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Committee of the Whole

Record of the Sixth Meeting

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Chairman: Mr. GARCIA (Philippines)

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[*] GC(47)/21.

The composition of delegations attending the session is given in document GC(47)/INF/14/Rev.2.

Abbreviations used in this record:

APCs	Assessed programme costs
TCF	Technical Co-operation Fund

15. Strengthening of the Agency's technical co-operation activities (resumed)

(GC(47)/COM.5/L.12/Rev.1)

1. The representative of BRAZIL said that there had been further consultations on the draft resolution contained in document GC(47)/COM.5/L.12/Rev.1 and that they had led to agreement on a number of paragraphs as follows:

- preambular paragraph (f) should be retained, but with the phrase "that remained unfunded" deleted;
- preambular paragraph (h) should be retained as it stood;
- preambular paragraph (k) should be amended to read: "... recipient Member States in regard to Assessed Programme Costs (APCs)";
- preambular paragraph (k) should be followed by a paragraph reading "Expressing concern about the subsequent results of the Rate of Attainment mechanism as established by resolution GC(44)/RES/8";
- preambular paragraph (m) should be amended to read "Expressing concern that some Member States do not contribute their full TCF target shares or do not contribute to the TCF at all";
- preambular paragraph (n) should be retained as it stood;
- preambular paragraph (r) should be amended to read "... programmes according to the requests and needs of Member States in all areas of concern in the Technical Co-operation Programme";
- preambular paragraph (s) should be amended to read "...sustainable development in TC-recipient Member States, particularly in developing countries and the least developed ones";
- operative paragraph 4 should be amended to read "... voluntary contributions to the TCF, and requests those recipient Member States which are in arrears in APCs to meet this obligation";
- operative paragraph 5 should be amended to read "Endorses the Board's decision to suspend the payment of Assessed Programme Costs ...";
- there should be an additional operative paragraph reading "Endorses also the decision of the Board to request the Secretariat to inform it about the application of the due account mechanism to Member States" - a formulation in line with the language of the budget package proposal which had been approved by the Board;
- in operative paragraph 6, "to continue to continuously review" should be replaced by "to continue to further refine";
- in operative paragraph 7, the phrase "and to ensure ... implemented" should be deleted;

- in operative paragraph 8, the phrase “developing countries” should be replaced by “TC-recipient Member States”;
 - in operative paragraph 10, “and to prepare potential technical co-operation projects” should be amended to read “and, where appropriate and requested by Member States, to assist in the preparation of potential technical co-operation projects”; and
 - operative paragraph 11 should be amended to read: “Requests the Director General to make every effort to ensure, where relevant, that the Agency’s TC programme contributes to the promotion of key areas identified in the Johannesburg Plan of Action¹ and to the attainment of the Millennium Development Goals, and further requests the Director General to keep Member States informed of its activities in this regard”.
2. The representative of UKRAINE said that his delegation welcomed the changes which had been agreed on although it had not been consulted about all of them.
3. The representative of BRAZIL said that it had not been possible to consult all interested delegations regarding all the changes.
4. The CHAIRMAN suggested that the Committee postpone further consideration of the item until a revised version of the draft resolution became available.
5. It was so agreed.

The meeting was suspended at 4.25 p.m. and resumed at 4.35 p.m.

23. Amendment to Article VI of the Statute (GC(47)/INF/5)

6. The representative of the REPUBLIC OF KOREA thanked those who had supported the inclusion of item 23 in the agenda and the Director General for the report contained in document GC(47)/INF/5. The Republic of Korea had initiated the inclusion of the item as it had been of the opinion that the time had come for a further review of the progress towards entry into force of the amendment to Article VI of the Statute which had been approved by the General Conference in 1999 - an amendment to which his country attached great importance.
7. The amendment had been the historic outcome of almost 20 years of negotiations. Its purpose was to adapt the composition of the Board of Governors to present realities; the number of Agency Member States had grown from 102 in 1973 (when the membership of the Board had increased from 25 to 34) to 137, and further Member States had become very advanced in the technology of atomic energy.

¹ In the draft resolution adopted by the General Conference, “the Johannesburg Plan of Action” was corrected to read “the Johannesburg Plan of Implementation”.

