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President: Mr. MANOUAN (Côte d'Ivoire)

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*/ A provisional version of this document was issued on 10 December 1985.

**/ GC(XXIX)/763.

The composition of delegations attending the session is given in document GC(XXIX)/INF/227/Rev.3.

CONSEQUENCES OF THE ISRAELI MILITARY ATTACK ON THE IRAQI NUCLEAR RESEARCH REACTOR AND THE STANDING THREAT TO REPEAT THIS ATTACK FOR (a) THE DEVELOPMENT OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES; AND (b) THE ROLE AND ACTIVITIES OF THE INTERNATIONAL ATOMIC ENERGY AGENCY (GC(XXIX)/764 and Add.1 to 3, GC(XXIX)/765/Rev.2)

1. The PRESIDENT recalled that in resolution GC(XXVIII)/RES/425 of the previous year the General Conference had, among other things, requested the Director General to seek personally from the Government of Israel certain undertakings and to report to the present session of the General Conference. Since the adoption of that resolution, the Director General had held numerous consultations on which he had reported to the Board the week before and in his statement at the opening of the present session of the General Conference.

2. The President also recalled that two draft resolutions had been submitted under agenda item 10: one by Iraq^{*/} (document GC(XXIX)/764) and the other by Denmark, Finland, Iceland, Norway and Sweden (document GC(XXIX)/765/Rev.2).

3. Mr. AL-KITAL (Iraq), introducing the draft resolution contained in document GC(XXIX)/764, said that since the Israeli attack, in 1981, on the Iraqi nuclear reactor, which had been under Agency safeguards, Iraq had been living under the standing threat of further aggression against its nuclear facilities. Furthermore, a similar threat had been made by the Prime Minister of Israel and confirmed by many other officials of the Israeli régime. Iraq, just as the General Conference itself, had been waiting several years for Israel to comply clearly and explicitly with the provisions of the relevant resolutions of the Security Council and of the Agency's General Conference.

*/ The following countries were co-sponsors of the draft resolution: Algeria, Islamic Republic of Iran, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Morocco, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yugoslavia (document GC(XXIX)/764/Add.1 to 3).

and for it to withdraw the stated threat to repeat its armed attack on Iraqi nuclear facilities. The persistence of that threat was highly detrimental to the Agency and its safeguards system and violated the right of peoples to use nuclear energy for peaceful purposes for their development; it was also in contradiction to the United Nations Charter and the Agency's Statute.

4. Draft resolution GC(XXIX)/764, submitted jointly by 15 countries, was clear; it was the logical result of Israel's equivocal behaviour and its refusal to comply with General Conference resolutions. The letter which the Resident Representative of Israel had circulated on 23 September to the General Conference treated the matter with deliberate ambiguity since it did not mention Iraq's nuclear facilities and did not clearly define what constituted peaceful nuclear facilities. The proposed draft resolution referred in the preamble to resolution 487 (1981) of the Security Council and to previous resolutions of the General Conference. In the operative paragraphs it requested the Security Council to implement its resolution 487 (1981) and called on the General Conference to implement its resolution GC(XXVII)/RES/409, since Israel had not given the undertakings called for in that resolution and in resolution GC(XXVIII)/RES/425. Resolution GC(XXVII)/RES/409 had been the result of many concessions and represented the minimum amount of pressure which could be exerted on Israel.

5. Israel's devious position put forward by the delegate of that country in his statement to the General Conference had been reflected in a press statement released on 26 September 1985 by the Austrian Press Agency. The Israeli Ambassador had stated that Israel would consider that the Agency's opinion that a reactor was non-military was "a very strong indication that the facility is used for peaceful purposes only". In reply to a question whether it could be concluded that Israel would not attack any facility judged to be non-military by the safeguards inspectors, the Ambassador had said that if the questioner understood it like that, he was not going to contradict him. Such was the situation. Israel had made its position clear and it was up to each of the delegates to the General Conference to interpret that statement as they thought fit.

6. Iraq had been loyal to the Agency in making a serious effort to help it to discharge its duties in the best possible way. Iraq was not the one endangering the Agency, blackmailing it or seeking to prevent the General Conference from carrying out its work. The General Conference should adopt draft resolution GC(XXIX)/764 and refuse to countenance threats and blackmail. In doing so it would come out in support of the sovereignty and legitimate right of peoples to express themselves freely without constraint. The General Conference and the majority of Member States had supported Iraq in previous years and his delegation was convinced that such support would still be forthcoming.

7. Mr. TOERNUDD (Finland), introducing the draft resolution contained in document GC(XXIX)/765/Rev.2 on behalf of the five Nordic countries, said that the main point to be emphasized was that armed attacks on safeguarded nuclear facilities devoted to peaceful purposes represented a grave danger to international peace and security and were therefore absolutely unacceptable. The premeditated attack in 1981 had also constituted a serious threat to the Agency's entire safeguards system, which was the corner-stone of the international non-proliferation regime and so vital for all countries, whether or not party to the Non-Proliferation Treaty.

