



International Atomic Energy Agency

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## FORTY-SIXTH (2002) REGULAR SESSION

### COMMITTEE OF THE WHOLE

#### RECORD OF THE FIRST MEETING

Held at the Austria Center Vienna  
on Tuesday, 17 September 2002, at 10.45 a.m.

Chairman: Mr. MOLTENI (Argentina)

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[\*] GC(46)/19.

The composition of delegations attending the session is given in document GC(46)/INF/8/Rev.1.

For reasons of economy, this document has been printed in a limited number.  
Delegates are kindly requested to bring their own copies of documents to meetings.

Abbreviations used in this record

Brussels Supplementary Convention	Convention Supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy
FAO	Food and Agriculture Organization of the United Nations
ICAO	International Civil Aviation Organization
IMO	International Maritime Organization
Paris Convention	Paris Convention on Third Party Liability in the Field of Nuclear Energy
TCF	Technical Co-operation Fund
Transport Regulations	Regulations for the Safe Transport of Radioactive Material
TranSAS	Transport Safety Appraisal Service
WHO	World Health Organization
WMO	World Meteorological Organization

## ELECTION OF VICE-CHAIRMEN AND ORGANIZATION OF WORK

1. The CHAIRMAN, having expressed appreciation for the confidence which the General Conference had placed in him, said that, as provided for in Rule 46 of the Rules of Procedure and following group consultations, it had been proposed that Mr. Stelzer of Austria and Ms. Grupinska of Poland should serve as the two Vice-Chairmen of the Committee. He took it that the Committee wished to endorse the nominations of Mr. Stelzer and Ms. Grupinska.

2. It was so agreed.

3. The CHAIRMAN, drawing attention to document GC(46)/COM.5/1, which listed the agenda items referred to the Committee of the Whole by the General Conference, said he proposed, in line with past practice, to report orally on the Committee's deliberations at a plenary meeting of the Conference.

4. He took it that, as in 2001, the Committee wished the draft resolutions recommended to the Conference by the Committee for adoption to be clustered, to the extent practicable, in accordance with the main pillars of the Agency's work - nuclear safety, nuclear technology and verification.

5. It was so agreed.

## ARRANGEMENTS FOR THE CONFERENCE

### (c) RESTORATION OF VOTING RIGHTS (GC(46)/INF/6 and Add.1; GC(46)/20)

6. The representative of ARGENTINA, noting that only two Member States were making use of the payment plan scheme described in document GOV/1998/54/Rev.2, said that several United Nations organizations - including FAO, WHO, WMO and ICAO - either had or were planning to introduce schemes which allowed up to ten years for the payment of arrears. Given that, under the Agency's scheme, "arrears" included the amounts owed for the current year in addition to the amounts owed for earlier years, a maximum arrears payment period of five years was, in his delegation's view, too short. His delegation believed that the Committee should recommend to the Conference that the maximum period be increased to ten years.

7. The representative of IRAQ said that his country was in arrears because of conditions beyond its control. Moreover, Iraq was entitled to have its voting rights restored in the light of criteria or guidelines set forth in paragraph 2 of document GC(42)/10. Iraq had just agreed to readmit United Nations weapons inspectors, so that there could be no further reason to deprive it of its voting rights within the Agency. In connection with the readmission of United Nations weapons inspectors, Iraq would like to pay its assessed contributions in Iraqi dinars, which the Agency could use in paying for services required by its inspectors in Iraq.

8. The representatives of BRAZIL, ECUADOR, CHILE, INDONESIA and BOLIVIA endorsed the statement made by the representative of Argentina.

