

# General Conference

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**Forty-Ninth (2005) Regular Session**

## Committee of the Whole

### Record of the Sixth Meeting

*Held at Austria Center Vienna on Thursday, 29 September 2005, at 4.15 p.m.*

**Chairman:** Mr. STRATFORD (United States of America)

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The composition of delegations attending the session is given in document GC(49)/INF/10/Rev.1.

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<sup>1</sup> GC(49)/20.

**Abbreviations used in this record:**

CPF	Country Programme Framework
NPCs	national participation costs
SQP	small quantities protocol

## **24. Amendment to Article VI of the Statute** (GC(49)/49/3, GC(49)/COM.5/L.16)

1. The representative of the REPUBLIC OF KOREA, introducing the draft decision submitted by his country in document GC(49)/COM.5/L.16, said that six years had passed since the General Conference had unanimously adopted resolution GC(43)/RES/19 entitled “Amendment to Article VI of the Statute”. The amendment provided for an enlargement of the membership of the Board of Governors from 35 to 43, thereby bringing the Board’s composition into line with today’s realities.
2. Since 1973, when a number of amendments to Article VI had entered into force, the membership of the Agency had increased from 102 to 139 States. The membership of the Board should be enlarged in the light of that increase, to ensure a more equitable representation of the Agency’s Member States in the Board. Also, the present state of advancement in the technology of atomic energy and the growing number of States that had mastered that technology should be taken duly into account. A more equitable representation of the Agency’s Member States in the Board would significantly increase the effectiveness of the Agency.
3. According to the Director General’s report contained in document GC(49)/3, however, only 42 of the Agency’s 139 Member States had so far ratified the latest amendment to Article VI. That was very disappointing given the fact that resolution GC(43)/RES/19 had been adopted unanimously.
4. Under international law, States which had given their consent to an agreement were expected to act in line with the letter and spirit of that agreement within a reasonable timeframe and to take the measures that the agreement foresaw. They should not conduct themselves indefinitely as though there were no agreement — they should follow through on what they had agreed. Unnecessary delays in ratifying the amendment would defeat its objective and undermine the credibility of the General Conference and of the Agency.
5. His delegation hoped that there would be consensus support for the draft decision.
6. The representative of MOROCCO, subscribing to the statement made by the representative of the Republic of Korea, said that his delegation had been deeply involved in the negotiations leading up to the approval of the amendment.
7. The CHAIRMAN recalled that Ambassador Benmoussa of Morocco had, as Chairman of the Committee of the Whole in 1999, played a very important role in those negotiations, thereby helping to resolve an issue which had been vexing the Agency for at least 15 years.
8. The representative of PAKISTAN, expressing support for the draft decision, said that the membership of the Board needed to be enlarged in the light of the present global situation. Those Member States which had not yet ratified the latest amendment to Article VI should expedite their ratification procedures.
9. The representative of CROATIA, expressing support for the draft decision, said that Croatia had been one of the first States to ratify the amendment.
10. The representative of CANADA said that his country had already ratified the amendment and would like to see it being ratified by sufficient Member States for it to enter into force soon. However, given the fact that the item “Amendment to Article VI of the Statute” had last been on the General Conference’s agenda in 2003, his delegation wondered why the draft decision envisaged an item

entitled “Amendment to Article VI of the Statute” being placed on the agenda for the General Conference’s 2006 session rather than its 2007 session.

11. The representative of the REPUBLIC OF KOREA said that progress towards the amendment’s entry into force had been very slow. Greater efforts on the part of the international community were necessary, and his delegation hoped that further consideration of the issue by the General Conference in one year’s time rather than two years’ time would result in faster progress.

12. The representative of CANADA said that his delegation, which hoped that the General Conference would take the draft decision, had raised the timing question merely because it was concerned about the workload of the General Conference.

13. The representative of the SYRIAN ARAB REPUBLIC suggested replacing the word “urges” in the third paragraph of the draft decision by “invites” and said that in her view the issue of the latest amendment to Article VI should be considered by the General Conference only every two years.