8. His country believed that the entry into force of the amendment would lead to a more democratic representation of Member States in the Board without jeopardizing the Board's efficiency and would help to enhance the effectiveness of the Agency.

9. In approving the amendment, the General Conference had, in operative paragraph 3 of resolution GC(43)/RES/19, urged all Member States to accept the amendment as soon as possible. However, so far only 34 Member States had accepted it.

10. In his country's view, those Member States which had been involved in the approval of the amendment should act in accordance with the spirit of resolution GC(43)/RES/19 within a reasonable timeframe. They should not unnecessarily delay accepting the amendment.

11. Accordingly, his delegation would like the General Conference to:

- recall its resolution GC(43)/RES/19;
- take note of the report by the Director General contained in the document GC(47)/INF/5;
- urge all Member States which had not done so to accept the amendment as soon as possible in accordance with their respective constitutional processes;
- request the Director General to draw the attention of the governments of the Agency's Member States to the issue; and
- request the Director General to submit a report on the progress made towards the entry into force of the amendment to the General Conference for consideration at its forty-eighth regular session and to include in the provisional agenda for that session an item entitled "Amendment to Article VI of the Statute".

12. The representative of KUWAIT said that, although she questioned the wisdom of discussing the agenda item "Amendment to Article VI of the Statute" at the Conference's current session, she had not questioned the right of the Republic of Korea to request the item's inclusion in the agenda. However, she had been unaware until the previous day that General Conference action on the Article VI amendment issue was envisaged by the Republic of Korea.

13. In 1999, consensus had been reached on resolution GC(43)/RES/19 after lengthy discussions in which the position of the Middle East and South Asia (MESA) group - to which Kuwait belonged - had been a particularly difficult one. As far as she was aware, however, during the run-up to the General Conference's current session only one member of the MESA group had been consulted regarding the Article VI amendment issue. Accordingly, her delegation - which had not been consulted - did not feel able to express support for the envisaged General Conference action.

14. It might be argued that the envisaged action was of a purely procedural nature, but even such action could have political connotations.

15. The representative of the Republic of Korea had talked about "a more democratic representation of Member States in the Board". In that connection, she wished to emphasize that, as Chairman of the Board, she had invited representatives of the Republic of Korea, which had not been a Board member, to all informal meetings at which issues relating to that country had been discussed.

16. In her opinion, under the present agenda item, the Committee should simply take note of the statements that were made.

17. The representative of MEXICO, having noted that - as could be seen from Annex 1 to document GC(47)/INF/5 - his country had accepted the amendment to Article VI of the Statute, said that the entry into force of the amendment would necessitate an analysis of the advances that countries had

made in the peaceful uses of nuclear energy in order to determine which should be designated for membership of the Board pursuant to Article VI.A.1 of the Statute. His delegation hoped that the analysis would be carried out in a transparent manner

18. The representative of MOROCCO, welcoming the inclusion of the present item in the Conference's agenda, said that a long delay in the entry into force of the amendment to Article VI would have a negative impact on the Agency. The delegation of Morocco, which had been very active in helping to bring about the adoption of resolution GC(43)/RES/19 in 1999, would like the Director General to draw the attention of the governments of the Agency's Member States to the Article VI amendment issue.

19. The representative of the NETHERLANDS said that his country would like to see the amendment to Article VI enter into force within a reasonable timeframe and that the General Conference should take up the Article VI amendment issue again in the not-too-distant future.

20. The representative of ALGERIA, expressing support for the position of the Republic of Korea, said that her country had been one of the first Member States to accept the amendment to Article VI.

21. The President of the General Conference during the session at which resolution GC(43)/RES/19 had been adopted had been from Algeria, which would like to see the amendment entering into force soon.

22. The representative of CROATIA, noting that his country had been one of the first Member States to accept the amendment to Article VI, expressed support for the statement just made by the representative of the Republic of Korea.

23. The representative of the CZECH REPUBLIC said that his country, which had accepted the amendment to Article VI, would like to see many other Member States doing the same. The entry into force of the amendment should not be unduly delayed.

24. The representative of CANADA expressed support for the position of the Republic of Korea and called for the early entry into force of the amendment to Article VI of the Statute.

25. The representative of the UNITED KINGDOM said that his country, which had accepted the amendment to Article VI, would welcome further positive responses to the call made by the General Conference in operative paragraph 3 of GC(43)/RES/19. However, the deposit of an instrument of acceptance was only part of the process required in order to resolve the issue.

