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**Sixtieth regular session**

## Committee of the Whole

### Record of the Tenth Meeting

*Held at Headquarters, Vienna, on Friday, 30 September 2016, at 10.50 a.m.*

**Chair:** Mr CSERVENY (Hungary)

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<sup>1</sup> GC(60)/COM.5/1.

**Abbreviations used in this record:**

SLA

State-level approach

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

(GC(60)/13; GC(60)/COM.5/L.10/Rev.1)

1. The representative of AUSTRIA reported that, of the four outstanding proposed amendments discussed on the previous day and considered by the co-sponsors, the amendment to paragraph 8 and proposed paragraphs 28 ter and 30 bis had raised considerable difficulties for many Members and would be very problematic to incorporate into the draft resolution. The proposed amendment to paragraph 29 had garnered wider support and was amenable to further amendment.

2. Austria proposed that the number of additional protocols in paragraph 12 of the draft resolution be amended to “129” instead of “128” and it requested the Secretariat to verify the numbers in all paragraphs for the final version of the resolution.

3. Austria considered that the oral amendment to paragraph 34, proposing to insert “to maintain and” after “Encourages States”, had been agreeable to all Member States. Austria proposed to retain the wording of the draft resolution otherwise.

4. The representative of the RUSSIAN FEDERATION proposed, in an endeavour to achieve consensus on the draft resolution, that the last phrase of paragraph 8 in document be amended to “... rigorously reviewed information validated for credibility”.

5. The representative of the NETHERLANDS sought to ascertain whether the representative of the Russian Federation wished to omit the part of the paragraph that had been proposed on the previous day.

6. The representative of the RUSSIAN FEDERATION said that, in view of translation difficulties, the Russian Federation had decided to delete “consistency” and the proposed amendment therefore ended with “validated for credibility.”

7. The representative of CANADA said that Canada wished to retain the wording of paragraph 8 of the draft resolution and questioned the value of “validated for credibility” since “validated” already featured in the text.

8. The representative of CANADA confirmed, in reply to a question by the CHAIR, that his country’s preferred wording was “methods and rigorously reviewed and validated information”.

9. The representative of AUSTRALIA said that Australia wished to retain the wording of paragraph 8 of the draft resolution, since the process of validation was carried out for a range of reasons and it was best to refer to validation generally, rather than linking it to one particular reason.

10. The representative of the UNITED KINGDOM said that the call in paragraph 8 of the draft resolution was clear, strong and met the needs of Member States. The proposed addition of “credibility” reduced the clarity of the call on the Agency as reflected in the draft resolution.

11. The representative of the UNITED STATES OF AMERICA said that his country wished to retain the wording of paragraph 8 of the draft resolution, for it reflected the concepts more clearly than the proposed amendment to paragraph 8.

12. The representative of FRANCE said that her country wished to retain the wording of paragraph 8 of the draft resolution, which already reflected a compromise of several Member States' wishes.

13. The representative of GERMANY said that his country was in favour of retaining the wording of paragraph 8 of the draft resolution, which already contained the same idea.

14. The representative of the RUSSIAN FEDERATION said that "credible" and "credibility" had been used frequently by the Agency, and called on the Secretariat to confirm that it analysed information for credibility.

15. The DIRECTOR OF THE DIVISION OF CONCEPTS AND PLANNING OF THE DEPARTMENT OF SAFEGUARDS said that in the supplementary document and in the technical meetings that the Secretariat had held with Member States to describe how it implemented safeguards, it had outlined the types of information that it collected and what it did with that information. The Secretariat validates information from many different aspects, depending on the types of information. The Secretariat validates, for example, the consistency of the information in the declarations made by Member States with other information in its possession and with data that it had collected, to assess its consistency. For open-source information and other information, the Secretariat assesses whether it is accurate and credible. The Secretariat therefore examines many aspects, including credibility.

16. The representative of the RUSSIAN FEDERATION thanked the Secretariat for confirming his country's views and said that the Russian Federation could cover the characteristics listed by the Secretariat.

17. The CHAIR pointed out that Member States had spoken in favour of retaining the wording of paragraph 8 of the draft resolution and that none had spoken in favour of the amendment proposed by the representative of the Russian Federation.

18. The representative of BRAZIL said that Brazil was not in favour of inserting any new elements into paragraph 29, particularly any reference to "implementation" or to "implementing". Brazil proposed that "for States" be displaced to after "updating existing State-level approaches" and that "and requests the Director General to report about lessons learned and experience gained in" be followed by "this context, including a cost-benefit analysis."

19. The representative of CANADA said that the proposal made by the representative of Brazil took Canada's concerns into account.

20. The representative of the UNITED STATES OF AMERICA said that the amendment proposed by the representative of Brazil constituted a constructive basis for further discussion, and proposed that "to the Board" be inserted after "and requests the Director General to report".