14. The representative of PAKISTAN said that consideration of the issue only every two years was unlikely to result in faster progress towards the amendment’s entry into force and that he would not like to see “urges” replaced by “invites”.

15. The representative of the SYRIAN ARAB REPUBLIC suggested, in response to the statement made by the representative of Pakistan, that “urges” be replaced by “encourages”.

16. The CHAIRMAN took it that the Committee wished to recommend to the General Conference that it adopt the draft decision contained in document GC(49)/COM.5/L.16 with “urges” replaced by “encourages” in the third paragraph.

17. It was so agreed.

## **16. Nuclear security — measures to protect against nuclear terrorism (resumed)** (GC(49)/COM.5/L.13)

18. The CHAIRMAN, summing up the discussion of the draft resolution contained in document GC(49)/COM.5/L.13 during the previous meeting, said that: the representative of the Islamic Republic of Iran had questioned the need for preambular paragraph (b); the representative of Morocco had suggested that preambular paragraph (f) begin with “Recalling” rather than “Noting”; the representative of the Islamic Republic of Iran had expressed the view that the word “valuable” in preambular paragraph (g) should be deleted; it had been suggested informally to him that the word “also” be inserted before “relevant” in preambular paragraph (l); the representative of Malaysia had suggested that “2005” be inserted after “September” in operative paragraph 2; concern had been expressed about the phrase “on a voluntary basis” in operative paragraph 3; and the representative of Malaysia had expressed concern that operative paragraph 9 appeared to suggest that all Member States should support certain Agency activities regardless of whether they were capable of doing so.

19. He assumed that the suggested replacement of “Noting” by “Recalling” in preambular paragraph (f), the suggested insertion of “also” before “relevant” in preambular paragraph (l) and the suggested insertion of “2005” after “September” in operative paragraph 2 were acceptable.

20. As regards the concern expressed by the representative of Malaysia about operative paragraph 9, he suggested that the paragraph be amended to read “ ... urges Member States to provide, according to their capabilities, continued support ...”.
21. The representative of CUBA, having expressed support for the draft resolution as a whole, noted that preambular paragraph (g) was identical with preambular paragraph (h) of resolution GC(48)/RES/11 adopted in 2004 except that it contained the word “valuable” before “contributions” and the words “and initiatives by” between “actions of” and “the international community”. His delegation preferred the wording used in 2004.
22. The CHAIRMAN suggested the replacement of “constitute valuable contributions to” by “strengthen”.
23. The representative of the ISLAMIC REPUBLIC OF IRAN said that he too preferred the wording used in 2004.
24. The representative of FRANCE, referring to preambular paragraph (g), said that a number of initiatives had been taken by various States and groups of States and that his delegation would like the words “and initiative by” to be retained.
25. With regard to the comment made by the representative of the Islamic Republic of Iran about the word “valuable” in that paragraph, his delegation could go along with something along the lines of the wording just suggested by the Chairman.
26. The representative of CUBA said that not all countries agreed with the initiatives to which reference was made in preambular paragraph (g). In a spirit of compromise, however, his delegation would go along with the retention of “and initiatives by” — but it would prefer the simple deletion of “valuable” to the wording suggested by the Chairman.
27. The representative of the ISLAMIC REPUBLIC OF IRAN said that his country was one of those which did not agree with the initiatives in question.
28. The CHAIRMAN took it that his suggestion for amending operative paragraph 9 was acceptable to the representative of Malaysia and asked whether there were any other points regarding the draft resolution which delegations wished to raise.
29. The representative of the ISLAMIC REPUBLIC OF IRAN said that he would really like operative paragraph 9 to be deleted, but, as that paragraph appeared in resolution GC(48)/RES/11, he would not press the point. However, the meaning of “nuclear forensics” was not clear to his delegation. Also, his delegation would like to see the words “as appropriate” inserted after the word “support”.
30. The CHAIRMAN proposed that the Committee postpone further discussion of the draft resolution pending the conclusion of informal consultations on preambular paragraphs (b) and (g) and operative paragraph 9.
31. It was so agreed.

