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Committee of the Whole

Record of the Third Meeting

Held at the Austria Center Vienna on Wednesday, 22 September 2004, at 10.25 a.m.

Chairman: Mr. OTHMAN (Syrian Arab Republic)

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The composition of delegations attending the session is given in document GC(48)/INF/16/Rev.1.

[*] GC(48)/25.

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Abbreviations used in this record:

Early Notification

Convention

Convention on Early Notification of a Nuclear Accident

NPCs

National Participation Costs

16. Strengthening the Agency's activities related to nuclear science, technology and applications (resumed) (GC(48)/COM.5/L.4)

1. The representative of ALGERIA, speaking on behalf of the Group of 77 and China, said that consultations had resulted in an agreement to insert “, through the activities mentioned below,” between “strengthen” and “the research” in operative paragraph 1 of the draft resolution contained in document GC(48)/COM.5/L.4.
2. The representative of the UNITED STATES OF AMERICA, expressing support for the insertion of the phrase read out by the representative of Algeria, said that his delegation had previously suggested the insertion of “within available resources” because of concern that a call to strengthen a research programme implied the expenditure of a great deal of money. Since the phrase read out by the representative of Algeria made it clear that the research in question would be strengthened through low-cost activities such as improved coordination, his delegation wished to withdraw its suggestion.
3. The CHAIRMAN took it that that the Committee wished to recommend to the General Conference the adoption of the draft resolution contained in document GC(48)/COM.5/L.4 with the additional phrase in operative paragraph 1, without the word “generous” in operative paragraph 4 and with “49th session” replaced by “50th session” in operative paragraph 5.
4. It was so agreed.

15. Strengthening of the Agency's technical cooperation activities (resumed) (GC(48)/COM.5/L.1)

5. The representative of ALGERIA, recalling suggestions made during the Committee's first meeting by the representatives of the United States of America and the Netherlands regarding the addition of a preambular paragraph immediately after paragraph (j) of the draft resolution contained in document GC(48)/COM.5/L.1, said that her delegation could go along with an additional paragraph on the lines of “Convinced that the TCF target should be set at an adequate level which Member States can pay”.
6. The representative of JAPAN suggested the addition, immediately after preambular paragraph (l), of a paragraph reading as follows: “Recalling also the obligation of recipient Member States in regard to NPCs, which is created on the basis of shared responsibility among the Member States”. In explaining the suggestion, she recalled that “the obligation of recipient Member States in regard to Assessed Programme Costs (APCs)” had been referred to in preambular paragraph (k) of resolution GC(47)/RES/9 adopted in 2003 and said that her country attached great importance to the principle of shared responsibility among the Member States of the Agency.
7. She also suggested the addition, at the end of operative paragraph 5, of the words “and that, in the event of a failure to pay any second instalment falling due during a biennium, a project in the next

biennium would be changed from core to footnote-a/ funding”. In explaining the suggestion, she said that in her delegation’s view operative paragraph 5 should reflect the whole, rather than only part, of the proposal regarding NPCs contained in document GOV/2004/46 and approved by the Board in June 2004.

8. The representative of ALGERIA said that the NPC mechanism had only just been established and that, in her view, it was therefore too early to recall, as suggested by the representative of Japan, “the obligation of recipient Member States in regard to NPCs”.

9. With regard to the suggested addition to operative paragraph 5, she believed that it would detract from the encouraging tone of that paragraph.

10. The representative of MOROCCO said that in his view it would be difficult for the sponsors of the draft resolution to accept the amendments suggested by the representative of Japan.

11. The CHAIRMAN invited the Committee to turn briefly to agenda item 17, Strengthening the effectiveness and improving the efficiency of the safeguards system and application of the Model Additional Protocol, under which he wished to make a procedural proposal.

17. Strengthening the effectiveness and improving the efficiency of the safeguards system and application of the Model Additional Protocol

(GC(48)/11; GC(48)/COM.5/L.10)

12. The CHAIRMAN proposed the establishment of a working group under the chairmanship of Ambassador Grönberg of Finland to consider the draft resolution contained in document GC(48)/COM.5/L.10.