8. It should not be forgotten that Iraq had been a party to NPT since its entry into force in 1970; that under that treaty Iraq had agreed to place all its nuclear activities under Agency safeguards; and that the Agency had certified that those safeguards had been applied to its satisfaction. Conversely, Israel was not a party to NPT and had not submitted all its nuclear activities to Agency safeguards.

9. The international community and the international bodies where different aspects of the matter were being discussed would still have to devote a great deal of attention to the specific consequences of the Israeli attack in 1981 and also to the overall problem of protecting nuclear facilities against armed aggression. To mention but one example, Iraq had still not received compensation for the destruction it had suffered. Under those circumstances, the Nordic countries understood Iraq's position very well.

10. The sponsors of the draft resolution felt, however, that as far as the Agency was concerned it was now possible to conclude the discussion of that item, while re-affirming at the same time a number of important principles, which were laid down in the operative paragraphs of the draft resolution. Affirmation of those principles would, in his view, create a very strong political barrier to any further attempts to perpetrate such armed attacks.

11. It was important to note in that connection the statements made by the representative of Israel, which constituted a commitment going such a long way towards allaying the concern expressed by the Agency that the matter could now be dropped. Draft resolution GC(XXIX)/765/Rev.2 was not intended for the benefit of any particular delegation or party to the debate. Its only objective was to preserve the Agency's effectiveness and capabilities in the pursuit of its principal objectives.

12. Mr. CONSTENLA UMANA (Costa Rica) noted that in operative paragraph 5 of the draft resolution submitted by Iraq the General Conference "reaffirms the inalienable right of all States to acquire and develop nuclear energy for peaceful purposes." Yet in operative paragraph 2 of the same draft resolution, Iraq openly denied a Member State that right by calling for measures against Israel which would restrict, even rescind, the rights of that State. Furthermore, with regard to the commitment not to attack or threaten to attack nuclear facilities in Iraq that had been demanded from Israel, his country felt that Israel had already given such an undertaking in the letter of 23 September 1985 from the Resident Representative of Israel to the Director General of the Agency.

13. His delegation would therefore oppose the draft resolution in document GC(XXIX)/764 and urged other delegations to do likewise, since it was not possible to support a resolution which, apart from containing such obvious contradictions, infringed the equality of rights of all Member States of the United Nations. In addition, he wished to point out that the undertaking given by Israel in the letter to the Director General to respect and refrain from attacking nuclear facilities devoted to peaceful purposes in Iraq or elsewhere was an unprecedented move. One could only hope that other Member States would follow Israel's example by taking action evincing a sincere commitment to the cause of world peace.

14. Mr. BOGGS (United States of America) recalled that the previous year his Government had expressed its conviction that the statements made at that time by Israeli representatives fully met the requirements of the resolution which was then under consideration. In fact, those statements went much further than those made by any other Government on the subject. That was why his delegation had been opposed to resolution GC(XXVIII)/RES/425.

15. Nevertheless, during the past year, his Government had wholeheartedly supported the Director General's efforts to carry out the mandate entrusted to him by that resolution. It had welcomed the widespread consultations which the Director General had skilfully conducted. From time to time his country had, like other countries, been informed of the progress achieved. That was why he was in a position to state that what the Director General had been able to accomplish went far beyond the Israeli statements of the previous year, which the United States had already found to be satisfactory.

16. Moreover, the General Conference had before it the text of the letter of 23 September from the Resident Representative of Israel to the Director General, which further clarified the Israeli position in the matter. Finally, only the day before, during the General Debate, the Director General of the Israeli Atomic Energy Commission had specifically dealt with other matters of concern to some delegations. The deliberations should therefore be ended; if anything, there was more reason to praise the Director General than to dwell on the draft resolution in document GC(XXIX)/764.

17. For a long time his country had been deeply perturbed by the growing tendency, well illustrated by the draft resolution at present before the General Conference, to discuss extraneous political issues in the Board of Governors and the General Conference. Deliberations of that nature could only diminish the Agency's ability to implement the activities laid down in its Statute and did not serve the interests of either the Agency or its Member States.

18. Under those conditions, his delegation wished to reiterate the firm and unyielding position of the United States Government in the matter: any restriction on the rights and privileges of any Member State for reasons alien

to the Statute was a direct and totally unacceptable violation of the cardinal international principle of universality and was likely to have implications for the participation of the United States in the Agency's affairs, as had already been explained on many occasions.

19. Mr. PECCI (Paraguay) said that his country would oppose draft resolution GC(XXIX)/764 because it believed that political issues were better discussed in the appropriate fora. He wished to stress once again the purely technical role of the Agency which, as an international organization, should always foster the principle of universality. Finally, his country requested that matters of a purely political nature, such as the draft resolution submitted by Iraq, should no longer appear on the agenda for future sessions of the Agency's General Conference.

20. Mr. HADDAD (Syrian Arab Republic) noted that the Director General, when reporting on the numerous efforts he had made with the aid of States playing an important international role to obtain a written statement from the Israeli Government withdrawing the Israeli Prime Minister's threat to attack other nuclear facilities in Iraq or in any other country in the region, had stated that he had unfortunately not been able to achieve any conclusive results. Following the Director General's statement, the Resident Representative of Israel had had distributed a letter without document number, dated 23 September 1985, which his (Mr. Haddad's) delegation proposed to analyse in form and content."