## **17. Strengthening of the Agency's technical cooperation activities** (resumed) (GC(49)/COM.5/L.1/Rev.2 and Rev.3)

32. The CHAIRMAN invited Mr. Poptchev of Bulgaria, one of the Committee's Vice-Chairmen, who had been chairing informal consultations on a revised version of the draft resolution contained in document GC(49)/COM.5/L.1, to introduce the text contained in document GC(49)/COM.5/L.1/Rev.2.

33. The representative of BULGARIA said that ad referendum agreement had been reached on all paragraphs of the text with one exception and thanked Mr. Eloumai of Morocco, the Committee's other Vice-Chairman, for his assistance in the reaching of that agreement.

34. The only paragraph not agreed upon was operative paragraph 4 bis, on which discussions were continuing between the delegations of Brazil and the Netherlands.

35. The CHAIRMAN took it that the Committee could accept preambular paragraphs (a) to (w).

36. It was so agreed.

37. The representative of the SYRIAN ARAB REPUBLIC suggested deleting the words "strengths and/or" in preambular paragraph (x).

38. The DIRECTOR OF THE DIVISION OF PLANNING AND COORDINATION said that the paragraph would be acceptable to the Secretariat with or without those words.

39. The CHAIRMAN assumed that the deletion of "strengths and/or" in preambular paragraph (x) was acceptable to the Committee and that the Committee could accept preambular paragraphs (y) to (bb).

40. It was so agreed.

41. The representative of SOUTH AFRICA, referring to preambular paragraph (bb bis), said he would really prefer that it be deleted. However, he could go along with its retention if the word "support" was replaced by "efforts" and the words "to projects on" were replaced by "towards".

42. The CHAIRMAN took it that the Committee could accept those amendments to preambular paragraph (bb bis) and that it could accept preambular paragraph (cc).

43. It was so agreed.

44. The representative of AUSTRALIA, referring to operative paragraph 1, said that the concept "SMART" usually referred to the objectives of a partnership and not to the partnership itself. He requested that the paragraph be amended so as to reflect that.

45. The CHAIRMAN proposed amending the end of that paragraph to read "... model arrangement and agreement for these partnerships, to assure that their objectives are Specific, Measurable, Achievable, Realistic & Timely (SMART)".

46. He took it that his proposal was acceptable and that the Committee could accept operative paragraphs 1 to 4.

47. It was so agreed.

48. The CHAIRMAN, recalling the discussions still under way on operative paragraph 4 bis, took it that the Committee could accept operative paragraphs 5 to 18.

49. It was so agreed.

50. The representative of the NETHERLANDS, referring to operative paragraph 4 bis, said that, as far as she was aware, agreement had not been reached in the informal consultations on the replacement of “demand-driven” by “needs-driven”.

51. In *The Technical Cooperation Strategy: the 2005 Review* (GOV/INF/2002/8/Mod.1), it was stated that “The main aims of the 1997 Technical Cooperation Strategy [were] to ensure a demand driven approach to technical cooperation”.

52. The representative of GREECE said it was logical that the Agency’s technical cooperation programmes should be “demand-driven”. Technical cooperation projects could not be imposed on a Member State.

53. The representative of CANADA suggested that a reference to Country Programme Frameworks be added in operative paragraph 4 bis, which might then read “Stresses the need to keep the Technical Cooperation Programme needs-driven in all areas of concern to Member States, consistent with the Country Programme Frameworks”. That would echo the wording of preambular paragraph (x).

54. The representative of BRAZIL requested time to consider that suggestion.

55. The representative of SYRIAN ARAB REPUBLIC, supported by the representative of PERU, said that Country Programme Frameworks (CPFs) were intended to provide the Secretariat with information as to countries’ needs and that all activities within the technical cooperation programme of a particular country would not necessarily be consistent with its CPF.

56. The CHAIRMAN suggested amending operative paragraph 4 bis to read “Stresses the need to keep the Technical Cooperation Programme focussed clearly on the areas of concern to Member States”.