21. The representative of AUSTRALIA commended the sharp and concise amendment proposed by the representative of Brazil, which his country could support.

22. The representative of BRAZIL said that his country could support the proposal made by the representative of the United States of America to insert "to the Board of Governors" into the proposed amendment to paragraph 29. Brazil proposed that the remainder of the paragraph be amended to read: "about lessons learned and experience gained in this context, including a cost-benefit analysis."

23. The representative of PAKISTAN, fearing that the amendment proposed by the representative of Brazil could be considered to be a duplication of paragraph 27, proposed that paragraph 29 be reworded as "Notes the statement of the Director General that the focus of the Agency for the immediate future is on updating existing State-level approaches under integrated safeguards and

requests the Director General to report about lessons learned and experience gained in this context and further notes that State-level approaches will be progressively developed and implemented for other States”. It considered that “cost-benefit analysis” could be inserted where appropriate.

24. The representative of FRANCE considered that the amendment proposed by the representative of Brazil was conducive to consensus, without duplicating paragraph 27.

25. The representative of CANADA pointed out that the amendment proposed by the representative of Pakistan had removed the two elements, namely the development and the implementation of the updated SLAs, that must be incorporated into the report. He wondered whether the suggestion made on the previous day to remove the apparent overlap between paragraphs 27 and 29 of the draft resolution still stood.

26. The representative of SOUTH AFRICA said that her country did not support the proposal made by the representative of Brazil.

27. The representatives of SWEDEN and COLOMBIA supported the amendment to paragraph 29 proposed by the representative of Brazil.

28. The representative of AUSTRALIA said that his country supported the amendment to paragraph 29 proposed by the representative of Brazil, as further amended by “to the Board” proposed by the representative of the United States of America. Consensus seemed nigh but, if it could not be reached, he proposed that paragraph 29 be deleted.

29. The representative of TURKEY supported the amendment to paragraph 29 proposed by the representative of the United States of America. Turning to the wording proposed by the representative of Brazil, he wished to know whether the cost-benefit analysis would be included in the report to the Board of Governors and whether it would only cover safeguards implementation by States or also cover activities conducted by the Agency.

30. The CHAIR ruled that the drafters should formulate an amended version of the draft resolution on the basis of the comments made by Member States and that the Committee should review that amended version at the following meeting.

31. The representative of the RUSSIAN FEDERATION, noting that the amendment to paragraph 8 proposed by his country was unacceptable to some States, proposed that the paragraph be deleted and that preambular paragraph (y) bis, based on paragraph 147 of document GOV/2014/41 and reading “... that the Secretariat draws its conclusions on the basis of all safeguards relevant information and recognizing that such information is assessed for credibility, accuracy and relevance,” be inserted.

32. The CHAIR and the representative of the UNITED KINGDOM requested the representative of the Russian Federation to elaborate on that proposed amendment to the draft resolution.

33. The representative of the RUSSIAN FEDERATION said that the resolution should underscore the need to verify the consistency and credibility of information. As Member States could not accept his country’s proposed amendments to paragraph 8, he believed that consensus could be reached on the draft resolution if that paragraph were deleted and preambular paragraph (y) bis, comprising wording drafted by the Secretariat, were inserted. He requested Member States to clarify their objections to the amendments to paragraph 8 originally proposed by his country, and voiced concern that certain States seemed unwilling to accept wording drafted by the Agency’s Secretariat.

34. The CHAIR reminded the Committee that the Secretariat might provide Member States with background information and guidance but might not act as a co-drafter of the resolution.

35. The representative of the RUSSIAN FEDERATION said that if consensus could not be reached on the draft resolution, Member States should simply adopt a document stating that the 2015 resolution on the topic in question remained in force. He objected to a small group of Member States formulating wording for the proposed resolution and assuming that all other States would find that wording acceptable. He called on the Member States that had objected to the amendments to paragraph 8 proposed by the Russian Federation to give reasons. He had merely proposed Secretariat-approved wording from document GOV/2014/41 in order to break the deadlock on that paragraph.

36. The CHAIR, appreciating the efforts of the Russian Federation and other Member States to find a means of moving towards consensus, ruled that the drafters would take all amendments proposed to the resolution into account in drafting a new version that encapsulated, as far as possible, those proposed amendments. The updated draft resolution would then be distributed to Member States for consideration.

37. The representative of the UNITED STATES OF AMERICA said that it was regrettable that the delegation of the Russian Federation had not taken part in the informal consultations on the draft resolution, as that might have facilitated the resolution of some of the outstanding disagreements on the proposed text. He requested the Chair to confirm that the Russian Federation had proposed that preambular paragraph (y) bis be inserted and that paragraph 8 of the draft resolution contained in document GC(60)/COM.5/L.10/Rev.1 remain unchanged.

