### Secretariat

Mr. SANMUGANATHAN, Secretary of the Committee

Mr. BASHUA, Assistant Secretary of the Committee

Mr. ESPINO, Director of the Division of Budget and Finance

Mr. JOHNSON, Director of the Legal Division

ADOPTION OF THE AGENDA FOR THE MEETING  
(GC(43)/GEN/2)

1. The CHAIRMAN asked whether the Committee wished to adopt the proposed agenda contained in document GC(43)/GEN/2.
2. Mr. BENMOUSSA (Morocco) asked if it would be possible to consider first the item concerning the restoration of voting rights and then delegates' credentials.
3. It was so decided.

RESTORATION OF VOTING RIGHTS  
(GC(43)/INF/17 and 21)

4. The CHAIRMAN said that the Committee had three requests for the restoration of voting rights before it, from Afghanistan, Senegal and Zambia. Since its request had been received, Zambia had paid a contribution and was no longer in arrears as defined in the first sentence of Article XIX.A of the Statute. Thus, Zambia's vote was automatically restored and there was no need to consider its request.
5. Article XIX.A of the Statute stated that "a member of the Agency which is in arrears in the payment of its financial contributions to the Agency shall have no vote in the Agency if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two years. The General Conference may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to circumstances beyond the control of the member". It was pursuant to the second part of Article XIX.A that Afghanistan and Senegal had applied to have their votes restored.
6. When the Committee had discussed the question of restoration of voting rights at its meeting on the preceding Monday, he had drawn attention to the criteria or guidelines for the consideration of such requests contained in document GC(42)/10 which the Conference had adopted the previous year, and to the measures to facilitate the settlement of arrears by the Member States concerned contained in document GOV/1998/54/Rev.2 which the Board had approved in November of the previous year. The present requests should be assessed in the light of those decisions.
7. Ms. KENNEDY (United States of America) said that she had not received instructions because, contrary to what was laid down in the criteria or guidelines, Afghanistan's request had not been submitted in advance but that same day.
8. Mr. BENMOUSSA (Morocco) said that paragraph 3(b) of the criteria or guidelines provided that Member States should submit their requests preferably at least 15 days in advance, without prejudice to requests submitted later on to the General Committee. Moreover, Afghanistan was experiencing a critical situation of the kind envisaged in paragraph 2(b) of the same document. It also belonged to the category of least developed countries, with a per capita income of less than 100 dollars per month. Furthermore, since there would probably be no vote during the current session and restoring

Afghanistan's voting rights would have no practical implications, he urged the Committee to show generosity and accede to the requests of Afghanistan and Senegal.

9. Mr. ADAM (Belgium) said that, though it had a mission in Vienna, Afghanistan had shown a regrettably casual attitude towards the Agency by not giving an explanation in advance for its failure to pay.

10. Mr. GREGORIČ (Slovenia) said that Afghanistan was in an illegal situation because it had not paid any contributions since November 1993, and paragraph 7 of document GOV/1998/54/Rev.2 stipulated that "the maximum duration of the payment plan should not exceed 5 years. All payments, including outstanding advances to the Working Capital Fund and the assessed contribution for the current year, should be received by the Agency two weeks before the commencement of the relevant session of the General Conference".

11. The CHAIRMAN took it that the Committee, while recognizing that Afghanistan was experiencing a difficult situation, wished to recommend that the General Conference reject its request for the restoration of its voting rights since that request had not been submitted in accordance with the rules laid down by the Board of Governors and approved by the General Conference.

12. It was so decided.

13. The CHAIRMAN then invited the members of the Committee to express their views on Senegal's request.

14. Mr. ADAM (Belgium) said that Senegal had claimed neither economic difficulties nor a state of war, but merely an administrative problem. It therefore did not meet the criteria or guidelines approved by the General Conference.

15. The CHAIRMAN took it that the Committee wished to recommend to the General Conference that it reject Senegal's request.

16. It was so decided.

#### EXAMINATION OF DELEGATES' CREDENTIALS

(GC(43)/31 and 32)

17. The CHAIRMAN, after drawing the Committee's attention to Rules 27, 28 and 29 of the Rules of Procedure of the General Conference and recalling that, under Rule 27, credentials designating the delegate of a Member State to a given session of the General Conference had to be submitted to the Director General and issued by the Head of State or Government or by the Minister of Foreign Affairs, said that 97 delegates had submitted credentials complying with Rule 27 and that, in respect of 16 others, the Secretariat had received communications that did not constitute credentials satisfying the requirements of that Rule. All the delegates to the current session of the General Conference fell within one or other of those categories. He further noted that the Committee had before it reservations from

Arab delegations concerning the credentials of the Israeli delegation (GC(43)/31) and comments from the Israeli delegation on those reservations (GC(43)/32).

18. Mr. BENMOUSSA (Morocco), introducing the statement of Arab delegations contained in document GC(43)/31 in which those delegations expressed reservations concerning the credentials submitted by the Israeli delegation, said that, as the representative of His Royal Highness Mohammed VI, King of Morocco and Chairman of the Al-Quds Committee, he was speaking on behalf of the whole Muslim community. The reservations of the Arab delegations did not relate to the credentials themselves but to the place where they had been issued. He recalled Security Council resolutions 252, 267, 271, 298, 465, 476 and 478, as well as General Assembly resolution A/RES/35/169(E), dated 15 December 1980, pursuant to which all administrative and legislative measures taken after the occupation of the city of Jerusalem were null, void and unlawful, and requested that the Committee's report on the examination of delegates' credentials state that the acceptance of the credentials of the Israeli delegation was without prejudice to the legal status of Jerusalem (Al-Quds).