21. As far as its form was concerned, the letter was unacceptable because of the fact that it stemmed from the Resident Representative of Israel - the same representative who had informed the Member States of the Agency in document INFCIRC/324 on 6 May 1985 that "no one but the Prime Minister and the Foreign Minister and their appointed representatives express the authorized policies of the Government" with regard to attacks on nuclear facilities. The General Conference was not in possession of any document proving that the Resident Representative had been authorized by the Prime Minister or Foreign Minister of Israel to speak on that policy. Sharon, as an Israeli minister, was more entitled to talk about Israel's policy than the Israeli Resident Representative to the Agency. When he, Sharon, had attempted to speak on the policy of attacking nuclear facilities, it had been said that he had no authority to do so.

22. As far as the content of the letter was concerned, it included no new information from the competent Israeli authorities just mentioned. It contained only a few conclusions drawn by the Israeli Resident Representative on the basis of information which had already been submitted to the previous session of the General Conference (which had rejected it), and that information related to Israel's general policy as outlined by the Prime Minister.

23. In the second main paragraph on page 2 of the Resident Representative's letter, which in substance repeated what had already been said in sub-paragraph (c) of the third paragraph on page 1, one could read that "Israel holds that all States must refrain from attacking or threatening to attack nuclear facilities devoted to peaceful purposes, and that the safeguards system operated by IAEA brings evidence of the peaceful operation of a facility." That statement did not involve any commitment on Israel's part. It was merely a hope, a dream. The letter stated that the Agency's safeguards system brought evidence of the peaceful operation of a facility. Those two paragraphs expressed a vague hope entertained by Israel but did not make it clear that the safeguards system brought the evidence that a safeguarded facility was in fact used for peaceful purposes. But there was a great difference between providing evidence and providing the evidence. A similar case had occurred in the wording of Security Council resolution 242 of 1967, which called upon Israel to withdraw from occupied Arab territories instead of calling upon it to withdraw from the occupied Arab territories. Member States should not allow themselves to be taken in again.

24. The third paragraph on page 2 of the letter contained an undertaking by Israel that under its stated policy it would not attack any nuclear facilities devoted to peaceful purposes. But everyone knew that Israel's stated policy had already led it to attack the Iraqi nuclear reactor on one occasion. Moreover, the paragraph in question made no mention of safeguards and left it to Israel to decide for itself whether or not a facility was devoted to peaceful purposes. The letter simply repeated what had been said in previous letters addressed by Israel to the General Conference, which the latter had not accepted."

25. For those reasons, his delegation rejected both the form and the content of the letter addressed to the Director General by the Resident Representative of Israel and expressed the hope that delegates would support the draft resolution in document GC(XXIX)/764 with a view to implementing operative paragraph 3 of resolution GC(XXVII)/RES/409.

26. The delegate of the United States had said that the issue was one involving political considerations. If there were political considerations involved, it was only because the United States had said that there were. As he had done in the General Committee, the delegate of the United States was also threatening the General Conference in one way or another, saying that the rights of any Member State of the Agency should not be infringed. The United States had taken a leading part in the drafting of the Statute, in which it was laid down that any State violating it should be punished and that its rights of membership should be suspended. The stand taken by the United States was a purely political one.

27. His delegation invited the General Conference to reject all forms of threat and to refuse to allow anyone to be blackmailed at the present session of the General Conference. If any Member States wished to walk out, they were free to do so. The many other countries could certainly do without their participation.

28. Mr. MORALES PEDRAZA (Cuba) said that during 1985 his delegation had followed with great interest the question of the consequences of the Israeli military attack and had made its position known each time the matter had been debated. He wished to thank the Director General for his painstaking efforts to implement the provisions of paragraph 4 of resolution GC(XXVIII)/RES/425.

29. As might have been expected, the Israeli Government had not taken the fundamental points of that resolution into consideration and had done nothing indicating that it was really disposed to comply with it, especially with operative paragraphs 3 and 6.

30. To afford Governments which behaved as Israel did in a given region the slightest opportunity of adding nuclear weapons to their military arsenals was extremely risky, and his delegation had therefore supported the call to Israel by the majority of Agency Member States for submission of all its nuclear facilities to Agency safeguards.

31. It was impossible, moreover, to remain indifferent to the fact that a Government should destroy the peaceful nuclear facilities of another State, and endanger the lives of innocent people, when it believed that such action served its own interests. Not to take effective measures to force a Government such as Israel's to think before committing such acts was tantamount to recognizing, involuntarily, the right of the country attacked to perpetrate similar acts in defense of its own population against the aggressor. Cuba did not acknowledge the right of any country, however large or powerful, to destroy the peaceful achievements of another country, using the interests of national security as a pretext.

32. That was why his delegation believed that the Israeli Government had not complied with the fundamentals of resolution GC(XXVIII)/RES/425 and that, until it did so, every effort should continue to be made to bring about a sincere change of policy; above all, there should be vigorous action to prevent Israel developing its nuclear capability. He hoped that the General Conference would be instrumental in compelling Israel to comply with resolution GC(XXVIII)/RES/425. No pressure or threat of retaliation against the Agency should stop the General Conference discharging that duty. His delegation would accordingly vote in favour of the draft resolution in document GC(XXIX)/764.