57. The representatives of SYRIAN ARAB REPUBLIC and CANADA agreed with that suggestion.

58. The representative of BRAZIL said that he would need more time to consider that suggestion also.

59. The representative of AUSTRALIA suggested that, since preambular paragraph (y) contained language very similar to that in operative paragraph 4 bis, it be moved to the operative part of the draft resolution and substituted for operative paragraph 4 bis.

60. The CHAIRMAN and the representative of BRAZIL expressed support for that suggestion.

61. The CHAIRMAN said that the Committee seemed very close to reaching an agreement on operative paragraph 4 bis and suggested a break for informal consultations.

**The meeting was suspended at 5.55 p.m. and resumed at 6.35 p.m.**

62. The CHAIRMAN asked the representative of the Netherlands to report on the informal consultations which had taken place.

63. The representative of the NETHERLANDS, having expressed gratitude to Mr. Poptchev of Bulgaria for coordinating the informal consultations, said that agreement had been reached on substituting preambular paragraph (y) for operative paragraph 4 bis and amending it to read “Stresses

the need to strengthen technical cooperation activities and to continuously enhance the effectiveness and efficiency of the Technical Cooperation Programme according to the requests and needs of Member States in all areas of concern”.

64. The CHAIRMAN took it that the resulting wording of operative paragraph 4 bis was acceptable to the Committee.

65. It was so agreed.

66. The representative of the PHILIPPINES, requesting the Committee to return to operative paragraph 5, asked why it spoke of “national programme implementation” whereas operative paragraph 5 of resolution GC(48)/RES/12 spoke of “project implementation”.

67. The representative of MOROCCO replied that document GOV/2004/46 — the document in which the NPC mechanism had been proposed — had contained the sentence “Project implementation will commence on receipt of the first payment.” Operative paragraph 5 of resolution GC(48)/RES/12 and operative paragraph 5 of the draft resolution contained in document GC(49)/COM.5/L.1 had been based partly on that sentence. During the informal consultations, it had been agreed that, as the Secretariat usually spoke of a country’s “national programme”, consisting of a number of projects, “national programme implementation” should be substituted for “project implementation”.

68. The representative of the PHILIPPINES expressed concern about the substitution. The Board of Governors had approved the NPC mechanism, so that the substitution meant a departure from wording which the Board had presumably considered appropriate.

69. The HEAD OF THE NON-PROLIFERATION AND POLICYMAKING SECTION, OFFICE OF LEGAL AFFAIRS, said that, since operative paragraph 5 did not directly quote a decision of the Board, a fair amount of freedom could be exercised in the choice of wording.

70. The DIRECTOR OF THE DIVISION OF PLANNING AND COORDINATION, DEPARTMENT OF TECHNICAL COOPERATION, said that the term “national programme” was more in line with the operation of the NPC mechanism.

71. The representative of the SYRIAN ARAB REPUBLIC asked whether a country’s national programme consisted of both ongoing and new projects and, if so, whether only new projects would be blocked by the Secretariat in the event of non-payment of NPCs.

72. The DIRECTOR OF THE DIVISION OF PLANNING AND COORDINATION, DEPARTMENT OF TECHNICAL COOPERATION, replied to both questions in the affirmative.

73. The representative of MOROCCO said that the word “commence” could only apply to something which had not yet started — new projects in the case of national programmes of technical cooperation with the Agency. Perhaps operative paragraph 5 could be amended to read “ ... to ensure that the implementation of new projects within the national programme will commence on the receipt ...”.

74. The CHAIRMAN asked whether that wording would create any problems for the Secretariat.

75. The DIRECTOR OF THE DIVISION OF PLANNING AND COORDINATION, DEPARTMENT OF TECHNICAL COOPERATION, said that it would not.

76. The representative of MALAYSIA recalled in the draft resolution contained in document GC(49)/COM.5/L.1 operative paragraph 5 had spoken of “project implementation in 2005”. There was no reference to the year 2005 in the paragraph now under consideration, so that uncertainty might exist

as to whether a principle or a current practice was being discussed — the former would require “project implementation” and the latter “programme implementation”.

