
Fifty-eighth regular session

Committee of the Whole

Record of the Fourth Meeting

Held at Headquarters, Vienna, on Wednesday, 24 September 2014, at 3.15 p.m.

Chairperson: Mr STUART (Australia)

Later: Ms ALGABRE (Philippines)

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¹ GC(58)/22.

Abbreviations used in this record:

SLC State-level concept

17. Strengthening the effectiveness and improving the efficiency of Agency safeguards (continued)

(GC(58)/COM.5/L.2)

1. The CHAIRPERSON invited the Committee to continue its discussion of the draft resolution set out in document GC(58)/COM.5/L.2, beginning with the operative part, paragraphs 1 to 9.

2. The representative of BRAZIL said that his delegation wished to propose a new operative paragraph on behalf of Algeria, Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Egypt, Malaysia, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Singapore, South Africa, Switzerland, Uruguay and the Bolivarian Republic of Venezuela. The paragraph would read as follows: “Requests the Secretariat to remain ready to assist, in accordance with the Statute, with verification tasks under nuclear disarmament or arms control agreements that it may be requested to carry out by the States parties to such agreements, and to ensure sustainable in-house capacity to fulfil this responsibility”. Preambular paragraph (n) of the draft resolution welcomed the work the Agency had undertaken in verifying nuclear material from dismantled nuclear weapons, but there was no positive recognition of such work in the operative part. The new paragraph was based on the first two paragraphs of the Agency’s Medium Term Strategy for 2012–2017, and was in accordance with the Statute and previous General Conference resolutions. It neither created new roles nor expanded the scope of the statutory activities the Agency had performed in the past, it simply highlighted the functions that the Secretariat might be called upon to perform, subject to endorsement by the Agency’s Policy-Making Organs.

3. The representative of the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, referring to the proposal made by the representative of Brazil, said that it would be preferable to use the exact wording found in the Medium Term Strategy. It should therefore begin “Notes that the Agency must remain ready to assist” and the words “in all relevant areas” should be added after “in-house capacity”.

4. The representative of PAKISTAN, reiterating his delegation’s long-standing position on the matter, noted that the Agency’s Statute did not prescribe any specific type of safeguards agreement. Since paragraph 6 did just that, it contradicted the Statute and should be deleted.

5. The representative of INDIA, noting that all operative paragraphs in the draft resolution were preceded by the introductory paragraph that began “Consistent with the respective safeguards undertakings of Member States”, and that paragraph 5 made reference to State parties to the NPT that had not yet concluded comprehensive safeguards agreements with the Agency, said that urging all States to bring into force comprehensive safeguards agreements in paragraph 6 was inconsistent with the previous wording. He therefore proposed that paragraph 6 should read: “Bearing in mind the importance of Agency safeguards, urges all States party to the NPT which have yet to bring into force comprehensive safeguards agreements to do so as soon as possible;”.

6. The representative of the RUSSIAN FEDERATION said that his delegation wished to propose a new paragraph 2 bis, reading: “Further stresses that nuclear material accountancy and its verification in the field should remain at the core of safeguards implementation and should continue to be the primary basis for drawing conclusions;”. The paragraph highlighted a key principle that had come up in multilateral discussions concerning safeguards earlier in the year and in the Director General’s

report on reforming safeguards. Therefore, it made sense to reflect that principle in a resolution of the General Conference.

7. The representative of BRAZIL said that his delegation wished to propose a new paragraph 4 bis, based on the discussions of the Supplementary Document to the Report on The Conceptualization and Development of Safeguards Implementation at the State Level (GOV/2013/38) set out in document GOV/2014/41. The new paragraph would read: “Stresses further the importance of the Secretariat implementing safeguards in strict accordance with the scope and the respective rights and obligations under the relevant safeguards agreements concluded by the Agency with individual States”. It would serve to balance paragraphs 3 and 4, which both emphasized States’ compliance with their safeguards obligations.