33. Mr. MOLITOR (Luxembourg), speaking on behalf of the member States of the European Community, said that those countries would vote against draft resolution GC(XXIX)/764 for two reasons. First, the draft resolution did not take into consideration the latest political statement made on behalf of the Israeli Government on that matter, and second, operative paragraph 2 infringed the rights and privileges of a Member State of the Agency.

34. The member States of the European Community considered, therefore, that the draft resolution submitted by the Nordic countries in document GC(XXIX)/765/Rev.2 was more appropriate. That draft resolution took account of the statement made the day before by the Israeli delegate and reflected a better evaluation of the clarifications offered by the Israeli Government in response to resolution GC(XXVIII)/RES/425.

35. The member States of the European Community had noted, moreover, that in his speech the Israeli representative had given an assurance on behalf of his Government that Israel would not attack nuclear facilities devoted to

peaceful purposes in Iraq or in the Middle East, or in any other part of the world. They had also taken note of the fact that Israel had declared that the application of the Agency's safeguards system determined whether or not a nuclear facility was used for peaceful purposes.

36. Mr. BADRAN (Jordan) pointed out that what Iraq wanted was a commitment from the Israeli Government to withdraw its threats to attack nuclear facilities in Iraq or anywhere else. In his address at the current session of the General Conference, the Director General, recalling the Conference's request for him "to seek personally from the Government of Israel an undertaking not to carry out any further attacks on nuclear facilities in Iraq or on similar facilities in other countries, devoted to peaceful purposes ...", had said that those efforts had been inconclusive. It was clear that the efforts undertaken by the Director General in pursuance of the mandate given to him by the General Conference had not enabled him to obtain an undertaking from the Israeli Government not to make any further attacks. Hence there was reason to wonder how it was possible to interpret the statement of 23 September as an undertaking by Israel to refrain from further attacks or why the Israeli Government should thwart the Director General's efforts to implement that mandate and seek to surprise delegations with the letter of 23 September from the Resident Representative of Israel.

37. Mr. EILAM (Israel) said he regretted to see that, instead of devoting itself to the consideration of positive measures to promote the use of nuclear energy, the General Conference was being compelled to spend its time examining the tendentious draft resolution contained in document GC(XXIX)/764, which was both redundant and in contradiction to the Agency's Statute, as he had already stated during the General Debate.

38. The draft resolution was redundant in that operative paragraph 1 demanded that Israel "withdraw forthwith its stated threat to repeat its military attack against Iraqi nuclear installations and to undertake, without further delay, to commit itself not to attack or threaten to attack nuclear facilities in Iraq." His delegation had made many statements clarifying the Israeli Government's policy, which was that nuclear facilities devoted to

peaceful purposes were inviolable from military attacks. His delegation referred the General Conference to the statement he had made during the General Debate.^{2/} To the many delegates who had asked him whether Iraq was included in the Middle East his reply was that it certainly was.

39. Moreover, paragraph 2 of the draft resolution in document GC(XXIX)/764 called for the suspension of his country's rights and privileges, for which purpose, under the terms of the Statute, a two-thirds majority was necessary. The draft resolution was based entirely on political issues which bore no relation to the General Conference's statutory mandate and introduced a new and dangerous element of politicization and discrimination. States could only exist within the Agency on an equal basis.

40. The Agency had now reached a critical point. Not only were the equality of Member States and the universality of the Agency at stake, but also the future of the Agency as an international body and a technical organization entrusted with a specific mission in the nuclear field. To involve the Agency and its policy-making organs in extraneous political debates would not help to solve the problems facing the Agency. In any event, Israel could not contemplate a state of affairs in which its rights and privileges were suspended while its obligations as a Member State were maintained. His Government urged all responsible delegations to reject the draft resolution in document GC(XXIX)/764.

41. Mr. SOLTANIEH (Islamic Republic of Iran) pointed out that the problem facing the Agency was one of great significance and that it had to be considered from various angles. If the General Conference's resolutions were not respected and put into effect, the Agency's credibility would be compromised. The point was to ascertain whether or not resolution GC(XXVII)/RES/409 had been implemented: his delegation felt that there was a consensus to the effect that the resolution had so far not been complied with or taken into consideration. The General Conference was therefore confronted with a serious problem which threatened the Agency's credibility. With regard to the declaration contained in the letter from the Resident Representative of Israel, he wondered why, if the Israeli Government had respect for the

^{2/} GC(XXIX)/OR.277, paras 34 and 35 of the provisional record.

Agency's General Conference, the declaration had not been made the previous year. As far as his delegation could see, a mockery had been made of the good faith shown by the majority of Member States attending the Conference session.

42. Furthermore, in other declarations intended to show that some action had been taken to satisfy the General Conference's wishes, use had been made of the expression "peaceful purposes". The question arose, what were the Israeli Government's criteria for determining whether or not an installation was intended for peaceful purposes and whether or not it could be attacked. It had been said at the current session of the General Conference that the Agency's safeguards system provided evidence of the peaceful nature of a given installation. Bearing in mind that declaration, and recalling that there were in Israel numerous nuclear facilities which were not under Agency safeguards, it could easily be concluded that those were Israeli nuclear facilities intended not for peaceful purposes, but, on the contrary, for military purposes, and that they might represent a threat to world peace.