77. The HEAD OF THE NON-PROLIFERATION AND POLICYMAKING SECTION, OFFICE OF LEGAL AFFAIRS, after consultation with the representative from the Department of Technical Cooperation, said that the Department of Technical Cooperation intended to adopt the approach described in the draft resolution for future years.

78. The representative of MALAYSIA said that it was therefore a principle which was under discussion and suggested wording along the lines of “ ... to ensure that project implementation in the first year of the biennium will commence on the receipt ...”.

79. The CHAIRMAN, having consulted with the Secretariat, suggested that operative paragraph 5 be amended to read “Requests the Secretariat to ensure that commencement of projects within the national programme will take place upon the receipt of at least the minimum payment of the NPCs ...”.

80. The representatives of MALAYSIA and MOROCCO said that they could go along with that wording.

81. The CHAIRMAN assumed that the wording which he had just suggested for operative paragraph 5 was acceptable to the Committee.

82. It was so agreed.

83. The representative of the NETHERLANDS requested the Secretariat to prepare a revised version of the draft resolution contained in document GC(49)/COM.5/L.1/Rev.2 incorporating the agreed amendments.

84. The representative of BRAZIL asked whether the representative of the Netherlands intended to reopen discussion on any part of the draft resolution.

85. The representative of the NETHERLANDS replied that she did not.

**The meeting was suspended at 7 p.m. and resumed at 8.25 p.m.**

86. The CHAIRMAN, drawing attention to the draft resolution contained in document GC(49)/COM.5/L.1/Rev.3, which incorporated the amendments agreed upon earlier in the meeting, asked whether the Committee wished to recommend its adoption by the General Conference.

87. It was so agreed.

## **19. Strengthening the effectiveness and improving the efficiency of the safeguards system and application of the Model Additional Protocol (resumed)** (GC(49)/COM.5/L.12/Rev.1)

88. The CHAIRMAN recalled that the Committee had, during its third meeting, established a working group under the chairmanship of Ambassador Donoghue of Ireland to consider the draft resolution contained in document GC(49)/COM.5/L.12. He invited Ambassador Donoghue to introduce the draft resolution contained in document GC(49)/COM.5/L.12/Rev.1.

89. The CHAIRMAN OF THE WORKING GROUP, having thanked those delegations which had participated in the negotiations on the draft resolution for their patience and cooperation, said that there was one paragraph — operative paragraph 3 — regarding which some delegations had problems.

90. In the negotiations it had been agreed:

- that title of the draft resolution should be changed to “Strengthening the Effectiveness and Improving the Efficiency of the Safeguards System and Application of the Model Additional Protocol”;
- that in preambular paragraph (j) the phrase “and to adopt the Model Additional Protocol as the norm for verifying compliance with the Treaty on the Non-Proliferation of Nuclear Weapons” should be deleted and that the first part of the paragraph should be amended to read “ ... in his report “The larger Freedom Towards Development, Security and Human Rights for All” of March 2005, inter alia, to strengthen ...”;
- that in preambular paragraph (k) the words “are central to” should be replaced by “constitute one of the important instruments in enhancing”;
- that a paragraph reading “Noting that the 2005 Review Conference of the States Party to the Treaty on the Non-Proliferation of Nuclear Weapons was unable to adopt a final consensus on substantive matters, including on the strengthening of Agency safeguards” should be added as new preambular paragraph (q);
- that in operative paragraph 6 the inadvertently omitted words “to supply the Agency” should be inserted before “with all the information required”;
- that operative paragraph 7 should be amended to read “Encourages States ... with the Agency consistent with the Board decision of 20 September 2005 with regard to SQPs, and requests the Secretariat to assist States with SQPs, including non-members of the Agency, through available resources, in the establishment and maintenance of their State Systems of Accounting for and Control of Nuclear Material”;
- that in operative paragraph 9, after “to create an advisory committee of the Board”, the phrase “, in whose work other Member States may participate” should be added;
- that after operative paragraph 9 a paragraph reading “Attaches great importance to the committee’s making every effort to take any decisions or make any recommendations by consensus within the Agency’s statutory responsibilities” should be added;
- that in operative paragraph 14 (formerly paragraph 13) the phrase “it is only for States with both a comprehensive safeguards agreement and an additional protocol in force, or being otherwise applied, that Agency safeguards can provide credible assurance” should be replaced by “, for States with both a comprehensive safeguards agreement and an additional protocol in force, or being otherwise applied, Agency safeguards can provide increased assurances”;
- that the wording of operative paragraph 15 (formerly paragraph 14) should be changed from “Affirms that a comprehensive safeguards agreement together with an additional protocol now represents the verification standard” to “Notes that, in the case of a State with a comprehensive safeguards agreement supplemented by an additional protocol in force, these measures represent the enhanced verification standard for that State”;
- that in operative paragraph 21 (formerly paragraph 20) the phrase “the Secretariat’s efforts to strengthen its safeguards capabilities by investigating and analysing illegal

