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## THIRTY-EIGHTH (1994) REGULAR SESSION

### COMMITTEE OF THE WHOLE

### RECORD OF THE SIXTH MEETING

Held at the Austria Center Vienna  
on Thursday, 22 September 1994, at 3.15 p.m.

Chairman: Mr. GOESELE (Germany)

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[\*] GC(XXXVIII)/25.

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The composition of delegations attending the session is given in document GC(XXXVIII)/INF/11/Rev.2.

Abbreviations used in this record

NPT

Rarotonga Treaty

Tlatelolco Treaty

Treaty on the Non-Proliferation of Nuclear Weapons

South Pacific Nuclear Free Zone Treaty

Treaty for the Prohibition of Nuclear Weapons in Latin America

STRENGTHENING THE EFFECTIVENESS AND IMPROVING THE EFFICIENCY OF  
THE SAFEGUARDS SYSTEM (GC(XXXVIII)/17, GC(XXXVIII)/COM.5/8 and Add.1-3)  
(continued)

1. The CHAIRMAN recalled that, during the Committee's fifth meeting, the representative of Brazil had proposed the deletion of preambular paragraph (d) of the draft resolution contained in document GC(XXXVIII)/COM.5/8 while the representative of Mexico had proposed that in that preambular paragraph the words "under Article III of the Treaty" be replaced by "in accordance with the relevant articles of the Treaty".
2. Ms. TISCHLER (Germany) said that, as initiator of the draft resolution, her delegation would prefer preambular paragraph (d) to remain as it stood.
3. Mr. ARCILLA (Philippines) said his delegation supported the retention of preambular paragraph (d), but it could go along with the amendment proposed by Mexico.
4. Mr. PRAKASH (India), expressing support for the Brazilian proposal, said his delegation could go along with a reference to the NPT provided that it was simply a factual statement to the effect that the Agency had a role to play in applying safeguards pursuant to the NPT in a number of countries.
5. Mr. WESELKA (Austria) said he supported the retention of preambular paragraph (d).
6. Mr. RIANOM (Indonesia) said his delegation also supported the retention of preambular paragraph (d) but could go along with the amendment proposed by Mexico.
7. Mr. ELYSEU FILHO (Brazil), noting the support for the retention of preambular paragraph (d), proposed that it be revised to read as follows:  
  
"Considering the Treaty on the Non-Proliferation of Nuclear Weapons, the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean [Tlatelolco Treaty] and the South Pacific Nuclear Free Zone Treaty [Rarotonga Treaty] and the Agency's essential role in applying safeguards under those treaties, as well as other non-proliferation mechanisms,".
8. Mr. STRATFORD (United States of America) noted that the wording proposed by the representative of Brazil contained no reference to the 1995 Conference on the NPT. He would like preambular paragraph (d) to contain such a reference.

9. Mr. PRAKASH (India) said he had some difficulty with the reference to "other non-proliferation mechanisms" in the wording proposed by the representative of Brazil.

10. Ms. POLLACK (Canada) said her delegation would also like preambular paragraph (d) to contain a reference to the 1995 Conference on the NPT and also to the role of the Agency in applying safeguards pursuant to the NPT.

11. The CHAIRMAN, noting that the amendment proposed by Mexico seemed to be acceptable, asked the representative of Brazil for his reaction to the comments made on the revised wording of preambular paragraph (d) which he had proposed.

12. Mr. ELYSEU FILHO (Brazil) suggested, in response to the comment made by the representative of India, that the reference to "other non-proliferation mechanisms" in the revised wording which he had proposed be replaced by a reference to "regional mechanisms".

13. Mr. CAMPUZANO PIÑA (Mexico) suggested the following wording for preambular paragraph (d):

"(d) Considering the recent entry into force of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean for other countries in the region and the 1995 Conference on the Treaty on the Non-Proliferation of Nuclear Weapons and also the Agency's essential role in applying safeguards in accordance with the relevant articles of these treaties,".

14. Mr. COLE (United Kingdom) suggested the addition to the wording suggested by the representative of Mexico of a phrase on the following lines: "and noting that a conference to consider the future of the NPT is due to be held in 1995".

15. Mr. PÉREZ MARTÍN (Cuba) said his delegation had nothing against a reference either to the NPT or to the 1995 Conference provided that the Tlatelolco Treaty and the role of the Agency in applying safeguards under its relevant articles were also mentioned.