43. Mr. BADDOU (Morocco) said that, in the letter of 23 September to the Director General, the Resident Representative of Israel had confined himself to speaking in favour of nuclear energy and to mentioning its contribution to health and prosperity, claiming that nuclear facilities intended for peaceful purposes should therefore not be subject to attack or the threat of attack. Within that context, Israel had proposed that the competent authorities should work out an agreement to protect such facilities against attack and threat of attack, and had said that by virtue of its stated policy it would not attack any facility intended for peaceful purposes, wherever it might be situated.

44. When analysed it was clear that the clarifications and information provided in that letter did not satisfy the provisions of resolution GC(XXVIII)/RES/425 or any other resolutions adopted by the General Assembly of the United Nations and the Security Council; nor were they in conformity with the decisions of the Agency's Board of Governors or with resolutions adopted at previous sessions of the Agency's General Conference. In the operative part of resolution GC(XXVIII)/RES/425 Israel was called upon, for example, to withdraw its threats of attack, to submit its nuclear facilities to Agency

safeguards and to recognize the right of neighbouring countries to construct nuclear reactors devoted to peaceful purposes. However, the letter to the Director General did not go beyond general statements on the importance of nuclear energy and the role it could play in building a better world, and on the need to protect facilities against any form of attack or aggression. Apart from that, the letter only repeated what the Resident Representative of Israel had already stated the previous year - namely, that Israel fully reserved the right to determine whether a nuclear facility was intended for peaceful or military purposes.

45. His delegation therefore felt that the Israeli attack on the Iraqi nuclear reactor remained a threat and that the letter from the Resident Representative of Israel was still far from a response to what was called for from Israel, bearing in mind the resolutions adopted by the international community in various international organizations. Given that Israel had totally ignored all those resolutions, it was impossible to grant it any further concessions or to abandon the stand previously taken on the basis of principles of law and justice.

46. Mr. AL-KITAL (Iraq) felt it appropriate to recall in connection with the Israeli delegate's allusion to his country's "stated policy" that it had been that policy which had led to the bombing of the Iraqi nuclear reactor. It could not now be regarded, therefore, as a factor in protecting Iraq's nuclear facilities.

47. Furthermore, it was wrong to think that the action called for in operative paragraph 2 of the draft resolution in document GC(XXIX)/764 would infringe the rights and privileges of a Member of the Agency. Those rights and privileges had to stem from the fact that a given country was an Agency Member; it was not a question of the rights of a country in general. The Agency was entitled, in accordance with its practice, to acquire the equipment it needed, on the basis of its technical specifications and at the most favourable prices, from any country, whether or not it was a Member of the Agency. The same was true of research contracts. In that connection, there were many examples which showed that the Agency purchased equipment from and granted contracts to countries which were not Member States of the Agency.

The measures called for in operative paragraph 2 did not therefore infringe in any way the rights and privileges stemming from membership of the Agency. His delegation had discussed those measures in detail with various legal advisers, all of whom had been in agreement with that interpretation.

48. The PRESIDENT said he would now put the two draft resolutions under consideration to the vote, taking first the draft contained in document GC(XXIX)/764. Before proceeding to the vote, however, he wished to recall that, although the President of the General Conference could not take a stand on matters of substance, he was nevertheless responsible for the smooth functioning of the Conference's session and, therefore, for compliance with the Conference's Rules of Procedure. He was required to apply the Rules correctly and impartially, which presupposed his having a clear idea of them. Hence, whenever necessary, he had to request the opinion of the Director of the Legal Division, and he had done so following the submission of the draft resolution in document GC(XXIX)/764; he now called upon the Director of the Legal Division to read out the opinion he had formulated.

49. Mr. ADEDE (Director of the Legal Division) said that the legal opinion he had given to the President on certain points in draft resolution GC(XXIX)/764 was as follows:

"A question has been raised as to whether a decision by the General Conference on draft resolution GC(XXIX)/764 containing an operative paragraph 2 calling for the implementation of operative paragraph 3 of resolution GC(XXVII)/RES/409 requires a two-thirds majority or not.

"Operative paragraph 3 of resolution 409 is repeated, in part, in the text of operative paragraph 2 of the draft resolution in document GC(XXIX)/764 which reads as follows:

'Decides to withhold Agency research contracts to Israel, to discontinue the purchase of equipment and materials from Israel and to refrain from holding seminars, scientific and technical meetings in Israel.'

"In my view, research contracts are one of the normal components of attributes of privileges and rights of a Member of the Agency. While it cannot be said that a Member State has an inherent right to have its equipment and materials purchased by the Agency, or to host any of the Agency's meetings, a decision in advance denying a

particular Member the privilege of competing on an equal basis with other Members in these matters amounts to a limitation of such privileges. Accordingly, the implementation of paragraph 3 of resolution 409, as called for in operative paragraph 2 of the present draft resolution, would amount to suspension of the exercise of privileges and rights of membership within the meaning of Article XIX.B of the Statute.