nuclear supply and procurement networks” should be replaced by “efforts to strengthen safeguards, including the Secretariat’s activities in verifying and analysing information provided by Member States on nuclear supply and procurement” and that the word “further” in the phrase “to further cooperate” should be deleted; and

- that after operative paragraph 22 (formerly paragraph 21) a paragraph 23 reading “Requests that any new or expanded actions in this resolution be subject to the availability of resources, without detriment to the Agency’s other statutory activities” should be added.

91. The CHAIRMAN said that he would report to the General Conference that there was agreement in the Committee on the draft resolution contained in document GC(49)/COM.5/L.12/Rev.1 with the exception of one operative paragraph.

92. It was so agreed.

## **16. Nuclear security — measures to protect against nuclear terrorism (resumed)** (GC(49)/COM.5/L.13)

93. The CHAIRMAN recalled that during the previous meeting the representative of France had had no objections to the suggested replacement of “Noting” by “Recalling” in preambular paragraph (f) of the draft resolution contained in document (GC(49)/COM.5/L.13 or to the suggested insertion of “2005” after “September” in operative paragraph 2. He assumed that those changes were acceptable to the Committee.

94. It was so agreed.

95. The CHAIRMAN invited Mr. Elmouni of Morocco, one of the Committee’s Vice-Chairmen, to report to the Committee on the informal consultations which had been taking place on the draft resolution.

96. The representative of MOROCCO thanked those delegations which had participated in the informal consultations for their flexibility and cooperation, in particular the delegations of Cuba, France, Germany, the Islamic Republic of Iran and Pakistan.

97. Regarding preambular paragraph (g), it had been agreed that the words “and initiatives by” and “valuable” would be dropped, so that the paragraph would be identical with preambular paragraph (h) of resolution GC(48)/RES/11 adopted in 2004.

98. It had been agreed that in preambular paragraph (l) the word “also” should be inserted before “relevant”.

99. Regarding operative paragraph 9, it had been agreed that the phrase “in the field of nuclear forensics” should be replaced by “in the field of nuclear forensic tests and analysis” and that the words “according to their capabilities,” should be inserted after “urges Member States to provide,” and the words “as appropriate” should be inserted after “continued support”.

100. The representative of FRANCE said that in operative paragraph 2 the phrase “its September 2005 session” should be amended to “its September 2005 meetings”.

101. The CHAIRMAN took it that the Committee wished to recommend to the General Conference that it adopt the draft resolution contained in document GC(49)/COM.5/L.13 with the suggested amendments.

102. It was so agreed.

103. The representative of the ISLAMIC REPUBLIC OF IRAN said that, although his delegation had joined in the consensus on the draft resolution, it continued to believe that reference should not be made in such resolutions to groups of countries like the Group of Eight. There were other groups of countries equally deserving of mention in such resolutions — for example, the Non-Aligned Movement.

### – **Closing of the meeting**

104. The CHAIRMAN, closing the meeting, thanked the two Vice-Chairmen for their support and all delegations for the spirit of cooperation displayed by them. He had greatly enjoyed chairing the Committee, which had done a lot of useful work during the past few days.

**The meeting rose at 9 p.m.**