13. It was so agreed.

14. The representative of AUSTRIA, introducing the draft resolution, drew particular attention to preambular paragraphs (i), (j) and (k) and to operative paragraphs 5, 6 and 10.

15. The representative of INDIA said she wished to make it clear from the outset that operative paragraph 3 as it stood would create particular difficulties for her delegation.

16. The representatives of BRAZIL and CHILE said that their delegations looked forward to participating actively in the working group’s deliberations.

15. Strengthening of the Agency’s technical cooperation activities

(resumed)

(GC(48)/COM.5/L.1)

17. The representative of the NETHERLANDS said that it seemed strange for concern to be expressed in preambular paragraph (m) about the results of the Rate of Attainment mechanism; the

rate of attainment was close to 90%, which was a very good result. He suggested that the paragraph be amended to read “Taking note of the subsequent results of the Rate of Attainment mechanism ... ”.

18. He also suggested the addition, immediately after preambular paragraph (n), of a paragraph reading as follows: “Recognizing in this context the necessity for the Secretariat strictly to apply the due account mechanism”.

19. In addition, he suggested that preambular paragraph (p) be deleted or, if that was not acceptable, amended to read “Emphasizing the need to maintain adequate funding for the Technical Cooperation Programme”.

20. Lastly, he suggested the addition, immediately after operative paragraph 4, of a paragraph reading as follows: Also urges the Secretariat in this context strictly to apply the due account mechanism”.

21. The representative of UKRAINE suggested that, given the fairly long time that would be needed for the completion of relevant administrative procedures in some countries, “2005” be replaced by “2006” in operative paragraph 5.

22. The representative of CANADA, having expressed support for the suggestions made by the representative of the Netherlands, suggested the addition, immediately after operative paragraph 7, of a paragraph reading as follows: “Requests the Secretariat to continue its efforts to improve the effectiveness and efficiency of technical cooperation management, especially in the area of performance measures”.

23. The representative of DENMARK expressed support for the suggestions made by the representatives of the Netherlands and Canada.

24. The representative of BELARUS expressed support for the replacement of “Endorsing” by “Taking note of” in preambular paragraph (l) and of “2005” by “2006” in operative paragraph 5.

25. The representative of INDIA said that in her view there was no need for the addition of an operative paragraph about the due account mechanism, which was already referred to in operative paragraph 6. Preambular paragraph (p) was very important for the Group of 77 and China, which would like it to be retained as it stood. The paragraph was identical with preambular paragraph (o) of resolution GC(47)/RES/9 adopted in 2003 and with the corresponding paragraphs of earlier such resolutions.

26. The representative of the PHILIPPINES associated himself with the statement made by the representative of India.

27. The representative of ALGERIA questioned the need for the addition of a paragraph about strict application of the due account mechanism.

28. She believed that the Group of 77 and China would be able to go along with the addition, suggested by the representative of Canada, of an operative paragraph about improving the effectiveness and efficiency of technical cooperation management.

29. As regards preambular paragraph (p), the Group of 77 and China felt very strongly that it should be neither deleted nor diluted.

30. The representative of GREECE said he understood the opposition of the Group of 77 and China to the deletion of preambular paragraph (p) and suggested the inclusion of a preambular paragraph reading as follows “Emphasizing the need to implement all statutory activities of the Agency”.

31. The CHAIRMAN proposed that representatives of the Group of 77 and China consult with those delegations which had suggested amendments, with a view to arriving at a consensus draft text.

32. It was so agreed.

13. Measures to strengthen international cooperation in nuclear, radiation and transport safety and waste management (resumed) (GC(48)/COM.5/L.11 and L.9)

33. The representative of NEW ZEALAND, introducing the draft resolution contained in document GC(48)/COM.5/L.11, said that the text had been agreed upon by shipping States and coastal States.

34. The approach in formulating it had been to take important elements of resolution GC(47)/RES/7 adopted in September 2003 and to build on them in the light of developments since that time, notably the Board's approval of the Action Plan for the Safety of Transport of Radioactive Material, the work done in the International Expert Group on Nuclear Liability and the informal discussions that had taken place on communication in relation to the safe maritime transport of radioactive materials.