"Thus the decision of the General Conference on draft resolution GC(XXIX)/764 would require a two-thirds majority."

50. During the consideration of item 10 of the agenda at the twenty-eighth session of the General Conference, a similiar question had been put to him by the then President and he had expressed the same opinion. On that occasion, however, the matter had not been formally raised.

51. The PRESIDENT ruled that, in accordance with the opinion which the Director of the Legal Division had just given, the draft resolution in document GC(XXIX)/764 would require a two-thirds majority for its adoption.

52. Mr. AL-KITAL (Iraq), referring to Rule 70 of the Rules of Procedure, said he would like the General Conference to decide whether the matter under consideration had to be settled by a two-thirds majority.

53. The PRESIDENT pointed out that, in his opinion, the provisions of Rule 70 of the Rules of Procedure did not apply in the given instance. In any event, he interpreted the comment by the delegate of Iraq as an appeal against the ruling he had just given. Consequently, in accordance with the provisions of Rule 56, he would put that appeal to the vote immediately.

54. By 54 votes to 22, with 13 abstentions, the President's ruling was upheld.

55. Mr. KHLESTOV (Union of Soviet Socialist Republics), explaining his vote on the President's ruling, said that the Soviet position with regard to the substance of the matter dealt with in the draft resolution in document GC(XXIX)/764 was well known: it was unacceptable that Israel should attack or threaten to attack the peaceful nuclear facilities of Iraq or of any other country.

56. The President had ruled that the effect of the draft resolution in document GC(XXIX)/764 was to infringe the rights and privileges of a Member State of the Agency, and that it would consequently require a two-thirds

majority in order to be adopted. As the matter had not been considered by the Board of Governors, and as the Board had not made any recommendations in the matter pursuant to Article XIX.B of the Agency's Statute, the Soviet delegation had been obliged to abstain from voting on the President's ruling.

57. The PRESIDENT invited the General Conference to vote on the draft resolution contained in document GC(XXIX)/764.

58. At the request of Mr. Al-Kital (Iraq), a roll-call vote was taken.

59. Italy, having been drawn by lot by the President, was called upon to vote first.

60. The result of the vote was as follows:

In favour: Albania, Algeria, Bangladesh, Bulgaria, Byelorussian Soviet Socialist Republic, China, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Egypt, German Democratic Republic, Hungary, India, Indonesia, Islamic Republic of Iran, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mongolia, Morocco, Namibia, Nigeria, Pakistan, Poland, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, Viet Nam, Yugoslavia, Zambia

Against: Argentina, Australia, Austria, Belgium, Canada, Costa Rica, Denmark, Finland, France, Federal Republic of Germany, Greece, Guatemala, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Paraguay, Portugal, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining: Brazil, Cameroon, Chile, Colombia, Côte d'Ivoire, Ecuador, Gabon, Ghana, Holy See, Kenya, Mexico, Niger, Panama, Senegal, Spain, Sri Lanka, United Republic of Tanzania, Uruguay, Venezuela

61. There were 41 votes in favour and 30 against, with 19 abstentions. The two-thirds majority required being 48, the draft resolution was rejected.

62. The PRESIDENT, stating that he would now put to the vote the draft resolution contained in document GC(XXIX)/765/Rev.2, said that, in accordance with Rule 73 of the Rules of Procedure, he would not give the floor to delegations wishing to explain their vote until after the General Conference had taken a decision on that draft resolution.

63. There were 30 votes in favour and 21 against, with 36 abstentions. The draft resolution contained in document GC(XXIX)/765/Rev.2 was adopted.

64. Mr. BRADY ROCHE (Chile), explaining his vote on the draft resolution in document GC(XXIX)/764, said that he had abstained because he felt that the draft ran counter to a fundamental principle of international organizations whereby no Member State should be treated in a discriminatory manner. Furthermore, the draft ran counter to the principle of universality in the composition of international bodies, insofar as it was aimed at excluding a Member State from the normal activities of the Agency.

65. At previous sessions of the General Conference, Chile had already made it clear that it did not believe such an item should appear on the agenda of the General Conference, since it did not concern the Agency directly. The work of the General Conference should be marked by a high degree of technicality and by high ideals and not be lost in political considerations which, however justified, belonged to other fora - for example, the Conference on Disarmament.

66. Lastly, Chile had abstained from voting because it believed that the declaration made on the previous day by the delegate of Israel and confirmed at the current meeting was a response to the demands of the sponsors of the draft resolution in document GC(XXIX)/764; by virtue of that declaration Israel had undertaken not to attack or threaten to attack peaceful nuclear facilities, either in the Middle East or elsewhere, and it had been made clear that the statement concerned in particular Iraq.

67. Mr. BELTRAMINO (Argentina) said that his country had voted against the draft resolution in document GC(XXIX)/764 because it felt that operative paragraph 2 of that draft, which provided for action restricting the rights and privileges of a Member State, was unacceptable. Argentina had always defended that point of view, since it was convinced that to deprive a Member State of its rights was not the best way for the Agency to ensure respect for its decisions; dialogue and negotiation seemed a more appropriate means of inducing States to meet the commitments they had entered into under the terms of the Statute and the Charter of the United Nations. As to the events

themselves, Argentina had condemned the act of aggression in question in 1981, immediately after it had been perpetrated. The General Conference should by now have found a suitable solution, but it had unfortunately been unable to do so. For reasons of principle known to all, Argentina had also decided to vote against the draft resolution in document GC(XXIX)/765/Rev.2.