8. The representative of ALGERIA expressed support for the proposal made by the representative of Brazil for a new paragraph 4 bis as it emphasized the need for the Agency to respect safeguards agreements signed by Member States. Introduction of such a paragraph would address the concerns widely expressed by Member States during the consultations held over the previous year. The Supplementary Document set out in document GOV/2014/41 also addressed that issue, and the Director General had provided assurances to the Board of Governors in that regard at its meeting the previous week.

9. The representative of AUSTRALIA said that the proposal made by the representative of the Russian Federation for a new paragraph 2 bis was not acceptable to his delegation as it was wrong to suggest that nuclear material accountancy was the primary basis for drawing conclusions on safeguards.

10. With regard to the proposal made by the representative of Brazil for a new paragraph 4 bis, he said that the proposed wording appeared to be critical of the Agency and suggest that it would not otherwise be working within its rights and obligations. Since the issue was related to the debate on the Supplementary Document set out in document GOV/2014/41, he suggested that its discussion could be incorporated into that of paragraph 21.

11. The representative of CANADA agreed with the concerns expressed by the representative of Australia with regard to the wording of the proposed paragraph 2 bis. He suggested replacing the words “the primary basis for drawing conclusions” with “the primary basis for deriving a conclusion on the non-diversion of declared nuclear material” .

12. The representative of SWEDEN asked for the Secretariat to express its views on the proposed paragraph 2 bis.

13. The DIRECTOR OF THE DIVISION OF CONCEPTS AND PLANNING, DEPARTMENT OF SAFEGUARDS, said that the new wording proposed by the representative of Canada was totally in line with the Supplementary Document set out in document GOV/2014/41 and, in her view, was preferable to that proposed by the representative of the Russian Federation.

14. The CHAIRPERSON invited delegations to comment on paragraphs 10 to 21.

15. The representative of the RUSSIAN FEDERATION said that paragraph 21 was unsatisfactorily worded in the view of his delegation and others, and he proposed rewording it to read: “Notes the Director General’s report to the Board of Governors in September 2014 on the Conceptualization and Development of Safeguards Implementation at the State level, and requests the Director General to produce, after consulting with Member States, a new report on the basis of the 2014 document for consideration and action by the Board of Governors before the fifty-ninth (2015) session of the General Conference;”. The new wording was based on the corresponding paragraph in the previous year’s resolution GC(57)/RES/13 with necessary adjustments.

16. He proposed a new paragraph 21 bis, reading: “Stresses that the implementation of safeguards in the context of the SLC should not entail the introduction of any additional rights or obligations on the part of either States or the Agency, nor any modification in the interpretation of existing rights and obligations under safeguards agreements and, where applicable, additional protocols;”. That wording reproduced the language contained in the Supplementary Document set out in document GOV/2014/41.

17. Next, he proposed a new paragraph 21 ter, reading: “Requests the Director General to include in his new report further clarifications with regard to the list of State-specific factors to make it objective and exhaustive;”.

18. He further proposed a new paragraph 21 quater, reading: “Affirms that the State-level concept should not become a substitute for an additional protocol, it should not be designed as a means for the Agency to obtain from a State without an additional protocol in force the information and access provided for in the additional protocol;”. The language was taken from footnote 11 to the Supplementary Document.

19. He then proposed a new paragraph 21 quinquies, reading: “Affirms that attempts to achieve optimization of safeguards implementation, both in terms of effectiveness and efficiency, should not lead to shifting verification effort from one group of States to another;”. That principle was reflected in paragraph 19 of the Supplementary Document.

20. Next, he proposed a new paragraph 21 sexies, reading: “Encourages the Agency, within the framework of existing safeguards agreements, to continue to concentrate its verification effort on sensitive stages of the nuclear fuel cycle and on nuclear material from which nuclear weapons or other nuclear explosive devices could readily be made;”. That wording was also in keeping with the Supplementary Document.