19. Mr. ADAM (Belgium) pointed out that, unlike the Security Council, neither the Agency's General Conference nor its General Committee was considering the issue of Jerusalem.

20. Mr. BENMOUSSA (Morocco) said that the aim of his proposal was to avoid what had happened at the previous General Conference, namely a very long debate on the subject followed by a vote. He reminded the delegate of Belgium that, a few months earlier, Germany, on behalf of the European Union, had sent a letter to the Government of Israel stating that the European Union did not recognize the whole of Jerusalem as the capital of the State of Israel.

21. Mr. ADAM (Belgium) said that he was not opposed to taking note of the reservations of the Arab delegations and Israel's response, but that the delegate of Morocco's proposal risked having the opposite of the desired effect. It would also be interesting to hear the opinion of the Legal Division on the relevance of the place where credentials were issued.

22. Mr. JOHNSON (Director, Legal Division) said that, under international law, and within the rules and practice of international organizations, the place where credentials were signed had no effect on their validity. There was no rule requiring a delegate's credentials to be signed in the capital of the State he or she represented.

23. Ms. KENNEDY (United States of America) said that the Committee's report should reflect both the reservations of the Arab delegations and the response of the Israeli delegation.

24. Mr. BENMOUSSA (Morocco) said that it was not acceptable to place legality and illegality on the same footing. As the representative of the Chairman of the Al-Quds Committee, he had no room for manoeuvre on that point. If the reservations were not mentioned, the issue would be raised in the Plenary, which he would like to avoid.

25. Mr. Ki-Moon BAN (Republic of Korea) said that he understood the seriousness of the issue and both sides' positions on it. Nevertheless, it was regrettable that each year the General Conference had to devote so much time to the matter, and he wondered whether it might not be possible to find a formula that the Committee could use automatically every year when examining delegates' credentials.

26. Mr. BENMOUSSA (Morocco) endorsed the suggestion of the representative of the Republic of Korea and requested that it be included in the Committee's report to the General Conference, along with the legal opinion provided by the Legal Adviser concerning the place where delegates' credentials were signed.

27. The CHAIRMAN suggested resolving the problem by re-using the formula adopted the previous year, and ending the Committee's report with the sentence: "The Committee agreed to recommend that the Conference adopt the draft resolution contained in paragraph ..., with the reservations expressed above." He asked the representative of Israel if he had any comments on that proposal.

28. Mr. AMIR (Israel) said that the proposed wording was not acceptable to Israel because it gave the impression that the Committee shared the "reservations expressed above".

29. Ms. KENNEDY (United States of America) said that it was not sufficient to refer to the "reservations" since the letter of the Ambassador of Israel constituted a "communication". If one document was mentioned, the other should be too.

30. The CHAIRMAN, in order to accommodate that objection, proposed the following wording for the last paragraph of the Committee's report: "Taking note of the comments of the Israeli delegation, the Committee agreed to recommend that the General Conference adopt the draft resolution in paragraph ..., with the reservations expressed above."

31. Mr. AMIR (Israel) said that the new proposal did not address his objection, since the General Conference was being advised to adopt the draft resolution "with the reservations expressed above".

32. Ms. KENNEDY (United States of America) said she did not understand why the Committee should treat differently the reservations of the Arab delegations and Israel's comments on those reservations. To resolve the problem, it would suffice to say that the Committee had taken note of the reservations expressed by the Arab delegations concerning the credentials of the Israeli delegation, and of the Israeli delegation's comments on those reservations.

33. Mr. BENMOUSSA (Morocco) said that, as a compromise, he could accept the latest proposal of the Chairman, but that he could under no circumstances accept less.

34. The CHAIRMAN, in view of the unlikelihood of reaching a consensus on the various proposals made, and the lateness of the hour, proposed that the Committee submit to the General Conference a report stating that it had met to examine the credentials of delegates

as stipulated in Rule 28 of the Rules of Procedure, and giving a list of those Member States whose delegates had, in its view, submitted credentials in due form, and those for whose delegates the Director General had received communications not complying with Rule 27 or had not received any communication at all. The report could indicate that, in line with past practice, the Committee considered that delegates in the latter category should be allowed to participate in the work of the General Conference on the understanding that, for each of them, credentials in due form would be submitted to the Director General as soon as possible, preferably before the end of the session. The report should then state that the Committee had considered a statement submitted by Kuwait on behalf of the delegations of Arab States, members of the League of Arab States participating in the General Conference, expressing their reservations about the credentials of the Israeli delegation (GC(43)/31), as well as a communication giving the position of the Government of Israel on the reservations expressed about its delegation's credentials (GC(43)/32), and that it had taken note of those two documents and the comments which had been made regarding them. The report would then reproduce the statement of the Legal Adviser on the relevance of the place where credentials were signed for assessing their validity, and would mention the proposal of the representative of the Republic of Korea that a form of words be developed concerning the credentials of the Israeli delegation and the reservations expressed about them that could be adopted automatically when examining delegates' credentials each year. Finally, unless the members of the Committee reached agreement on another form of words during informal consultations, the report should indicate that, having taken note of the statement of Arab delegations expressing their reservations about the credentials of the Israeli delegation, and of the communication from the Ambassador of Israel concerning those reservations, the Committee recommended that the General Conference adopt the following draft resolution:

“EXAMINATION OF DELEGATES’ CREDENTIALS

“The General Conference

“Accepts the report by the General Committee on its examination of the credentials of delegates to the Conference's forty-third regular session which is set forth in document GC(43)/...””.

35. It was so decided.

The meeting rose at 11.50 a.m.