68. Mr. EILAM (Israel) said that his delegation had been unable to vote in favour of the draft resolution in document GC(XXIX)/765/Rev.2 since it had misgivings with regard to the preambular paragraphs, which referred to resolutions adopted in other bodies on political matters lying outside the Agency's scope. Furthermore, he objected strongly to operative paragraph 5, which singled out Israel and ignored the numerous other States which had not yet placed all their nuclear facilities under Agency safeguards, that not being required, moreover, by the Statute of the Agency, one of the fundamental rules of which, as in all other organizations, was non-discrimination. However, as he had already stated during the present session of the General Conference, his delegation accepted the substance of the other operative paragraphs, especially paragraphs 3 and 4.

69. Mr. ERRERA (France) said that his delegation had voted in favour of the draft resolution submitted by the Nordic countries out of a wish not to weaken or otherwise affect an overall compromise, the urgency and importance of which he wished, in common with other delegations, to underscore. That was why his delegation had approved the draft as it stood, without making its vote in favour conditional upon the acceptance of amendments.

70. However, in order to avoid any misinterpretation of his delegation's vote, he wished to state that, with regard to operative paragraph 5, France remained opposed to any requirement that a State should place all its nuclear facilities under Agency safeguards. Furthermore, his delegation had reservations concerning the reference in preambular paragraph (k) to other organizations where the question of the protection of nuclear facilities against armed attack was under consideration.

71. Mr. UMAR (Nigeria) welcomed the adoption of the draft resolution in document GC(XXIX)/765/Rev.2, in favour of which his delegation had voted. He realized that certain paragraphs of the other draft resolution, which in

his view was complementary to it and which Nigeria had also supported, had not been acceptable to all parties, and he regretted that it had not been possible to find a common solution.

72. Mr. WILMSHURT (United Kingdom) wished to make it clear that his delegation's vote in favour of the draft resolution in document GC(XXIX)/765/Rev.2 did not imply any change in the attitude of his Government, which took the expression "peaceful nuclear facilities" used in preambular paragraph (g) and in operative paragraphs 2, 3, 4, 7 and 8 of that draft resolution to mean any nuclear facility devoted to peaceful activities; that was tantamount to saying that the protection afforded to those facilities should be laid down in the same terms as those set forth in Article 56 of additional Protocol 1 to the Geneva Convention.

73. Mr. ERNEMANN (Belgium) associated himself with the statement made just before by the delegate of France, who had expressed a point of view shared by the Belgian delegation.

74. Mr. ROBOTHAM (Jamaica), explaining his votes on the two draft resolutions, said that on several occasions, both at Agency meetings and in other international bodies, his delegation had supported Iraqi draft resolutions concerning the consequences for the peaceful use of nuclear energy of the Israeli military attack on the Iraqi nuclear research reactor and of the standing threat to repeat that attack. After careful study of the letter of 23 September 1985 to the Director General from the Resident Representative of Israel, his delegation felt that it constituted a binding commitment on the part of Israel, since, in response to resolution GC(XXVIII)/RES/425, Israel had in that letter reconfirmed the fact that it would neither attack nor threaten to attack any nuclear facility devoted to peaceful purposes, either in the Middle East or anywhere else.

75. Mr. KENNEDY (United States of America) said that, while his delegation wholeheartedly supported the essence of the draft resolution in document GC(XXIX)/765/Rev.2, and in particular operative paragraphs 3 and 4, as the draft resolution touched on broader issues concerning the need for additional legal principles in a matter under consideration elsewhere, he had not been able to support it. In that regard he endorsed the comments made by the representative of the United Kingdom.

76. Mr. AL-KITAL (Iraq), commenting on the Conference's deliberations, said he regretted that a matter of such importance for the future of the Agency and the peaceful uses of nuclear energy had been considered on a procedural basis without a fair evaluation. The President's ruling had been given too quickly, so that the Iraqi delegation had not had a chance to give adequate consideration to the matter.

77. From the votes on the two draft resolutions it emerged that the majority of the delegations present and voting had not taken seriously Israel's "manoeuvring", whereby it had pretended to withdraw its threat to repeat its armed aggression against Iraqi facilities. The representative of Zionism had mocked the General Conference and all delegations, including those which had shown understanding and which had argued in his favour. Israel had not voted in favour of the draft resolution submitted by the Nordic countries, which showed that it wanted to back down as soon as possible from what the Israeli Government called its new policy. In the light of such behaviour on the part of the Israeli entity, no one could feel secure from attack. Yielding to pressure, threats and blackmail would only encourage Israel to persevere in its policy of aggression for as long it enjoyed the support of certain countries, and especially the United States of America.

78. His delegation felt that it was duty-bound to continue to claim its legitimate rights and to demand, within the international organizations, and particularly the Agency, the withdrawal of threats of attack so that the future peaceful uses of nuclear energy would be guaranteed.