9. The representative of PERU, endorsing that statement, said that some Vienna-based organizations belonging to the United Nations system had arrears payment schemes with a maximum payment period of ten years.
10. The representative of GERMANY said her delegation was in favour of retaining the existing payment scheme.
11. The representative of the NETHERLANDS said that the burden of paying assessed contributions was the same for every Member State, since they were based on a country's capacity to pay. In his delegation's view, the existing payment scheme offered sufficient scope to Member States in arrears.
12. The representative of CANADA, endorsing the comments made by the representatives of Germany and the Netherlands, said that, although her delegation sympathized with many of the Member States in arrears, it considered the existing payment scheme to be reasonable.
13. The DIRECTOR OF THE DIVISION OF BUDGET AND FINANCE, responding to a question asked by the representative of Canada, said that the total amount owed by Member States in arrears was about US \$8 million and that the introduction of an arrears payment scheme with a maximum payment period of ten years would be advantageous to the Agency if it resulted in an increased cash inflow.
14. He observed that, under some ten-year payment schemes, interest was payable on outstanding amounts, although in practice it might not be collected if payments were made on time.
15. The CHAIRMAN suggested that the Committee postpone further discussion under agenda sub-item 5(c) in order to allow delegations more time for informal consultations.
16. It was so agreed.

#### THE AGENCY'S ACCOUNTS FOR 2001 (GC(46)/6)

17. The CHAIRMAN, noting that no Committee members wished to take the floor, assumed that the Committee wished to recommend to the General Conference that it adopt the draft resolution on page I of document GC(46)/6.
18. It was so agreed.

#### THE AGENCY'S BUDGET UPDATE FOR 2003 (GC(46)/7 and Mod.1)

#### THE FINANCING OF TECHNICAL CO-OPERATION

19. The CHAIRMAN, drawing attention to document GC(46)/7/Mod.1, suggested that agenda item 10 ("The Agency's Budget Update for 2003") and agenda item 11 ("The financing of technical co-operation") be taken up together.

20. It was so agreed.

21. The representative of GERMANY said that her country advocated zero nominal budgetary growth in all international organizations but that the recommended budget for 2003 represented zero real budgetary growth. Her delegation could therefore not support the recommended budget.

22. Similarly, her delegation, which believed that an increase in the financial resources for technical co-operation should be achieved through successful application of the “rate of attainment” mechanism rather than through increases in the TCF target, could not support the TCF target recommended for 2003.

23. Taking into account the positions of other delegations, however, her delegation did not wish to block a consensus on the recommended “package”.

24. The CHAIRMAN took it that the Committee, with a reservation expressed by one member, wished to recommend to the General Conference the adoption of draft resolution A contained in the Annex to document GC(46)/7 and of draft resolution B in document GC(46)/7/Mod.1.

25. It was so agreed.

26. The CHAIRMAN took it that the Committee wished to recommend to the General Conference the adoption of draft resolution C contained in the Annex to document GC(46)/7.

27. It was so agreed.

#### SCALE OF ASSESSMENT OF MEMBERS' CONTRIBUTIONS TOWARDS THE REGULAR BUDGET (GC(46)/10)

28. The CHAIRMAN, noting that no Committee members wished to take the floor, assumed that the Committee wished to recommend to the General Conference that it adopt the draft resolution on page 2 of document GC(46)/10.

29. It was so agreed.

#### MEASURES TO STRENGTHEN INTERNATIONAL CO-OPERATION IN NUCLEAR, RADIATION, TRANSPORT AND WASTE SAFETY (GC(46)/11 and Corr.1 and Addenda 1 and 2; GC(46)/12; GC(46)/COM.5/L.1, L.2 and L.4 and Corr.1)

30. The representative of AUSTRALIA, introducing the draft resolution contained in document GC(46)/COM.5/L.2, said that his delegation, which would like to see the Agency continuing to play its unique role in the safety area, believed that the “omnibus” approach adopted by the sponsors of the draft resolution was a useful mechanism, because it allowed a number of issues to be considered in parallel within the context of stringent budgetary constraints.

31. The CHAIRMAN took it that the Committee wished to recommend the draft resolution contained in document GC(46)/COM.5/L.2 for adoption by the General Conference.

32. It was so agreed.

33. The representative of INDIA proposed that in operative paragraph 10 the words “at the request of Member States” be added after the word “Secretariat”. She further proposed that in operative paragraph 12 the word “interested” be added after “assisting”.