16. Ms. ROCKWOOD (Legal Division), responding to a point raised by the representative of the United States, said that there were 11 States party to the Rarotonga

Treaty and that all of them had concluded safeguards agreements with the Agency. Safeguards were actually being applied in one of those States.

17. The CHAIRMAN suggested, on the basis of the wording suggested by the representative of Mexico, the following wording for preambular paragraph (d):

"(d) Considering the recent entry into force of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean for other countries in the region and the 1995 Conference on the Treaty on the Non-Proliferation of Nuclear Weapons as well as the Rarotonga Treaty and the Agency's essential role in applying safeguards in accordance with the relevant articles of these treaties,".

18. Mr. PÉREZ MARTÍN (Cuba) and Mr. ELYSEU FILHO (Brazil) said that they would prefer something more like what had been suggested by the representatives of Mexico and the United Kingdom.

19. The CHAIRMAN then suggested that preambular paragraph (d) be amended to read as follows:

"(d) Considering the Treaty on the Non-Proliferation of Nuclear Weapons, the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean and the South Pacific Nuclear Free Zone Treaty and the Agency's essential role in applying safeguards in accordance with the relevant articles of these treaties and noting the 1995 Conference on the Treaty on the Non-Proliferation of Nuclear Weapons,".

20. It was so agreed.

21. The CHAIRMAN asked whether the Committee wished the word "efficiency" in operative paragraph 2 to be changed to "cost-efficiency" and the word "efficient" in paragraphs 4 and 5 to be changed to "cost-efficient".

22. Mr. BUFFINGA (Netherlands) requested clarification as to the need for such a change.

23. The CHAIRMAN said that during discussions a general feeling seemed to have emerged that "cost-efficiency" - rather than just "efficiency" - expressed the idea of "optimum use of resources in attaining a required level of safeguards assurance", in contrast

with "effectiveness", which related to the achievement of safeguards goals. If there were no objections, he would take it that the Committee accepted the three suggested changes.

24. It was so agreed.

25. The CHAIRMAN, referring to operative paragraph 4 and recalling a suggestion made during the Committee's third meeting by the representative of Cuba regarding the voluntary nature of the testing of the measures being considered under Programme 93+2, proposed the insertion of ", on a voluntary basis," immediately before the word "testing".

26. It was so agreed.

27. The CHAIRMAN assumed that the Committee wished to recommend to the General Conference that it adopt the draft resolution in document GC(XXXVIII)/COM.5/8 as amended.

28. It was so agreed.

#### ARTICLE VI OF THE STATUTE

(a) AMENDMENT OF ARTICLE VI.A.2 (GC(XXXVII)/RES/623, GC(XXXVIII)/22, GC(XXXVIII)/COM.5/11 and Add.1)

29. The CHAIRMAN, calling on the Committee to deal with the two sub-items under the agenda item "Article VI of the Statute" separately, said that the draft resolution submitted by Pakistan in document GC(XXXVIII)/COM5/11 appeared to cover both sub-items. He asked the representative of Pakistan to clarify his intentions.

30. Mr. JAMEEL (Pakistan) said that the title of the draft resolution, "Amendment of Article VI/VI.A.2 of the Statute", was intended to reflect changes which had taken place since the adoption of resolution GC(XXV)/RES/389 in 1981. Referring to preambular paragraph (a) of the draft resolution, he said it was clear from the comments of Member States contained in the Attachment to the report in the Annex to document GC(XXXVIII)/23, concerning the question of a revision of Article VI as a whole, that many Member States belonging to different regions were interested in reconsidering Board membership in the light of present-day realities.

31. The purpose of attempting to amend Article VI.A.2 of the Statute was to remedy the under-representation of Africa and the Middle East and South Asia on the Board. However, there was no effective mechanism for examining the question of amending Article VI.A.2, and the absence of such a mechanism favoured the maintenance of the status quo.

32. In submitting the draft resolution, he was therefore aiming at the establishment of an effective mechanism for consultations with all Member States with a view to achieving a consensus on amendments to Article VI - including Article VI.A.2.

33. For historical reasons pertaining to resolution GC(XXV)/RES/389, which had related to the question of amending Article VI.A.2, he would prefer the Committee to take up the draft resolution under sub-item 22(a).

34. Mr. PRAKASH (India) said it would be difficult to avoid touching on the question of a revision of Article VI as a whole when offering comments under sub-item 22(a).

35. The CHAIRMAN said he recognized the difficulties involved but hoped that delegations would try to deal with the two sub-items separately.