21. He proposed a new paragraph 21 septies, reading: “Directs the Secretariat to thoroughly describe to the Board of Governors for its decision and be prepared to defend in an open discussion in the Board the information, which served as the basis for its assessment and conclusions with regard to identification of undeclared activities in States having no additional protocol in force if the Secretariat finds that the State has not provided necessary cooperation;”. The importance of such a mechanism had been emphasized repeatedly over the years. It would help Member States to receive assurances that all information and the way it was used would not inject into the process unverified or deliberately slanderous information.

22. Lastly, he proposed a new paragraph 21 octies, reading: “Affirms that the acquisition path analysis should be focused on nuclear material not on weaponization;”. That was an important principle and it was not sufficient to reflect it in a document of which the Board of Governors had taken note, which implied neither approval nor disapproval. All countries had already fully subscribed to the principles reflected in the paragraphs he had proposed.

23. The representative of SPAIN suggested that some of the proposals made by the representative of the Russian Federation could be incorporated into the proposal made by the representative of Brazil for a new paragraph 4 bis. His delegation could not, however, accept any proposals that went beyond the scope of the Supplementary Document and the assurances provided by the Director General and Deputy Director General in that regard.

24. The representative of CANADA said that, since most of the proposals made by the representative of the Russian Federation made reference to the Supplementary Document, for the sake of concision it would suffice to make a direct reference to it in the draft resolution. The other proposals would require closer consideration.

25. The representative of the REPUBLIC OF KOREA said that her delegation would need to study further the proposals made by the representative of the Russian Federation. There was no need, however, to reproduce paragraphs from the Supplementary Document or to request the Director General to produce another report on the issue. The need for further dialogue with the Secretariat was already covered by the existing paragraph 21.

26. The representative of SOUTH AFRICA said that very important work had been done on the State-level concept over the previous year, resulting in clarifications, additional information and important assurances from the Director General and the Deputy Director General, which were reflected in the Chairman's conclusions on item 7(a) of the agenda of the Board of Governors the previous week². His country attached particular importance to the Supplementary Document, which would be a point of reference should any inconsistency arise. The concept would not entail the introduction of any additional rights and obligations in the implementation of safeguards and the Agency would continue to take a technical and objective approach. Moreover, it would be applicable to all States strictly within the scope of their safeguards agreements. When developing and implementing the State-level concept for a given State, the Agency would consult with the State or regional authorities on the implementation of measures in the field. While it was important to proceed on the basis of those assurances, his delegation was ready to work with others on refining the language.

27. The representative of BRAZIL said that the shortcoming in paragraph 21 was the absence of an explicit reference to the assurances given by the Director General and Deputy Director General. There could be a stand-alone paragraph in which a list of those assurances might be given or a similar solution could be found to put that right.

Ms Algabre (Philippines), Vice-Chair, took the Chair.

28. The representative of SWEDEN said that the proposals for new paragraphs following paragraph 21 made by the representative of the Russian Federation deviated from the constructive dialogue on the State-level concept held between Member States and the Secretariat over the preceding two years. Her delegation was not inclined to accept any new text that might further polarize discussions on the issue.

29. The representative of AUSTRALIA said that his delegation might be able to find a way of accommodating those proposals made by the representative of the Russian Federation that were fully in line with the Supplementary Document, but could not accept those that went beyond it.

30. The representative of ARGENTINA, referring to the existing paragraph 21, said that her delegation welcomed the clarifications and additional information provided in the Supplementary Document, but found the final clause — “also welcomes the intention of the Secretariat to continue to engage in open, active dialogue on safeguards matters with Member States” — too vague. Argentina still had specific technical and legal concerns for which further assurances and clarifications were needed. The proposals made by the representative of the Russian Federation might be helpful in that regard.

31. The representative of UNITED KINGDOM suggested that a specific reference should be made to “assurances” in paragraph 21 and discussions would be needed to decide how best that could be achieved. Listing those assurances in the text would be both repetitive and controversial.

² GOV/OR.1389 paras 17–39.

32. The representative of EGYPT said that his delegation agreed that paragraph 21 should include more specific references to the assurances sought by his and many other delegations at the technical meetings on the State-level concept. He noted that the reference in paragraph 21 to “dialogue on safeguards matters” was rather vague, even if it referred to issues set out in the Supplementary Document. The 2013 resolution on the same issue had specified a clear mandate for the Secretariat and it would be useful if the nature of the dialogue on safeguards matters with Member States could be made more specific.