34. The CHAIRMAN, pointing out that the Committee had already agreed to recommend adoption of the draft resolution as it stood, said that, in his view, it would not be advisable to reopen the consideration of the draft resolution.

35. The representative of NEW ZEALAND, introducing the draft resolution contained in document GC(46)/COM.5/L.1, said that it was a reasonable and moderate text, building on resolution GC(45)/RES/10.B adopted in 2001 and anticipating the 2003 International Conference on the Safety of Transport of Radioactive Material. Safety in the maritime transport of radioactive material was an issue of very great importance to all coastal States, and the sponsors of the draft resolution represented all regions through which shipments of radioactive material by sea might pass.

36. Noting that another draft resolution on the issue had been submitted, she said that her delegation would work hard to help produce a consensus resolution.

37. The representative of FRANCE, introducing the draft resolution contained in document GC(46)/COM.5/L.4, said that it was based broadly on the elements of the consensus achieved at the forty-fifth session of the General Conference and took into account the views of a large number of Member States.

38. The draft resolution reaffirmed that shipments of radioactive material should be undertaken “in compliance with applicable international standards providing for a high level of safety”. In the opinion of the sponsors, it was important that the Secretariat be able to ascertain whether such shipments were being undertaken in compliance with such standards and consequently that Member States provide the Secretariat with data on how they regulated the transport of radioactive material.

39. Referring to operative paragraph 3, he said that the fact that the 1996 edition of the Agency’s Transport Regulations had become mandatory under the IMO’s International Maritime Dangerous Goods Code testified to high quality of the Transport Regulations. However, the Transport Regulations should still be kept under constant review and, as necessary, revised.

40. Referring to operative paragraph 9, he said that TranSAS missions helped to make technical expertise developed within the Agency framework more widely available and resulted in greater transparency about the transport of radioactive material.

41. Referring to operative paragraph 7, he said that some shipping States - for example, France, the United Kingdom and Japan - were voluntarily providing coastal States with

information about shipments of radioactive material. That practice should, in their view, not be replaced by an obligatory system of consultation or prior notification. Also, they were of the view that the Secretariat should not be used as the channel for the voluntary provision of information.

42. Referring to operative paragraph 5, he said that adoption by the States party to the Paris Convention of the protocol revising the Convention - which had been finalized in February - now depended on a decision of the European Commission. The sponsors of the draft resolution believed that revising the Paris Convention in the manner envisaged would greatly strengthen the effectiveness of the existing liability mechanisms. Among other things, the protocol provided for higher compensation amounts - up to 700 million euro per nuclear accident at a facility and up to 80 million euro per nuclear accident during transport - and for an increase to 1500 million euro in the resources available under the Brussels Supplementary Convention.

43. Referring to the draft resolution contained in document GC(46)/COM.5/L.1, he said that a draft resolution on transport safety was not an appropriate mechanism for redefining the constituent elements of the existing third-party liability regimes in the nuclear field. A discussion of that draft resolution could lead to sharp controversy, as the discussion of a similar draft resolution had done at the General Conference's 2001 session.

44. The representative of the UNITED KINGDOM said that the sponsors of the draft resolution contained in document GC(46)/COM.5/L.1 did not have a monopoly of concern regarding the safety of transport of nuclear materials. At the previous session of the General Conference, a consensus resolution had been arrived at on the basis of that shared concern, with his delegation and a number of other delegations going to the very limits of what they thought right - in some cases, even beyond those limits. They had thought that the very real differences of view separating them from the sponsors of the draft resolution contained in document GC(46)/COM.5/L.1 would remain on ice at least until the 2003 International Conference on the Safety of Transport of Radioactive Material. They were therefore disappointed that the sponsors of that draft resolution, far from contenting themselves with a compromise giving them much of what they had wanted, were now seeking much more, submitting a text whose adoption would mean - inter alia - committing operators to liability for any incident that might be considered to have given rise to any kind of economic loss irrespective of whether there had been a radioactive release. The draft resolution touched on issues relating to security which should be raised, if at all, under agenda item 17. Also, it envisaged the launching or expansion, within the Agency framework, of no fewer than six kinds of activity at a time when the Agency's budget was already overstretched. In addition, its adoption would mean committing shipping States to consultations with coastal States in advance of individual shipments, which would be in contradiction of the principle of freedom of navigation and would have implications for the transport of all forms of hazardous goods. Lastly, it created the impression that the safety standards for the maritime transport of radioactive material were low and that the safety record of those engaged in the maritime transport of such material was poor, whereas it had been demonstrated independently that those safety standards were high and the safety record outstanding.