36. Mr. PRAKASH (India) said that the question of amending Article VI.A.2 involved four main issues: the first was the need to change the composition and size of the Board in order to reflect changes in the membership of the Agency; the second was whether the system of area groupings was still appropriate; the third was whether certain areas - notably Africa and the Middle East and South Asia - enjoyed an adequate level of representation; and the fourth related to the provision in Article VI.A.2 that prevented Member States vacating "area seats" on the Board from being "re-elected" to them.

37. The report contained in the Annex to document GC(XXXVIII)/22 gave the impression that a new approach was required to the question of a revision of Article VI. In that connection, his delegation considered that the work of the Informal Working Group whose report was contained in the Annex to document GC(XXXVIII)/23 should continue, with increased emphasis on Article VI.A.2.

38. With regard to the title of the draft resolution before the Committee, his delegation felt that it should be changed so as to indicate that the draft resolution related to the question of a revision of Article VI as a whole.

39. Mr. GIOVANSILY (France) suggested that in preambular paragraph (a) of the draft resolution the word "several" ["*plusieurs*"] be inserted before "Member States".

40. Mr. OKONKWO (Nigeria), expressing support for the draft resolution, said that the time had come for an expansion of the Board in order to reflect the Agency's significantly increased membership, ensure greater participation in and acceptance of the Board's decisions by Member States and achieve more equitable representation for certain areas. In its present form, Article VI was a throwback to the post-Second-World-War era, with its obsolete balance of interests, and took no account of recent developments in the nuclear industry or of the influx of new Member States. Also, it took no account of the imminent re-integration of South Africa into the Agency's activities. To rectify the present inequities there should be an increase in the Board's membership, but a mere numerical expansion would not suffice.

41. Mr. ARCILLA (Philippines) said that the Committee should deal with the two sub-items together and inform the General Conference that, because of their inextricably interlinked character, it had proved impossible to tackle them separately.

42. The draft resolution before the Committee was so uncontroversial that it was likely to prove unhelpful in achieving the sponsor's aims. It could be strengthened, however, by spelling out precisely what was envisaged by "consultations" and "effective mechanism" in the operative paragraph. He hoped that adoption of the draft resolution would not lead to the re-establishment of the Informal Working Group established to review all aspects of Article VI as a whole.

43. Ms. ZOHRA (Algeria) expressed support for the draft resolution as a basis for achieving consensus on an issue where lack of consensus favoured particular groups at the expense of the developing countries, which continued to be under-represented on the Board.

44. Regarding the suggestion made by the representative of France, she said that she would prefer the original wording of preambular paragraph (a). Alternatively, in the French



one might change "*les Etats Membres*" to "*des Etats Membres*" and make corresponding changes in the other versions.

45. Mr. QUAYES (Bangladesh) said he saw no need to amend preambular paragraph (a) since the term "Member States" did not imply the entire membership of the Agency.

46. With regard to the operative paragraph, he suggested that the words "to conduct" be deleted.

47. Mr. STRATFORD (United States of America), supporting the change suggested by the representative of France, said that "Member States" without any kind of qualifying word did, in his opinion, imply the Agency's entire membership.

48. Ms. DRDAKOVA (Czech Republic) expressed support for the change suggested by the representative of France.

49. Mr. ELYSEU FILHO (Brazil) suggested that a reference to the report by the Board of Governors (in the Annex to document GC(XXXVIII)/22) be included in the draft resolution.

50. Mr. OKONKWO (Nigeria) expressed support for the suggestion made by the representative of Brazil.

51. Regarding the proposed qualification of "Member States", he wondered whether "many" might not be an acceptable compromise.

52. Mr. CHECKH KHALFALLAH (Tunisia) and Mr. EL KOUNY (Egypt) expressed support for the suggestion made by the representative of Nigeria regarding the insertion of "many".

53. Mr. TITKOV (Russian Federation) said he supported the insertion of "several" before "Member States" in preambular paragraph (a).

54. Mr. BOJER (Denmark) said he supported the insertion of "several" in preambular paragraph (a) and the deletion of "to conduct" in the operative paragraph.

55. Mr. OUVRY (Belgium) said he was pleased that the draft resolution seemed not to reflect the traditional position of certain countries that amendment of Article VI.A.2 alone could resolve the problem of the Board's composition. It referred simply to Article VI and thus met the wish of his and many other delegations that a comprehensive solution be sought through a revision of Article VI as a whole.

56. With regard to the suggestion just made by the representative of Brazil, he felt that reference should be made in the draft resolution also to the report - in the Annex to document GC(XXXVIII)/23 - of the Informal Working Group which had been chaired by Ambassador Aalto of Finland.