26. The representative of POLAND said that her country, which had accepted the amendment in 2001, would like to see many more countries accepting it.

27. The representative of UKRAINE, having noted that his country had accepted the amendment to Article VI, expressed strong support for the statement made by the representative of the Republic of Korea. He hoped that the General Conference would consider the Article VI amendment issue each year.

28. The representative of ARGENTINA said that her country, which had also accepted the amendment, looked forward to its entry into force.

29. The representative of the ISLAMIC REPUBLIC OF IRAN said that his delegation needed more time in order to decide on its position and would like the Committee to defer further consideration of the present item to a later meeting.

30. The representative of BULGARIA said that her country had accepted the amendment to Article VI and supported the position of the Republic of Korea.

31. The representative of JAPAN said that his country, which had accepted the amendment, would like it to enter into force with a minimum of delay.
32. The representative of JORDAN, requesting more time in which to consider the issue under discussion, said that his country had no objection to the amendment as such.
33. The CHAIRMAN suggested that interested delegations hold informal discussions with a view to reaching a consensus.
34. The representative of KUWAIT expressed the hope that the Chairman would assist those delegations.
35. The CHAIRMAN said that he would.
36. The representative of the REPUBLIC OF KOREA, having thanked the representative of Kuwait for her flexibility in accommodating his country during her chairmanship of the Board of Governors, said that he was looking forward to informal discussions with the Chairman of the Committee and the representatives of other interested delegations.
37. The CHAIRMAN said that the Committee would resume consideration of the present agenda item at a later meeting.

15. Strengthening of the Agency's technical co-operation activities (resumed) (GC(47)/COM.5/L.12/Rev.2)

38. The CHAIRMAN, recalling the Committee's consideration of the draft resolution contained in document GC(47)/COM.5/L.12/Rev.1, drew attention to the draft resolution contained in document GC(47)/COM.5/L.12/Rev.2, which Brazil had - on behalf of the Group of 77 and China - submitted after extensive consultations.
39. Noting that no Committee members wished to take the floor, he assumed that the Committee wished to recommend to the General Conference that it adopt the draft resolution contained in document GC(47)COM.5/L.12/Rev.2.
40. It was so agreed.
41. The representative of the NETHERLANDS said that his country, which was deeply committed to the Agency's technical co-operation activities and had consistently supported them by paying its full TCF target share in a timely manner, could accept the draft resolution in document GC(47)/COM.5/L.12/Rev.2 as a whole. However, it still had problems with preambular paragraph (o), which spoke of "the need to maintain an appropriate balance between the promotional activities and the other statutory activities of the Agency",
42. If the phrase "an appropriate balance..." meant a balanced approach to all core activities of the Agency, it implied a commitment on the part of the Member States supporting the draft resolution to provide the financial resources necessary for the Agency's technical co-operation activities.
43. However, many of the Member States belonging to the group on whose behalf the draft resolution had been submitted did not pay their full TCF target shares or did not contribute to the TCF

at all. If their example were followed by more Member States not belonging to that group, there would soon be virtually no resources in the TCF.

44. The Netherlands would go along with the adoption of the draft resolution, but it would be unable to accept such a draft resolution in future years unless the meaning of “balance” was clearly explained.

45. Not only adequate safety, but also adequate security in recipient countries should be a precondition for transfers of nuclear technology. Member States should therefore be free to request Agency technical co-operation projects in the area of nuclear and radiological security. His delegation had decided to go along with the compromise text in preambular paragraph (s), despite the fact that the text did little to meet its security-related concerns.

46. The representative of UKRAINE expressed regret that the draft resolution did not contain a reference to maintaining and enhancing the safety and security of nuclear installations.

47. His delegation hoped that the draft resolution on strengthening of the Agency’s technical co-operation activities submitted in 2004 would contain a paragraph on the technical co-operation implementation rate and one highlighting the difference between making pledges of contributions to the TCF and actually paying into the TCF.

48. The representative of the UNITED STATES OF AMERICA said that his delegation generally welcomed the draft resolution, but was disappointed that in preambular paragraph (h) the phrase “and also appropriate security measures” had not been inserted after “the internationally recognized standards of safety”. No programme that failed to ensure the comprehensive application of appropriate security measures could be successful.