79. The PRESIDENT pointed out that, when he had given his ruling on the basis of the opinion of the Agency's most competent authority on such matters, namely the Director of the Legal Division, the Iraqi delegation had not asked for time in order to consider the ruling. He had taken it that the point of the remarks made by the delegate of Iraq was to contest his ruling and had therefore put that ruling to the vote, in accordance with the Rules of Procedures.

PROTECTION OF NUCLEAR INSTALLATIONS DEVOTED TO PEACEFUL PURPOSES AGAINST ARMED ATTACKS (GC(XXIX)/754, GC(XXIX)/768, and Add.1 and 2)

80. The PRESIDENT said that the item now before the General Conference had been included in the agenda at the request of the Islamic Republic of Iran, which had submitted an explanatory memorandum contained in document GC(XXIX)/754. The General Conference also had before it, under that item, a draft resolution entitled "Protection of nuclear installations devoted to peaceful purposes against armed attacks", which was reproduced in document GC(XXIX)/768.

81. Mr. BELTRAMINO (Argentina), introducing the draft resolution contained in document GC(XXIX)/768 on behalf of his own delegation and of the delegations of Brazil, Chile, Cuba, Guatemala, the Islamic Republic of Iran, the Libyan Arab Jamahiriya, Panama, Paraguay, Peru, the Philippines, the Syrian Arab Republic, Venezuela and Yugoslavia, pointed out that since the adoption of resolution GC(XXVII)/RES/407 the majority of countries wished to take, within the framework of the Agency and other competent bodies, international measures founded on uncontested and forward-looking principles with a view to preventing armed attacks on nuclear facilities and the very grave consequences which could result from such attacks.

82. Aware of the extremely grave consequences of an armed attack on peaceful nuclear facilities, and convinced that peace must be the main objective of all States and that the Agency had a role to play within the scope of its competence, a group of countries had, at the twenty-seventh session of the General Conference, taken an initiative aimed at prohibiting armed attacks. The consequences of such attacks could be harmful beyond measure, and there were three reasons for that: first, they would be a threat to international peace and might easily unleash an armed conflict; second, they would have disastrous radiological consequences; third, they would deal a direct blow to the Agency and its statutory objectives. It had to be borne in mind that the radiological risk arising from the destruction of a nuclear facility could be worse than that caused by a nuclear explosion.

83. The formula proposed in the draft resolution under consideration was sufficiently general to apply to all peaceful facilities, and its aim was to protect all members of the public who might be affected. Its sole aim was to

ensure that the Agency and its Member States continued to give thought to a very delicate matter, considered by the sponsors of the draft to be of vital importance for all States and for the Agency. They had drawn it up with the greatest care, bearing in mind, inter alia, the competence of the Committee on Disarmament and the text of resolution GC(XXVII)/RES/407, adopted by a considerable majority in 1983. That was why any concepts which lacked clarity or which deviated in one way or another from the initial proposal had been avoided.

84. He thanked the various delegations for the contributions they had made to the preparation of the draft. Those contributions had been taken into consideration without the prime objective of the document being altered. He hoped that the draft resolution, the ideas and aims of which were clear, would have the support of all the Member States.

85. Mr. KENNEDY (United States of America), recalling that draft resolution GC(XXIX)/768 urged all Member States to make further efforts aimed at the prompt adoption of binding international rules prohibiting armed attacks against all nuclear facilities devoted to peaceful purposes, said that, although his country was clearly aware of the concerns raised by that issue, it did not nevertheless consider the Agency an appropriate forum for dealing with the matter. If it was to be discussed at all, the appropriate forum was the Committee on Disarmament.

86. The United States believed that the question of new measures for protection against armed attacks raised a number of serious military, technical and legal questions. His country was certainly opposed to all threats or use of force against States - that being a violation of the United Nations Charter - including attacks against nuclear facilities.

87. In the Committee on Disarmament, the United States confined itself to considering whether further measures for protection against such attacks were feasible, necessary or desirable. However, the draft resolution under discussion proposed that binding international rules prohibiting armed attacks against all nuclear facilities should be adopted. It therefore prejudged the outcome of the discussions taking place in the Committee on Disarmament. It was mainly for that reason that his delegation was opposed to the draft resolution.

88. The PRESIDENT, pointing out that the opinions expressed by delegations would be duly reflected in the record of the meeting, said he took it that the General Conference wished to adopt the draft resolution contained in document GC(XXIX)/768.

89. It was so decided

90. Mr. MORDEN (Canada), explaining his country's position with regard to the draft resolution in document GC(XXIX)/768, said that, had it been put to the vote, Canada would have been in favour of it, simply in order to confirm the fact that his delegation endorsed its objectives. He believed, however, that it would be more appropriate to consider the matter in the Committee on Disarmament, which was in fact already dealing with it. In that connection, he drew attention to the fact that the Final Declaration of the Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which had just ended, had acknowledged that the matter was under consideration in the Committee on Disarmament. The Final Declaration also pointed out the unanimous concern about the possibility of an attack against facilities under safeguards and the risks inherent in such an attack.

The meeting rose at 6.25 p.m.