33. He asked the Secretariat to explain the meaning of “an additional protocol being otherwise applied” in paragraph 13.

34. The DIRECTOR OF THE DIVISION OF CONCEPTS AND PLANNING, DEPARTMENT OF SAFEGUARDS, said that it referred to a State’s option to apply an additional protocol provisionally pending its entry into force.

35. The representative of BELARUS said that his country understood the logic and rationale behind the amendments proposed by the Russian Federation to paragraph 21 and the new paragraphs thereafter, which were a good point of departure for further discussion.

36. The representative of BRAZIL, referring to the comments made by the representative of Argentina on the second part of paragraph 21, agreed that the language could be improved as the Supplementary Document represented part of an ongoing process. It should also be stated that the Secretariat’s further development and implementation of the State-level concept would be in consultation with Member States.

37. He proposed adding the document symbol “(GOV/2014/41 and Corrigenda)” after “the Supplementary Document to the Report on the Conceptualization and Development of Safeguards Implementation at the State Level” in paragraph 21. He then proposed inserting an additional paragraph 21 bis, reading:

“Stresses the importance of the assurances provided in the Supplementary Document to the Report on the Conceptualization and Development of Safeguards Implementation at the State Level and the associated statements by the Director General and the Deputy Director General for Safeguards at the Board of Governors, with regard to the conceptualization, development and implementation of the SLC, which include, inter alia, the statements that:

“– The SLC does not, and will not, entail the introduction of any additional rights or obligations on the part of either States or the Agency, nor does it involve any modification in the interpretation of existing rights and obligations;

“– States will not be required to provide any additional information beyond their existing legal obligations;

“– The SLC will be applied to all States with safeguards agreements;

“– The SLC is not a substitute for the additional protocol, and that measures contained in the additional protocol will continue to be implemented only in States which have such an instrument in force;

“– Nuclear material accountancy and its verification in the field will remain at the core of safeguards implementation;

“– Routine inspection efforts agreed between the Agency and a State will be kept to a minimum consistent with effective implementation within the limits specified in the subsidiary arrangements to a safeguards agreement;

“– Acquisition path analyses are structured, technical methods and do not involve judgments about a State’s intention to pursue any such path;

“– Safeguards-relevant information means safeguards agreement-relevant information;”

38. A brief reference could be made to assurances, or a longer list supplied. His country was flexible in that regard.

39. He also proposed inserting an additional paragraph 21 ter, reading:

“Notes that the Supplementary Document is part of a continuing process of consultations, not the end, and stresses that the development and implementation of the SLC will require close consultation and coordination with Member States, with the results being submitted for the consideration of the Board of Governors;”

40. The representative of SAUDI ARABIA said that paragraph 21 failed to take account of the comments made by several delegations.

41. The representative of the UNITED STATES OF AMERICA noted that the language of paragraph 21 could be changed to reflect the assurances provided by the Secretariat before the Board of Governors. The amendments to paragraph 21 proposed by the representative of the Russian Federation went substantially beyond those assurances, however. For example, the Board had not agreed to issue a specific document within a given time frame. In particular, the proposed paragraph 21 septies on directing the Secretariat to describe thoroughly the source of its information seemed to exceed the scope of the discussions held in the Board.

42. The representative of the RUSSIAN FEDERATION welcomed the fact that in essence no objections had been raised with regard to the principles his country wished to see enshrined in the draft resolution. Given the importance of safeguards reform, considerations of form did not seem to present insurmountable problems. The proposals had been based on open-ended consultations, the Supplementary Document, and extensive dialogue, including with the Secretariat. The Russian Federation understood that those were precisely the principles underlying the safeguards reform and would form the basis of the Secretariat’s work once the State-level concept was introduced in practice. His delegation was happy to consider suggestions from other countries in relation to paragraph 21.