57. Ms. TISCHLER (Germany) supported the insertion of "several" in preambular paragraph (a) and the inclusion of a reference to the two reports which had been submitted to the Conference for consideration under agenda item 22.

58. Mr. ARCILLA (Philippines) and Mr. EL KOUNY (Egypt) supported the inclusion of a reference to the two reports.

59. Mr. CAMPUZANO PIÑA (Mexico) suggested wording on the following lines for preambular paragraph (a): "Taking into account the fact that the present composition of the Board warrants particular attention in the light of present-day realities,". Such a formulation would circumvent the problem of the number of Member States interested in reconsidering the Board's membership.

60. Mr. STRATFORD (United States of America) suggested the insertion of "concerned" before "Member States" in preambular paragraph (a).

61. Mr. JAMEEL (Pakistan) supported the suggestion made by the representative of the United States and also the idea of including a reference to the reports contained in the Annexes to documents GC(XXXVIII)/22 and GC(XXXVIII)/23.

62. Mr. OKONKWO (Nigeria) said that, for the sake of consensus, he could go along with the suggestion made by the representative of the United States.

63. Mr. QUAYES (Bangladesh) said that, while he would have preferred the insertion of "many" rather than "concerned", he was willing to go along with the suggestion

made by the representative of the United States, especially as it had the support of the representative of Pakistan.

64. The CHAIRMAN asked the Committee whether it agreed that there should be a new, additional preambular paragraph (a) worded as follows: "Taking into account the reports of the Board of Governors contained in documents GC(XXXVIII)/22, GC(XXXVIII)/23 and GC(XXXVIII)/23/Add.1,".

65. It was so agreed.

66. The CHAIRMAN asked the Committee whether it agreed to the insertion of "concerned" before "Member States" in old preambular paragraph (a) - now preambular paragraph (b).

67. It was so agreed.

68. Mr. CHUN (Republic of Korea) proposed a new preambular paragraph, to be inserted after new preambular paragraph (b), reading as follows: "Taking into account the fundamental and structural changes that have taken place in the past two decades in international realities, particularly in the world nuclear community,".

69. Mr. KOSTENKO (Ukraine), Mr. RUIZ (Spain) and Mr. CAMPUZANO PIÑA (Mexico) supported the proposal made by the representative of Korea.

70. The CHAIRMAN assumed that the Committee agreed to the proposal.

71. It was so agreed.

72. Mr. JAMEEL (Pakistan) said he could go along with the deletion of "to conduct".

73. Mr. ARCILLA (Philippines), supporting the suggested deletion of "to conduct" in the operative paragraph, said he was not happy with the word "consultations". His delegation could not associate itself with the draft resolution until the mandate of the envisaged "effective mechanism" was clear. He suggested inserting the phrase "with a negotiating mandate" after "effective mechanism".

74. Mr. PRAKASH (India) said he felt uncomfortable about the suggested inclusion of "with a negotiating mandate" in the operative paragraph.

75. Mr. OKONKWO (Nigeria) said he could go along with the suggestion made by the representative of the Philippines if there was general support for it in the Committee.

76. Mr. CAMPUZANO PIÑA (Mexico) said that his delegation had traditionally supported resolutions submitted on behalf of Africa and the Middle East and South Asia. However, it found the draft resolution submitted by Pakistan - a Member State belonging to the area of the Middle East and South Asia - rather confusing. Preambular paragraph (a) of the draft resolution as submitted appeared to relate to the question of revising Article VI as a whole, whereas preambular paragraphs (b) and (c) - with the references to resolution GC(XXV)/RES/389 - appeared to relate only to the question of amending Article VI.A.2 - a particular concern of Africa and the Middle East and South Asia. Perhaps the Chairman could clarify what the title of the draft resolution should be and hence which of the two sub-items comprising agenda item 22 the Committee was considering.

77. Mr. KOSTENKO (Ukraine), endorsing what had been said by the representative of Mexico, said that his delegation was more interested in a revision of Article VI as a whole than in the question of amending Article VI.A.2.

78. The CHAIRMAN said that, in his view, it would be best to reach consensus on the language of the draft resolution itself before deciding on the title.

79. Mr. CHUN (Republic of Korea), associating himself with the views of the representatives of Mexico and Ukraine, said that the focus should be on Article VI as a whole, not simply Article VI.A.2.