35. Operative paragraph 12 did not relate to the issue of a stricter regulatory regime for shipments of spent nuclear fuel and of nuclear waste.

36. The representative of the UNITED KINGDOM said that the agreement reached on the draft text reflected the celebrated "spirit of Vienna".

37. The representative of CHILE said that the draft text represented an achievement which he hoped would be replicated in other areas of the Agency's work.

38. The representative of PERU expressed the hope that the draft resolution would be adopted by consensus as it stood.

39. The representative of AUSTRALIA said, with reference to operative paragraph 12, that the issue of refusals of shipments of radioactive materials was an urgent one for a wide range of Australian industries.

40. The representative of JAPAN said his delegation believed that the draft resolution was a good basis for further cooperation between shipping States and coastal States.

41. The CHAIRMAN took it that the Committee wished to recommend to the General Conference that it adopt the draft resolution contained in document GC(48)/COM.5/L.11.

42. It was so agreed.

43. The representative of NORWAY, introducing the draft resolution contained in document GC(48)/COM.5/L.9, said that it took account of significant developments since the 2003 session of the General Conference, in particular the Board's approval of the International Action Plan for Strengthening the International Preparedness and Response System for Nuclear and Radiological Emergencies.

44. The representative of TURKEY, having thanked the authors of the draft resolution for their efforts, requested clarification regarding “the lower threshold for early notification” referred to in operative paragraph 2.
45. The representative of NORWAY said that the wording in question was drawn from the Secretariat’s Emergency Notification and Assistance Technical Operations Manual (ENATOM), which provided for notifications at a threshold lower than that envisaged in the Early Notification Convention.
46. The DIRECTOR OF THE DIVISION OF BUDGET AND FINANCE suggested the insertion of “, subject to the availability of resources,” after “enhance” in operative paragraph 7.
47. The representative of AUSTRALIA expressed support for the addition to operative paragraph 7 suggested by the Director of the Division of Budget and Finance.
48. The representative of the ISLAMIC REPUBLIC OF IRAN said that it was difficult to prove “malicious intent” and suggested replacing “with malicious intent” in preambular paragraph (a) by “for non-peaceful purposes”.
49. The representative of PERU, speaking as one of the sponsors of the draft resolution, said that she would prefer the words “with malicious intent” to be retained in preambular paragraph (a).
50. The representative of NORWAY, supported by the representative of ICELAND, also called for the retention of “with malicious intent”.
51. The representative of FRANCE, calling for the retention of “with malicious intent”, said that the expression “for non-peaceful purposes” was generally used in connection with safeguards rather than with safety.
52. The representative of MEXICO suggested that in preambular paragraph (a) “malicious” might be replaced by “harmful”.
53. The representative of the ISLAMIC REPUBLIC OF IRAN said that it was important to prevent the occurrence of situations where individuals working with radioactive materials were wrongly accused of acting with malicious intent. Who would judge what their intentions had been? There were established criteria, on the other hand, for determining whether given acts had been carried out “for non-peaceful purposes”.
54. The representative of NEW ZEALAND, speaking as one of the sponsors of the resolution, said that her country considered strengthening of the International Nuclear and Radiological Emergency Preparedness and Response System to be important for increasing safety in the transport of nuclear and other radioactive materials.
55. The representative of BRAZIL said that his delegation could accept the draft resolution as it stood or with the suggested addition to operative paragraph 7.
56. He understood the concerns of the representative of the Islamic Republic of Iran regarding the difficulty of judging people’s intentions. Perhaps the words “being used with malicious intent” in preambular paragraph (a) could be replaced by “being used unlawfully”.
57. The representative of SRI LANKA said that he would have liked to see in the draft resolution some reference to contingency planning.
58. The representative of SWITZERLAND said that there seemed to be a contradiction between operative paragraph 6 and operative paragraph 7 with the addition of “, subject to the availability of resources,”. He suggested the deletion in operative paragraph 6 of the part reading “and, where

necessary, request additional resources to fulfil the Secretariat's part of implementing the Action Plan".