49. The representative of AUSTRALIA said that her delegation was disappointed that the importance of security was not adequately reflected in the draft resolution. It hoped that security-related concerns would be accommodated in the Agency’s future technical co-operation activities.

13. Measures to strengthen international co-operation in nuclear, radiation and transport safety and waste management (resumed) (GC(47)/COM.5/L.16)

50. The CHAIRMAN invited Ambassador Sreenivasan to introduce the draft resolution which he had submitted in document GC(47)/COM.5/L.16.

51. Mr. SREENIVASAN (India) said that the draft resolution had been agreed upon in the working group on transport safety which he had chaired and which had benefited from the work done by Ambassador Hughes of Australia in 2002.

52. In the working group, the representatives of shipping States and of coastal States had arrived at a consensus that would enable the competing draft resolutions in documents GC(47)/COM.5/L.2 and GC(47)/COM.5/L.9 to be withdrawn.

53. He drew particular attention to the development of an action plan envisaged in operative paragraph 1 of the draft resolution.

54. Each word of the draft resolution had been carefully considered, and he hoped that the delicate consensus which the draft resolution reflected would be preserved.
55. The CHAIRMAN and the representatives of JAPAN, PERU, FRANCE, CHILE, the PHILIPPINES, COLOMBIA, ECUADOR, GREECE, IRELAND, PANAMA, the NETHERLANDS, PORTUGAL, TURKEY, CROATIA, UKRAINE, ARGENTINA, AUSTRALIA, NORWAY, MALAYSIA, ITALY, URUGUAY, CANADA, BRAZIL and POLAND congratulated Ambassador Sreenivasan on his stewardship of the working group.
56. The representatives of FRANCE, JAPAN and the UNITED KINGDOM withdrew the draft resolution contained in document GC(47)/COM.5/L.9.
57. The representatives of ECUADOR, IRELAND and NEW ZEALAND said that the sponsors of the draft resolution contained in document GC(47)/COM.5/L.2 wished to withdraw it.
58. The representative of JAPAN thanked the other Member State representatives who had participated in the lengthy working group negotiations for their constructive attitude.
59. The representative of the UNITED KINGDOM expressed appreciation of the spirit in which the members of the working group had conducted the negotiations that had resulted in the draft resolution now before the Committee and commended Ambassador Sreenivasan on his verbal ingenuity, peerless good humour and objectivity, which had contributed greatly to the success of the negotiations.
60. The representative of NEW ZEALAND expressed her delegation's appreciation of the skilled job done by Ambassador Sreenivasan in chairing the working group and of the constructive approach taken by all the other delegations involved in the negotiations.
61. The representative of PERU thanked the shipping State representatives for the positive spirit which they had displayed in the negotiations and the Secretariat for the support which it had provided to the working group. Peru hoped to take an active part in the development of the envisaged action plan.
62. The representative of CHILE welcomed the fact that the consensus on the draft resolution had been achieved in a remarkably short time.
63. The representative of the PHILIPPINES expressed the hope that implementation of the draft resolution after its adoption would lead to greater safety and security in the transport of radioactive material.
64. The representative of ARGENTINA said that her delegation looked forward to participating in the development of the envisaged action plan.
65. The CHAIRMAN took it that the Committee wished to recommend to the General Conference that it adopt the draft resolution contained in document GC(47)/COM.5/L.16.
66. It was so agreed.

17. Strengthening the effectiveness and improving the efficiency of the safeguards system and application of the Model Additional Protocol (resumed) (GC(47)/COM.5/L.17)

67. The CHAIRMAN invited Ambassador Vacek of the Czech Republic to introduce the draft resolution which he had submitted in document GC(47)/COM.5/17.

68. Mr. VACEK (Czech Republic) said that a consensus had not been reached on the draft resolution in the working group which he had chaired. There were problems relating to operative paragraphs 3 and 6 and to the title – whether or not the word “all” should appear between “urges” and “States” in operative paragraph 3, whether “and also the Model Additional Protocol” or “and additional protocols” should appear after “comprehensive safeguards agreements” in operative paragraph 6, and how the title should be worded after “...of the safeguards system”.