80. Mr. JAMEEL (Pakistan), commenting on the views expressed by the representatives of Mexico, Ukraine and the Republic of Korea, said that the references to resolution GC(XXV)/RES/389 had been included in the draft resolution for historical reasons only and that the draft resolution was meant to embrace the question of revising Article VI as a whole.

81. With regard to the nature of the envisaged "effective mechanism", little progress had been achieved either in trying to amend Article VI.A.2 or in trying to revise Article VI as a whole. It would be for the Board to decide on the nature and mandate of the "effective mechanism".

82. Mr. ARIZAGA (Ecuador) said that he was confused at the way the discussion was developing. Perhaps it would help if the preamble referred simply to "relevant General Conference resolutions" rather than to specific resolutions. If there was a wish to refer to a specific resolution, one could insert the expression "inter alia".

83. Mr. ARCILLA (Philippines) said he was sorry that the representative of India felt uncomfortable about the suggested inclusion of "with a negotiating mandate" in the operative paragraph. Perhaps his discomfort stemmed less from an inability to understand the implications of the suggestion than from a reluctance to accept it.

84. Preambular paragraph (c) of the draft resolution spoke of the "continuing lack of progress in resolving the urgent need for the implementation of resolution GC(XXV)/RES/389". If the intention of the draft resolution's author - the representative of Pakistan - was to achieve some progress, the envisaged "effective mechanism" would have to be given a negotiating mandate.

85. Mr. OUVRY (Belgium) said that, in his view, it would probably not be possible to formulate a clear negotiating mandate for an "effective mechanism" such as a working group. He would like progress to be rapid, but it was necessary to be realistic and to proceed by consensus, with account taken of the interests of all Member States.

86. Mr. STRATFORD (United States of America) said he had no problem with the words "an effective mechanism", which he understood to be a well-chaired consultation group, but he was concerned about the phrase "with a negotiating mandate", because it was not clear who would provide the mandate. As the General Conference was not providing one, it would presumably have to be provided by the Board. If that were the case, however, there would probably be interminable discussions in the Board on the issue, which would have to be settled by a working group. The inclusion of the phrase "with a negotiating mandate" would only create confusion in the Board.

87. The CHAIRMAN said he assumed that the Committee agreed to the deletion of "to conduct" in the operative paragraph.

88. It was so agreed.

89. The CHAIRMAN said there appeared not to be an agreement on the suggested insertion of "with a negotiating mandate" after "an effective mechanism".

90. Mr. ARCILLA (Philippines) suggested that "with a negotiating mandate" be inserted within square brackets.

91. Mr. STRATFORD (United States of America) said, in his opinion, the insertion of "with a negotiating mandate" within square brackets would suggest that the Committee was much more divided on the suggestion than it actually was. In any case, it was not the Committee's practice to recommend texts with bracketed phrases to the General Conference. If a delegation favoured a particular wording very strongly, it could always propose that wording to the Conference at a plenary meeting.

92. The CHAIRMAN suggested that, as there appeared to be no consensus, the draft resolution be transmitted to the General Conference without the phrase "with a negotiating mandate" and that the views of the representative of the Philippines be reflected in the summary record of the Committee's meeting and in his [the Chairman's] report to the Conference.

93. Mr. ARCILLA (Philippines) said it was important to avoid creating a further ineffective mechanism. In a spirit of compromise, he could go along with the insertion of "negotiating" between "effective" and "mechanism".

94. Mr. OKONKWO (Nigeria) said that his delegation also could go along with such an insertion.

95. Mr. PRAKASH (India) said that he still felt uncomfortable. In his opinion, the draft resolution should pave the way for consultations rather than for negotiations.

96. Mr. CHUN (Republic of Korea), expressing support for the insertion of "negotiating" between "effective" and "mechanism", said that recommendations could hardly be formulated without negotiations and that, as had been pointed out, the consultations of the

past decade had produced no useful results. The Board could decide on the nature of the "effective negotiating mechanism".

97. Mr. ARIZAGA (Ecuador) associated himself with the views expressed by the representative of the Republic of Korea.

98. Mr. WOJCIK (Poland) said he found it hard to imagine how the Board of Governors would negotiate with Member States pursuant to the draft resolution if it was adopted with the phrase "an effective negotiating mechanism". He would therefore prefer not to see "negotiating" inserted between "effective" and "mechanism", although progress achieved through the envisaged "effective mechanism" might in due course result in negotiations.

99. Mr. FITZGERALD (Ireland) said he shared the representative of India's feeling of discomfort at the suggested insertion of "negotiating". With its insertion the draft resolution would provide both for consultations and for negotiations, which were different processes.