45. His delegation was not only disappointed, but also puzzled, because in the past year the United Kingdom had tried to increase confidence in the safety of its nuclear material transport operations by hosting a TranSAS mission, by helping to improve the nuclear energy third-party liability regime and to update the Transport Regulations, by continuing to provide concerned coastal States with timely information about specific shipments of nuclear material and by organizing - at the Agency's Headquarters - presentations which had clearly shown how unlikely it was that a radioactive release would occur during the maritime transport of nuclear material. It now seemed that his country's efforts had been in vain; there was no evidence that they had made any impression on the sponsors of the draft resolution contained in document GC(46)/COM.5/L.1. One could not help wondering whether some of the sponsors had an agenda that was inconsistent with Article II of the Agency's Statute, which stated that the Agency should seek "to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world."

46. His delegation hoped that all those delegations which had not yet committed themselves with regard to the issues touched on in the two draft resolutions under consideration would come to recognize how over-ambitious the draft resolution contained in document GC(46)/COM.5/L.1 was and that the sponsors of that draft resolution would return to the path of reason and moderation.

47. The representative of JAPAN said that his delegation shared the disappointment and puzzlement of the United Kingdom delegation.

48. The sponsors of the draft resolution contained in document GC(46)/COM.5/L.1 seemed to underestimate the value of the existing international standards relating to the maritime transport of nuclear material and to believe that the Secretariat was not doing enough in the field of maritime transport safety. Also, they seemed to take a very pessimistic view of the risks associated with the maritime transport of nuclear material, despite a number of recent scientific and technical studies which had concluded that the risks were very small.

49. Japan, which was fully committed to ensuring high safety levels in the maritime transport of nuclear material, had not suffered a single mishap in the maritime transport of such material in more than 30 years, while there had unfortunately been numerous mishaps involving oil tankers during that period.

50. In the draft resolution contained in document GC(46)/COM.5/L.1, safety concerns were mixed up with security concerns. Safety and security were closely related, but they were dealt with separately by the Agency - an approach that should be maintained. Moreover, there had been no incident involving the security of nuclear material during maritime transport. Nevertheless, following the events of 11 September 2001, the security arrangements for the maritime transport of nuclear material had been reviewed by all regulatory bodies concerned, which remained satisfied that the stringent security measures in place were adequate.

51. Referring to operative paragraph 5 of the draft resolution contained in document GC(46)/COM.5/L.1, which envisaged the creation of "a comprehensive liability mechanism", he said that, in his country's view, the existing nuclear liability regime was an effective mechanism for ensuring adequate compensation for nuclear damage.

52. The draft resolution contained in document GC(46)/COM.5/L.1 included provisions which would restrict the freedom of navigation provided for in the United Nations Convention on the Law of the Sea, and it envisaged initiatives which prejudged the outcome of the 2003 International Conference on the Safety of Transport of Radioactive Material.

53. His delegation could not go along with that draft resolution and would like to see a more balanced and more broadly acceptable draft resolution - on the lines of that contained in document GC(46)/COM.5/L.4 - emerge from informal consultations among all interested delegations.

54. The representative of NIGERIA said that his country was very concerned about safety and security in the maritime transport of radioactive material and that the Nigerian authorities attached great importance to the protection of Nigeria's population from harm due to accidents or incidents during the maritime transport of such material.

55. If such accidents or incidents were as unlikely to occur as some major nuclear material shipping States maintained, why were those States so concerned about the liability provisions in the draft resolution contained in document GC(46)/COM.5/L.1? Coastal States attached great importance to those provisions.