43. The representative of FINLAND said that the fact that her delegation had not yet commented on the additions to paragraph 21 proposed by the Russian Federation did not imply that it agreed with them.

44. The CHAIRPERSON invited delegations to comment on paragraphs 22 to 30.

45. The representative of the RUSSIAN FEDERATION proposed a new paragraph 29 bis reading as follows: “Welcomes the intention of the Secretariat to continue to engage in open dialogue on safeguards matters with States to increase transparency and build confidence and to interact with them on the implementation of safeguards, including in the context of the State-level concept;”

46. He also proposed a new paragraph 29 ter, reading: “Notes the statement of the Director General that the focus of the Agency for the immediate future is on updating existing State-level approaches

for 53 States under integrated safeguards and requests that the Director General report to the Board of Governors on progress made in this regard and the associated impact on effectiveness and efficiency so that State-level approaches could be properly developed for other States;”.

47. Lastly he proposed a new paragraph 29 quater, reading: “Instructs the Secretariat in the future development and implementation of State-level approaches for individual Member States to consult properly with those States and relevant regional systems of accounting and control, taking into account their views;”.

48. The representative of the UNITED KINGDOM, supported by the representatives of SPAIN, SWEDEN, the REPUBLIC OF KOREA, ROMANIA and AUSTRALIA said that as the proposals just made by the representative of the Russian Federation drew on the language used in the Supplementary Document, it would be more apposite to include the principles mentioned in the discussion of paragraph 21, where attempts should be made to refer to the assurances provided succinctly.

49. The representative of SPAIN said that the Committee should discuss the various ways in which aspects of the Supplementary Document could be included in the draft resolution. He noted, however, that paragraph 29 ter proposed by the representative of the Russian Federation did not accurately reflect the Supplementary Document, which stated that not only would the existing State-level approaches for 53 States be updated, but also that State-level approaches would be progressively developed for other States. If reference was to be made to the assurances provided by the Director General, those must not be quoted selectively.

50. The representative of the REPUBLIC OF KOREA noted that paragraph 29 quater as proposed by the Russian Federation appeared to imply that the Secretariat was not currently consulting States and regional systems of accounting and control properly.

Mr Stuart (Australia) resumed the Chair.

51. The representative of FINLAND said that the current reference in the draft resolution to the Supplementary Document as a whole should be retained, with a reference to assurances that might be useful to States. That would be more helpful than using language that went beyond that contained in the Supplementary Document or citing only parts of it.

52. The representative of HUNGARY noted that the State-level concept had been debated extensively in the Board of Governors, and that the Board had taken note of the Director General’s reports on the matter. As it stood, paragraph 21 correctly reflected the current stage of development of that issue within the Board, although he stressed that it was an ongoing process. The assurances given by the Secretariat in that regard did not need to be reproduced in the draft resolution: references to the relevant documents should be sufficient.

53. The CHAIRPERSON suspended the discussion on the agenda item.

16. Strengthening the Agency’s activities related to nuclear science, technology and applications (resumed)

GC(58)/COM.5/L.6)

54. The CHAIRPERSON invited the representative of India to report on the progress made in informal consultations of the draft resolution set out in GC(58)/COM.5/L.6.

55. The representative of INDIA reported that the following changes were being proposed.
56. In the sixth line of paragraph (p), the phrase “where technically and economically feasible” should be added after the words “production of molybdenum-99 and technetium-99m”.
57. In paragraph (q), the words “in Europe and elsewhere” should be deleted, and the words “where technically and economically feasible” added after “molybdenum-99 production facilities.”
58. In paragraph 13, the words “upon request” should be added after “Requests the Secretariat”. In the same paragraph, the words “where technically and economically feasible” should be inserted after “interested Member States”.
59. Paragraph 14 should be amended to read: “Requests the Secretariat to work actively together with interested Member States and international organizations to address the generation and release of xenon radioisotopes at the source;”.
60. The representative of the UNITED STATES OF AMERICA requested more time to study the new language.