100. Mr. GIOVANSILY (France) expressed support for the views of the representatives of India and Ireland.

101. The CHAIRMAN asked the representative of the Philippines whether he could agree that "negotiating" not be inserted between "effective" and "mechanism" on the understanding that his views would be reflected in the summary record and in his [the Chairman's] report to the Conference.

102. Mr. ARCILLA (Philippines), pointing out that his compromise suggestion had been supported by the representative of three other Member States, asked why only his views should be reflected in the Chairman's report.

103. Regarding the comments made by the representatives of Belgium and Poland, he said his understanding of "an effective negotiating mechanism" was that all Member States would be able to participate in the negotiations. Perhaps the phrase in question could be expanded to read something like "an effective negotiating mechanism to be comprised of all Member States of the Agency".

104. Mr. OKONKWO (Nigeria) said he could not understand why some delegations were apprehensive about the insertion of "negotiating". However, he could live with the phrase "an effective mechanism", but perhaps the Chairman could indicate in his report to the Conference that some delegations had favoured the insertion. At all events, he hoped that there would be no formal reservations about the draft resolution.

105. Mr. CHUN (Republic of Korea) said that - as he had indicated earlier - his delegation favoured the insertion of "negotiating" but could live without such an insertion.

106. Mr. ARCILLA (Philippines) said that there was clearly not a consensus on the draft resolution as his delegation objected to it and that the Chairman, in his report to the Conference, should state that there was no consensus. At all events, his delegation reserved the right to place its objections before the Conference at a plenary meeting. The delegations which felt discomfort about the suggested insertion of "negotiating" appeared to be delegations of Member States which had in the past categorically opposed any amendment to Article VI.

107. Mr. OKONKWO (Nigeria), supported by Mr. JAMEEL (Pakistan) and Mr. MAFFEI (Argentina), said he would like the Chairman to be able to report that there was a consensus on a draft resolution.

108. Mr. QUAYES (Bangladesh) said that there was perhaps no need for the Chairman to report that certain delegations had reservations about the draft resolution recommended to the Conference. The Chairman could simply report that some delegations had felt that the envisaged "effective mechanism" should be open to all Member States and have a negotiating mandate.

109. Mr. CHUN (Republic of Korea), having indicated that his delegation would have preferred the insertion of "negotiating", said that the draft resolution would still represent a step forward and that he would like it to be recommended as a draft resolution on which consensus had been reached.

110. Mr. ARCILLA (Philippines) said his delegation's position was that there should be some progress with regard to the question of amending Article VI. In the hope that progress would be made even if the envisaged "effective mechanism" had no negotiating



mandate, he would drop his insistence on the insertion of "negotiating" provided that his position was reflected in the summary record and in the Chairman's report to the Conference. His position was that the "effective mechanism" should be open to all Member States and that it should have a negotiating mandate.

111. Mr. CHUN (Republic of Korea), thanking the representative of the Philippines for his conciliatory gesture, said that, as a member of the Board, the Philippines would in the coming year have ample opportunity to promote what he regarded as an excellent idea.

112. The CHAIRMAN asked the Committee whether it agreed that the only change to the operative paragraph of the draft resolution should be the deletion of "to conduct" and that he should inform the Conference that one delegation had agreed to join the consensus on the draft resolution on the basis of its understanding, shared by a few other delegations, that the "effective mechanism" would be open to all Member States and have a negotiating mandate.

113. It was so agreed.

114. The CHAIRMAN suggested that the Committee consider the title of the draft resolution after dealing with the agenda sub-item 22(b).

115. Mr. ARCILLA (Philippines) said that, in his opinion, the Committee had in effect already dealt with agenda sub-item 22(b) and had only to decide on the title of the draft resolution.

116. Mr. CHUN (Republic of Korea), agreeing with the representative of the Philippines, suggested that the title of the resolution be the same as that of the agenda item.

117. Mr. CAMPUZANO PIÑO (Mexico) reminded the Committee that the representative of Ecuador had made a suggestion regarding the way resolutions should be referred to in the preamble.

118. Mr. ARIZAGA (Ecuador), recalling his suggestion, said that as the issue of Article VI.A.2 and that of Article VI as a whole had both been covered in the discussion, the preamble of the draft resolution should reflect that fact by referring to all relevant

resolutions and decisions of the General Conference and not highlighting resolution GC(XXV)/RES/389.

119. The CHAIRMAN proposed that old preambular paragraph (b) - new preambular paragraph (d) - be amended to read "Reiterating the urgent need to implement, inter alia, General Conference resolution GC(XXV)/RES/389 and all other relevant General Conference resolutions and decisions,".