56. The preparations for the 2003 International Conference should be transparent. Many interested countries had not been invited to participate in the technical programme committee meeting held in March. His delegation would like some assurance that Nigeria's concerns would be taken into account in the preparations.

57. The representative of CHILE said that, even given high levels of safety and security, there were inherent risks associated with the transport of nuclear material and that shipping States were not simply doing a favour to other countries when they endeavoured to maintain those high levels; they had a legal obligation to do so.

58. In his delegation's view, confidence-building measures were not enough. No one could be sure, especially after the events of 11 September 2001, that there would never be a terrorist attack on a ship transporting nuclear material, just as, since the Chernobyl accident, no one could be sure that further major accidents at nuclear power plants would not occur. Adequate liability provisions were essential, and that was one of the things which the sponsors of the draft resolution contained in document GC(46)/COM.5/L.1 were seeking.

59. The representative of PERU said that the sponsors of the draft resolution contained in document GC(46)/COM.5/L.1 wished to see the present safety regime for the maritime transport of nuclear material strengthened. That did not mean that they were opposed to the maritime transport of such material or that they considered the present safety regime to be seriously defective, but they did feel that there was room for improvement.

60. The risks associated with the maritime transport of nuclear material might well be minimal, but the next few years would see a dramatic rise in the number of shipments of such material and for that reason the safety regime must be strengthened.

61. It had been argued that institutionalizing consultations with potentially affected coastal States prior to each shipment of nuclear material would run counter to the United Nations Convention on the Law of the Sea. The sponsors of the draft resolution contained in document GC(46)/COM.5/L.1 did not accept that argument.

62. It had also been argued that security issues were going to be dealt with under another item of the Conference's agenda. Vessels carrying nuclear material were vulnerable to terrorist attack, however, and the sponsors of the draft resolution therefore believed that security issues should not be ignored by the Conference when considering safety in the maritime transport of nuclear material.

63. The sponsors of the draft resolution had no wish to pre-empt the outcome of the 2003 International Conference on the Safety of Transport of Nuclear Material. Their aim was to ensure the participation of a large number of Member States in the Conference. The issue of safety in the transport of nuclear material was of interest to the international community as a whole, and not merely to a particular group of States.

64. The representative of IRELAND said that safety in the maritime transport of nuclear material was a matter of great importance to coastal States, including his country, and that the draft resolution contained in document GC(46)/COM.5/L.1 referred to a number of issues which needed to be addressed. Coastal States were justifiably concerned about the risks associated with the maritime transport of nuclear material, since an accident involving a vessel carrying nuclear material could have serious health, environmental and economic implications for such States - regardless, moreover, of whether the accident was the result of a lapse in safety or in security.

65. The representative of BRAZIL, noting that his country had a very long coastline but also a not insignificant nuclear power programme, recalled that it had recently hosted a TransSAS mission. Brazil wished to see the international regime for safety in the maritime transport of nuclear material strengthened, but his delegation did not think that adoption of the draft resolution contained in document GC(46)/COM.5/L.4 would do much - if anything - to help strengthen it.

66. His country was of the view that, in the present international climate, the transport of nuclear material entailed not only safety risks but also security risks. The draft resolution contained in document GC(46)/COM.5/L.4 did not address security risks, whereas the one contained in document GC(46)/COM.5/L.1 did.

67. That having been said, his delegation believed that the gap between the two draft resolutions could be bridged. It stood ready to work with the sponsors of both draft resolutions in working out a consensus text.

68. The CHAIRMAN proposed that an open-ended group meet under the chairmanship of the delegate of Australia, Ambassador Hughes, and endeavour to bridge the gap between the two draft resolutions, taking into account resolution GC(45)/RES/10.B.

69. It was so agreed.

70. The CHAIRMAN said that interpretation from and into Spanish could be provided for the open-ended group if the Committee was prepared to forego interpretation from and into that language while the group was meeting. He asked whether that would be acceptable to the Committee.

71. It was so agreed.

The meeting rose at 1.00 p.m.