38. The representative of the RUSSIAN FEDERATION, at the request of the CHAIR, said that he had first proposed "... rigorously reviewed information validated for consistency and credibility" as an amendment to paragraph 8. He had subsequently suggested that, if that wording was unacceptable, paragraph 8 should be deleted and a new preambular paragraph comprising wording from document GOV/2014/41 be inserted. He requested the Chair to call on Member States to give reasons for not accepting the Russian Federation's proposed amendments to paragraph 8.

39. The representative of the NETHERLANDS said that he believed that the Committee was very close to consensus on the draft resolution; the drafters would take into serious consideration the proposals by the representative of the Russian Federation on the wording of a new preambular paragraph.

40. The representative of AUSTRALIA said that he understood the frustration felt by the representative of the Russian Federation. It was unfortunate that the Russian delegation had not taken part in the informal negotiations on the draft resolution, for some of the outstanding issues of concern to the Russian Federation could have been resolved before the current meeting of the Committee. Nonetheless, the Committee was close to consensus on paragraph 8. The Russian Federation was attempting to cherry-pick certain characteristics of validation without taking all aspects of that phenomenon into consideration. He called for informal discussions to break the deadlock on the draft text and urged all States to demonstrate flexibility in those discussions so that the Committee could move forward.

41. The representative of CANADA said that the amendments proposed by the Russian Federation confused certain concepts concerning data gathered by the Secretariat through safeguards activities which were reviewed and validated, and information from open sources and third parties which was assessed for credibility. The wording proposed by the Russian Federation suggested that the Secretariat should assess its own information for credibility, thereby calling into question the Secretariat's professionalism and integrity when conducting safeguards activities. Canada could not agree to any wording that would suggest that the Secretariat was anything but beyond reproach in that regard. The amendments proposed by the Russian Federation were therefore unacceptable.

42. The representative of the RUSSIAN FEDERATION said that safeguards activities were carried out by the Agency as a whole, and not only by its Secretariat. Cases of non-compliance, for example, were reviewed by the Board of Governors. He stressed that, in its own documents, the Agency had highlighted the need to validate information for consistency, accuracy, relevance and credibility. Paragraph 8 could be amended to include all of those terms and thus cover the analysis of information from all sources, including open sources and third parties, by the Secretariat and by the Agency as a whole.

43. The representative of FRANCE, agreeing with the representatives of Australia and Canada, appealed to the Russian Federation to show flexibility on paragraph 8 so that the Committee could move forward.

44. The CHAIR ruled that “validate” meant “to prove correct”; it did not mean to prove that something was credible.

45. The representative of the RUSSIAN FEDERATION said that his country’s proposal had been rejected for no valid reason. The Russian Federation had attempted to take into consideration the concerns of Australia and Canada and it, likewise, called on other Member States take into consideration his country’s concerns. The Russian Federation called on States to give reasons for not accepting its proposed amendments to paragraph 8.

46. The CHAIR emphasized that Member States had not rejected outright the amendments to paragraph 8 proposed by the representative of the Russian Federation. Indeed, several States, including the United States of America, had stated that they were prepared to consider the Russian proposal.

47. The representative the UNITED KINGDOM said that his country, too, was willing to consider constructive wording. He echoed the concerns voiced by the representatives of Australia and Canada with regard to the validation of different types of information. The United Kingdom believed that the issue should be further discussed.

48. The representative of AUSTRALIA said that, further to consultations with the representative of South Africa, he believed that the Committee was close to consensus on paragraph 29 and that any remaining disagreements on the text of that paragraph could be resolved in an informal discussion. He welcomed the helpful suggestion by the Russian Federation that the Committee should consider calling for a more comprehensive approach to validation in paragraph 8. He suggested that informal discussions be held to discuss that issue and the remaining differences among Member States on paragraphs 28 ter and 30 bis.

49. The representatives of PAKISTAN and BRAZIL said that they, too, would appreciate the opportunity to discuss the remaining disagreements on the text of the draft resolution in informal discussions.

50. The representative of the UNITED KINGDOM said that his country considered, as had Austria, that consensus could be achieved on proposed paragraphs 28 ter and 30 bis, which should not, therefore, be incorporated into the draft resolution.

51. The representatives of CANADA, FRANCE, GERMANY, TURKEY and the UNITED STATES suggested that certain elements of paragraph 28 ter could be incorporated into other paragraphs, including paragraph 28. Paragraph 28 ter should not be included in the text of the draft resolution.

52. The representative of the RUSSIAN FEDERATION said that his country would not insist on the insertion of that paragraph. He hoped that the Secretariat and the Department of Safeguards would

take his country's views on the subject into consideration in their future work with Member States. The Russian Federation would try to address the concerns about paragraph 30 bis expressed by certain States and hoped that consensus could still be achieved on the wording of that paragraph.

**The meeting rose at 12.35 p.m.**