69. He had suggested the omission of “all” in operative paragraph 3, the inclusion of the phrase “and also the Model Additional Protocol” in operative paragraph 6 and a formulation for the title (“... including the application of the Model Additional Protocol”) which combined elements of the agenda item title (“... and application of the Model Additional Protocol”) and the title of the draft resolution contained in document GC(47)/COM.5/L.3 (“... including the implementation of additional protocols”). However, one member of the working group had found the “package” unacceptable.

70. The draft resolution contained in document GC(47)/COM.5/L.17 had attracted broad support, and in his view it was the most promising basis for a consensus.

71. The representative of EGYPT, having commended Ambassador Vacek for his efforts, proposed that the Committee hear the views of delegations which had not been represented in the working group. If there was then still no consensus, the Committee could decide how to proceed further.

72. The representative of BRAZIL said that Ambassador Vacek had succeeded in broadening the common ground and reducing the area of disagreement, but there was a need for further negotiations. It was important that resolutions on safeguards be adopted by consensus.

73. The Brazilian delegation remained optimistic and stood ready to participate in any further negotiations.

74. The representative of the SYRIAN ARAB REPUBLIC said that in her delegation’s view the title of the draft resolution should read “... and the application of the Model Additional Protocol” rather than “... including the application of the Model Additional Protocol” and the word “all” should appear between “urges” and “States” in operative paragraph 3.

75. The representative of ALGERIA said that, as there was still no consensus, the negotiations should continue.

76. The representative of AUSTRIA said that during the negotiations in the working group all delegations had made major concessions and that, in his view, further negotiations would not produce anything better than the draft resolution under consideration. In fact, some of the concessions that had been made as part of a trade-off might be withdrawn and certain questions reopened - something which his delegation would not welcome.

77. He thought it had been agreed that the words “including the application of the Model Additional Protocol” would not appear in the title of the draft resolution, and that the word “all” would be omitted from operative paragraph 3 on the understanding that the three countries most interested in its omission would then join in a consensus on the draft resolution.

78. The representative of the LIBYAN ARAB JAMAJIRIYA called for the inclusion of “all” in operative paragraph 3 and for the deletion of “concerned” in operative paragraph 4 as the word was inconsistent with the word “universally”.

79. The representative of JAPAN said that his delegation was prepared to participate in further negotiations but did not believe that they would yield positive results.

80. The representative of the NETHERLANDS said that he also thought it had been agreed that the words “including the application of the Model Additional Protocol” would not appear in the title of the draft resolution. The fact that they did appear in the title of the text under consideration perhaps gave the impression that a consensus was still remote. In his view, a consensus might be closer than the current discussion suggested.

81. The representative of INDIA said that the statements being made suggested that further negotiations should be held. The delegation of India - one of the delegations which had voted against operative paragraph 3 of resolution GC(46)/RES/12 in 2002 - welcomed the omission of “all” from operative paragraph 3 of the text now under consideration. However, it wished to reserve its position on the text as a whole.

82. The representative of PAKISTAN regretted the fact that it had not yet been possible to arrive at a consensus, although the draft resolution under discussion represented a step in the right direction. His delegation also wished to reserve its position.

83. The representative of ISRAEL said that it was a long-standing policy of his country to support resolutions on the subject under consideration. Unfortunately, in 2001 and 2002 his delegation had been unable to accept paragraph 3 of the draft resolution adopted by the General Conference. As regards the draft resolution now under consideration, his delegation - which welcomed the omission of “all” from operative paragraph 3 - had done its utmost to join in a consensus and had accepted a number of the proposals made in the working group.

84. Mr. VACEK (Czech Republic) said that in his view the title of the draft resolution was not a key issue. The key issues were operative paragraphs 3 and 6.

85. The representative of MOROCCO said he regretted the fact that the representatives of the three countries most interested in the omission of “all” from operative paragraph 3 of the draft resolution under consideration had made vague statements, apparently because they did not find the draft resolution as a whole acceptable. Perhaps one should revert to the language used in 2002 in operative paragraph 3 of resolution GC(46)/RES/12.

86. The representative of the NETHERLANDS said that changing just one paragraph would unravel the fragile “package”.

87. The representative of INDIA said he regretted the fact that the representative of Morocco had characterized some statements made in the Committee as vague. All delegations were entitled to express their opinions in the manner of their choosing.