120. Mr. RUIZ (Spain), supporting the Chairman's proposal, said that as agenda sub-items 22(a) and (b) had clearly been discussed together, the best possible title for the draft resolution would be "Amendment of Article VI of the Statute".

121. The CHAIRMAN asked whether the Committee agreed to the amended version of new preambular paragraph (d) which he had proposed.

122. It was so agreed.

123. The CHAIRMAN said that there appeared to be two suggestions for the title of the draft resolution. The representative of the Republic of Korea had proposed that the draft resolution have the same title as the agenda item ("Article VI of the Statute") and the representative of Spain had proposed the title "Amendment of Article VI of the Statute".

124. Mr. AALTO (Finland) said that in his view the Committee had not yet dealt with agenda sub-item 22(b) and that it might wish to call for Board action under that sub-item. If it did wish to do so, there might be a problem in reconciling that with the draft resolution.

125. The CHAIRMAN suggested that the Committee focus at the present stage on selecting a title for the draft resolution which matched the operative paragraph. He asked whether the Committee would accept the title "Amendment of Article VI of the Statute".

126. It was so agreed.

- (b) REVISION OF ARTICLE VI AS A WHOLE (GC(XXXVII)/DEC/12, GC(XXXVIII)/23 and Add.1)

127. The CHAIRMAN invited Ambassador Aalto of Finland, who had been Chairman of the Informal Working Group established to review all aspects of Article VI, to present the report of the Group contained in the Annex to document GC(XXXVIII)/23.

128. Mr. AALTO (Finland) drew attention to document GC(XXXVIII)/23/Add.1, which contained the summary record of the discussion relating to the question of revising Article VI as a whole which had taken place in the Board of Governors the previous week. He had nothing to add to what he had said in the Board.

129. Mr. ARCILLA (Philippines), having thanked the Chairman and the other members of the Informal Working Group for their work, said once again that, in his opinion, the Committee had in effect already dealt with agenda sub-item 22(b). As a consensus appeared to have been reached on the draft resolution, the Informal Working Group would be replaced by the "effective mechanism" provided for in it.

130. Mr. RUIZ (Spain), thanking the Informal Working Group and its Chairman, said that the problem had not been the Group's ineffectiveness but rather the fact that the attitudes of delegations participating in the Group's deliberations had not been very constructive. He hoped that the envisaged mechanism would not be a working group; if it was, he hoped that more constructive attitudes would prevail than in the past.

131. The CHAIRMAN thanked Ambassador Aalto on behalf of the Committee for the able and efficient manner in which he had presided over the deliberations of the Informal Working Group.

132. He assumed that the Committee wished to recommend to the General Conference that it adopt the draft resolution contained in document GC(XXXVIII)/COM.5/11 with the amendments on which it had agreed.

133. It was so decided.

MEASURES AGAINST ILLICIT TRAFFICKING IN NUCLEAR MATERIAL  
(GC(XXXVIII)/1/Add.2, GC(XXXVIII)/COM.5/9 and Add.1-5)

134. Mr. MENDEN (Germany), introducing the draft resolution contained in document GC(XXXVIII)/COM.5/9, said there was growing concern worldwide about recent cases of illegal transfers and smuggling of nuclear material, which represented a challenge to the international non-proliferation system.

135. The draft resolution already had 41 co-sponsors, and further support would be welcome.

136. Mr. ARCILLA (Philippines), expressing support for the main thrust of the draft resolution, requested clarification regarding the "small group of experts" referred to in operative sub-paragraph 2(c). How small would that group be and how would the members be designated?

137. Mr. TITKOV (Russian Federation), having thanked the representative of Germany for introducing the draft resolution on behalf of the European Union and the other co-sponsors, said his delegation was sympathetic to concerns about the consequences of nuclear material falling into criminal hands and shared the view that Member States should take all necessary measures to prevent illicit trafficking in nuclear material and to strengthen their national nuclear material accounting and control systems and their national systems for the physical protection of nuclear material. Also, his delegation supported the establishment of bilateral and international co-operation aimed at the prevention of nuclear smuggling.

138. Referring to preambular paragraph (a) of the draft resolution, he said that no evidence of a recent increase in illicit trafficking in nuclear material had been produced by the representative of Germany during the meetings of the Board of Governors held the previous week. In fact, the Governor from Switzerland had indicated at those meetings that in his country there had been no increase in illicit trafficking in nuclear material. He would be interested to hear the names of countries in which such an increase had taken place. Reports in the news media could not be taken as the basis for alleging a "recent increase in illicit trafficking".