59. The DIRECTOR OF THE DIVISION OF BUDGET AND FINANCE said that the Secretariat had no difficulty with operative paragraph 6 as it stood.

60. The representative of NORWAY recalled that in paragraph 6 of Annex 4 to document GOV/INF/2003/15-GC(47)/INF/4 the Secretariat had stated its intention "to identify the human and financial resources needed in order to support the implementation of ... the plan of action, to optimize the use of existing resources and, where necessary, to request additional extrabudgetary resources from Member States."

61. The representative of ARGENTINA said that replacing "with malicious intent" by "for non-peaceful purposes" in preambular paragraph (a) would fundamentally change the meaning of that paragraph.

62. The representative of the ISLAMIC REPUBLIC OF IRAN said that he could go along with the replacement of "with malicious intent" by "unlawfully".

63. The representative of ALGERIA, agreeing with what the representative of France had said about the expression "for non-peaceful purposes", said that her delegation could accept the replacement of "malicious" by "unlawful".

64. The representative of PERU said that in her view it was important that the word "malicious" be retained in preambular paragraph (a). She could go along with the replacement of "the possibility of radioactive materials being used with malicious intent" by "the possible malicious use of radioactive material" — a phrase which appeared in section E of the International Action Plan for Strengthening the International Preparedness and Response System for Nuclear and Radiological Emergencies.

65. The representative of LUXEMBOURG, supporting retention of the word "malicious", said that the authors of the draft resolution had clearly been thinking of acts like the introduction by an individual of radioactive material into the public water supply for the purpose of causing harm. Such an act would undoubtedly be "malicious"; it could hardly be described as "non-peaceful".

66. The representative of the UNITED STATES OF AMERICA said that the adjective "non-peaceful" was inappropriate in the present context. Armed forces in many parts of the world were using radioactive materials for non-peaceful purposes — for example, in radioisotopic thermoelectric generators.

67. The representative of the ISLAMIC REPUBLIC OF IRAN said that radioactive materials were being used widely in — for example — medicine by civilians who might be wrongly accused of using them "with malicious intent". He would like a clear distinction to be made between acts carried out by such civilians, who should be protected from false accusations, and acts carried out by States.

68. The representative of the REPUBLIC OF KOREA said that in his view the authors of the draft resolution had been thinking of acts carried out by individuals or groups of individuals rather than by States.

69. The representative of the UNITED STATES OF AMERICA suggested, in the light of a comment made by the representative of YEMEN, that in preambular paragraph (a) the part reading "the number of radioactive sources ... with malicious intent" simply be deleted.

70. The representative of FRANCE said that, if the deletion suggested by the United States representative was made, for the sake of consistency the words "possible acts with malicious intent" in preambular paragraph (b) should be deleted. Perhaps they could be replaced by the words "acts

involving the malicious use of nuclear or radioactive material”, which appeared in operative paragraph 2.

71. He expressed support for the deletion, suggested by the representative of Switzerland, of the phrase “and where necessary, request additional resources...the Action Plan ” in operative paragraph 6.

72. The CHAIRMAN expressed support for the deletion suggested by the United States representative.

73. The representatives of BELGIUM and MEXICO expressed support for the deletion suggested by the United States representative and for the deletion suggested by the representative of Switzerland.

74. The representative of NAMIBIA expressed support for the deletion suggested by the United States representative.

75. The representative of ALGERIA said that her delegation could go along with the suggestion to end preambular paragraph (a) with the words “recent years”.

76. The representative of NORWAY said that her delegation could also go along with that suggestion on the understanding that the reference to “malicious intent” in preambular paragraph (b) would be retained .

77. The representative of the ISLAMIC REPUBLIC OF IRAN said that his delegation could go along with the suggested deletion in preambular paragraph (a) if corresponding deletions were made in preambular paragraph (b) and operative paragraph 2.

78. The representative of PERU said that her delegation would like the word “malicious” to be retained in preambular paragraph (b) and operative paragraph 2.

The meeting rose at 1.10 p.m.