88. The Indian delegation had not said that the draft resolution was unacceptable. It had merely reserved its position as the discussions had shown that other delegations were not happy with the text

as it stood. India would take a position once it knew what was going to be put before the General Conference.

89. The representative of SWITZERLAND said that, in order to preserve the gains made in the negotiations, the wording of resolution GC(46)/RES/12 should be used only in respect of those points on which no agreement had been reached.

90. The representative of AUSTRIA said that he agreed with the representative of Morocco. Those who were unwilling to accept the “package” should speak out. It was important to know the position of those countries which had difficulties with it.

91. His delegation was open to reverting to the text of resolution GC(46)/RES/12, but the gains made in the negotiations would then be lost.

92. The representative of MALAYSIA said that in his view a consensus was very close and the working group should reconvene for one last try.

93. As regards paragraph 3, his delegation attached great importance to the word “all”. With that word included, the General Conference would be urging not only the States not parties to the NPT to bring into force comprehensive safeguards agreements, but also those States parties which had not yet brought comprehensive safeguards agreements into force, including the nuclear-weapon States. Malaysia would like to see all States bringing comprehensive safeguards agreements into force as it would like to see the complete elimination of nuclear weapons.

94. The representative of EGYPT said it was clear that more than one delegation had difficulties with the draft resolution. Judging by some of the statements just made, an updated version of resolution GC(46)/RES/12 would probably enjoy greater support. At all events, it would be counterproductive to rush through an issue of such importance to the Agency.

95. The representative of the UNITED STATES OF AMERICA agreed that rushing through the issue would be counterproductive and urged the Chairman not to press for a conclusion at the current meeting of the Committee.

96. The representative of MOROCCO, referring to the comment just made by the representative of India, said that he had earlier simply been voicing his disappointment at the fact that a consensus on the draft resolution did not seem to be emerging.

97. He proposed that, rather than a further meeting of the working group in its entirety, a smaller group meet in an effort to resolve the outstanding problems.

98. The representative of GERMANY endorsed the proposal made by the representative of Morocco.

99. The representative of ISRAEL, recalling that resolution GC(46)/RES/12 had not been adopted by consensus, said that he also agreed with the representative of Egypt that it would be counterproductive to rush through the issue.

100. The representative of PERU said that efforts should be made to reach a consensus on the draft resolution. For a consensus to be reached, however, everyone would have to make concessions.

101. Mr. VACEK (Czech Republic), speaking not as chairman of the working group but as a representative of his country, said that, if the draft resolution which he had submitted was not generally acceptable, he would prefer the draft resolution contained in document GC(47)/COM.5/L.3, of which his country was a sponsor, to an updated version of resolution GC(46)/RES/12.

102. The representative of ALGERIA said that her delegation supported the proposal, just made by the representative of Morocco, that a smaller group meet in an effort to resolve the outstanding problems.

103. The CHAIRMAN said that the general feeling in the Committee seemed to be that a final effort should be made to reach a consensus. He requested Ambassador Vacek, the chairman of the working group, to meet early the next day with those delegations which had particular difficulties with the draft resolution contained in document GC(47)/COM.5/1.17 in order to seek a compromise solution in a spirit of flexibility.

The meeting was suspended at 7.05 p.m. and resumed at 7.40 p.m.

23. Amendment to Article VI of the Statute (resumed) (GC/(47)/INF/5)

104. The CHAIRMAN said it was his understanding that in consultations an agreement had been reached that he should report to the General Conference that the Committee recommended that the Conference:

- recall resolution GC(43)/RES/19, by which it had approved the amendment of Article VI of the Statute and had urged all Member States to accept the amendment as soon as possible in accordance with their respective constitutional processes;
- take note of the report by the Director General contained in document GC(47)INF/5; and
- request the Director General to submit to the Conference at its forty-ninth regular session a report on the progress made towards the entry into force of the amendment and to include in the provisional agenda for that session an item entitled "Amendment to Article VI of the Statute".

105. The representative of the ISLAMIC REPUBLIC OF IRAN said that he was still awaiting instructions from his Government. He requested that further discussion of the matter be deferred until the Committee's next meeting.

106. The representative of the SYRIAN ARAB REPUBLIC said that she was also still awaiting instructions from her Government.

107. The CHAIRMAN said that the matter would be taken up again at the Committee's next meeting.

The meeting rose at 7.45 p.m.