



International Atomic Energy Agency

# General Conference

GC(IX)/INF/83  
6 September 1965  
GENERAL Distr.  
Original: ENGLISH

Ninth regular session

## EMERGENCY ASSISTANCE IN THE EVENT OF RADIATION ACCIDENTS

### Memorandum by the Director General

#### INTRODUCTION

1. On 18 September 1964 the General Conference requested the Board of Governors "to take the necessary steps to stimulate the conclusion of emergency assistance agreements between two or more Member States and the Agency as a means of ensuring more effective international mutual emergency assistance". [1] In so doing the Conference recalled the provisions of Articles II, III and VIII of the Statute, stressed the important role the Agency could play in facilitating and co-ordinating the provisions of assistance in serious nuclear accidents, and noted with satisfaction that the Agency had become party to an emergency assistance agreement with the four Nordic States [2].

#### ACTION TAKEN BY THE BOARD AND THE DIRECTOR GENERAL

2. In February 1965 the Board discussed the subject on the basis of a memorandum by the Director General to which a draft agreement was annexed. The memorandum summarized action taken earlier and the existing arrangements for the provision of emergency assistance by the Agency, as well as the purpose, contents and possible form of an agreement. The Director General had reached the conclusion that a single, open agreement to which all Member States could become party would, for a number of reasons, be preferable to a series of bilateral or regional agreements, but that such an agreement could also serve as a model for bilateral or regional agreements in those cases where that was preferred.

3. Pursuant to a decision of the Board, the Director General on 25 March requested all Member States to comment on a set of revised draft articles prepared in the light of observations received from Members serving on the Board. By 8 June comments had been received from 15 Members, and these were communicated to all Member States in a Board document and two addenda thereto in late May and early June. Comments by a further six Members were reproduced in a third addendum which was circulated at the end of August.

4. All Members serving on the Board were invited to participate in an informal Working Group for the purpose of analysing the comments and of advising the Director General with regard to the substance and form of the revised draft articles and on future steps to be taken. Nineteen Members accepted the invitation and the Working Group met on 11 June. In addition to the revised draft articles and the comments, the Working Group had before it some amendments proposed by the Secretariat on the basis of the comments and a paper dealing with the financial and liability aspects of the Agency's role in the provision of

[1] GC(VIII)/RES/177.

[2] INFCIRC/49.

assistance. The Working Group discussed most of the draft articles; as to Article XIII - Signature covering the matter of what States should be invited to become party to the proposed agreement, this was considered to be a question for the Board to decide. The Group also discussed the type of instrument by which the articles should be brought into effect.

5. The Board discussed the subject again in June when, on the recommendation of the Director General made on the basis of views expressed in the Working Group, it requested the Chairman, in consultation with him, to convene a committee of experts to prepare for its consideration a draft multilateral agreement and an additional paper indicating how the provisions in the draft could be used for other types of instrument. The Board further requested the Director General to include an item on the subject of emergency assistance in the provisional agenda for the ninth regular session of the General Conference [3], to provide for the eventuality that the committee of experts, and subsequently the Board, would have completed the preparatory work in time to enable the Conference to discuss the subject at that session; and, if such progress was not made, to issue an information paper to notify the Conference of the action taken in relation to Resolution GC(VIII)/RES/177.

6. Not all Members consulted as potential members of the committee of experts were ready to meet early enough to enable any draft agreement elaborated by the committee to be circulated to Governors in time for its substantive consideration by the Board before the Conference met. Under these circumstances it was considered preferable for the committee to meet after the session, and it is foreseen that it could meet towards the end of the year.

#### SUMMARY OF POSITIONS TAKEN BY MEMBER STATES

7. At the Director General's request [4], Member States have commented on the following issues:

- (a) The provisions of the revised draft articles;
- (b) The type of instrument by which the articles should be brought into effect; and
- (c) The Agency's role in the provision of assistance.

8. The comments on the first issue indicate that the main differences of opinion relate to the provisions on liability (Article VI) and on privileges and immunities (Article VII). As for insurance, the Secretariat is seeking the advice of experts on the subject.

9. On the question of the type of instrument, 15 Members have expressed themselves, either in written comments or in statements in the informal Working Group, in favour of a multilateral (global) agreement, partly because they believe that this would be the most practical solution and the one which best meets the needs, and partly because such an agreement could also be used as a model for bilateral or regional agreements to be concluded before or after an accident had occurred, whereas bilateral or regional agreements alone would preclude a number of States from taking part in the provision of assistance. On the other hand six Members have expressed themselves in favour of some other form of instrument, such as bilateral or regional agreements, regulations, rules or a code. Most of the Members that have commented on the question of what States should be entitled to become party to any multilateral agreement have supported the proposal in draft Article XIII that it should be open to all Members. However, some Members have expressed themselves in favour of opening the agreement to signature also by non-Member States. Of the latter, two Members have proposed to invite all States to become party, and one Member has proposed to invite States Members of the United Nations or its specialized

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[3] See document GC(IX)/295, item 19.

[4] See paragraph 3 above.

agencies. One Member could not agree to the proposal in draft Article XIII that the Agency should be a party to the agreement on the same footing as Member States, since in its view an international organization cannot be a subject of international law to the same extent as a State. Another Member has expressed similar doubts.

10. The majority of the Members commenting upon the Agency's role in the provision of assistance have pronounced themselves in favour of an active role for the Agency. However, one Member has proposed that the Agency should not act as an intermediary, co-ordinator or observer but confine itself to rendering assistance in the same manner as any other Assisting Party.