15. Strengthening of the Agency’s technical cooperation activities (resumed) (GC(58)/COM.5/L.9)

61. The representative of ARGENTINA said that consensus had been reached in informal consultations on the following amendments to the draft resolution set out in document GC(58)/COM.5/L.9.
62. Section 3, paragraph 2, should be amended to read: “Requests the Secretariat, within available resources to enhance TC project implementation capacity by ensuring that staff are adequately and appropriately allocated at all levels;”.
63. The words “the quality, the number and” should be added after “optimize” in section 3, paragraph 3.
64. In section 4, a new paragraph (e) bis should be added, to read as follows: “Also aware that the existence of a significant number of such projects also results in an increased workload on the Secretariat in terms of project planning and design review;”.
65. There was no consensus yet on the new paragraphs proposed by the representative of Canada.
66. The CHAIRPERSON asked those delegations involved to continue their informal consultations on the outstanding issues.

17. Strengthening the effectiveness and improving the efficiency of Agency safeguards (resumed) (GC(58)/COM.5/L.2)

67. The CHAIRPERSON invited the Committee to resume its consideration of the draft resolution set out in document GC(58)/COM.5/L.2.

68. The representative of the RUSSIAN FEDERATION said that a fundamental reform of the safeguards system was under way, which would affect many Member States for years to come. The fundamental parameters of that change should, therefore, be comprehensively described in the draft resolution.

69. The CHAIRPERSON invited the Committee to take up consideration of the preamble of the draft resolution.

70. The representative of the RUSSIAN FEDERATION proposed the inclusion of a new paragraph (g) bis, to read: “Emphasizing that safeguards effectiveness must remain paramount, while efforts to reduce costs should not compromise effectiveness,”.

71. Next, he proposed a new paragraph (m) bis, which would read: “Further noting that, in a State which does not have an additional protocol in force, the Secretariat is not expected to reach the broader conclusion regarding the absence of undeclared nuclear material and activities,”. The paragraph was intended to reflect the fact that, in States with an additional protocol in force, the Agency had a whole set of tools at its disposal to detect undeclared nuclear material and activities. In States without, however, the procedure was entirely different.

72. He also proposed a new paragraph (m) ter, reading: “Stressing that the absence of an additional protocol does not prevent the Secretariat from assessing indications of undeclared activities, seeking clarifications from the State and reporting to the Board of Governors for a decision if the Secretariat finds that the State has not provided the necessary cooperation for inspectors to verify that all nuclear material in that State remains in use for exclusively peaceful purposes”. Again, the new paragraph distinguished the procedure to be followed by the Secretariat to detect undeclared nuclear material or activities in States with and without an additional protocol. In the latter case, the tools available to the Secretariat were limited. If issues could not be clarified bilaterally with the State in question, the Secretariat could not intensify its safeguards efforts but must, instead, refer the matter to the Board of Governors.

73. He proposed a new paragraph (m) quater, which would read: “Noting that, to date, customized State-level safeguards approaches for individual States have been implemented only for 53 States under integrated safeguards,”. It merely documented the fact that integrated safeguards could only be applied in those States with a comprehensive safeguards agreement and an additional protocol in force and for which the Secretariat had drawn the broader conclusion of the absence of undeclared nuclear material and activities.

74. Finally, he proposed a new paragraph (m) quinquies, reading: “Stressing that the State-level safeguards approach should not introduce any new safeguards measures beyond those set out in the State’s safeguards agreement and additional protocol,”.

75. The CHAIRPERSON requested that interested parties hold informal consultations on the many proposals that had been made regarding the draft resolution set out in document GC(58)/COM.5/L.2.

The meeting was suspended at 5.30 p.m. and resumed at 6.05 p.m.

16. Strengthening the Agency's activities related to nuclear science, technology and applications (resumed) (GC(58)/COM.5/L.6)

76. The CHAIRPERSON, after consulting the representative of INDIA on the progress of the informal consultations on the draft resolution set out in GC(58)/COM.5/L.6, said that discussion of the agenda item would be continued at a later meeting.

The meeting rose at 6.10 p.m.