139. With regard to operative sub-paragraph 2(b), which referred to "additional options available in the field of data collection and analysis", he asked what kinds of data were envisaged.

140. The schedule envisaged in operative sub-paragraph 2(d) seemed unrealistic. The preparation of proposals would require much more time.

141. Mr. ARIZAGA (Ecuador) expressed concern about the great dangers inherent in illicit trafficking in nuclear material and said that his delegation supported the draft resolution.

142. Mr. PRAKASH (India), commending Germany and the other members of the European Union for raising an important issue, said his delegation fully supported the principle behind the draft resolution and agreed with all of the preambular paragraphs and with operative paragraphs 1 and 3.

143. It had problems with operative paragraph 2, however. The Director General should certainly prepare proposals in consultation with a group of experts and then submit them to the Board in December, but his delegation did not see why it was necessary to specify - in operative sub-paragraph 2(b) - two particular fields where additional options should be examined. Also, it was not clear what the purpose of the envisaged data collection and analysis would be.

144. Mr. JAMEEL (Pakistan) said that, if there had recently been an increase in illicit trafficking in nuclear material, something should be done. However, there appeared to be no evidence of an increase. At most, there had been more reports in the news media.

145. He also had difficulties with operative sub-paragraph 2(b). What was the purpose of the envisaged data collection and analysis? Perhaps it should be to check on the veracity of media reports.

146. Once the magnitude of the problem was known, Member States could begin to deal with it. It was too soon to establish an expert group, and two months was too short a time to prepare useful proposals.

147. Mr. RYABTSEV (Ukraine) said that the problem of illicit trafficking in nuclear material was a source of great concern to his Government, which was why his delegation had co-sponsored the draft resolution. To be effective, a mechanism to prevent illicit trafficking should involve not only nuclear material accounting, control and physical protection in every country, but also close co-ordination of the efforts of relevant international organizations and a more open exchange of information. It was appropriate that the Director General should be requested to look into the possibility of the Agency's playing a more active role in preventing illicit trafficking in nuclear material.

148. Mr. ZHU (China) said that his delegation was in favour of the Agency's playing a role in combating illicit trafficking in as far as the activities to be carried out by the Agency came within its mandate and were governed by an appropriate legal framework. Like the representative of Pakistan, however, he felt that the reported incidences of illicit trafficking should first be analysed and clarified. Also, the preparation of proposals would take quite a long time, and he therefore felt that operative sub-paragraph 2(d) of the draft resolution should be amended so as to give the Director General until March 1995 for the preparation of proposals.

149. Mr. BAHMANYAR (Islamic Republic of Iran) said that the recent reports of illicit trafficking in nuclear material had caused justified concern and that his delegation was strongly in favour of measures to combat such illicit trafficking. The draft resolution which had been submitted might well provide a basis for devising the necessary measures.

150. The issue was directly linked to that of the nuclear waste arising as a by-product of nuclear weapons reductions, regarding which the nuclear-weapon States had a particular responsibility in the field of nuclear waste management and in that of the physical protection of nuclear material. That should perhaps be made clear in the draft resolution.

151. The reported cases of illicit trafficking were a direct result of ineffective physical protection, and a paragraph should perhaps be added to the draft resolution establishing a link between it and the Convention on the Physical Protection of Nuclear Material.

152. Mr. NOGUEIRA VIANA (Brazil), expressing his delegation's support for the main thrust of the draft resolution, suggested that in operative sub-paragraph 2(c) the phrase "a small group of experts" be amended to "an open-ended group of experts".

153. The CHAIRMAN suggested that the Committee consider the draft resolution paragraph by paragraph and invited comments on preambular paragraph (a).

154. Mr. JAMEEL (Pakistan) suggested that the wording be amended to "... about recently reported incidences of illicit trafficking ..."

155. Mr. MENDEN (Germany) said that the issue had been discussed at length within the European Union, whose Member States were convinced that there had indeed been an increase in illicit trafficking. The Agency, which had already collected data, should be in a position to confirm that there had been an increase.

156. Mr. TITKOV (Russian Federation) suggested that the wording be amended to "... about the consequences of illicit trafficking ..."

157. Mr. QUAYES (Bangladesh) said he could go along with the suggestion made by the representative of the Russian Federation.

158. Mr. JAMEEL (Pakistan), noting that his delegation had not been privy to the discussions which had taken place within the European Union, said that, although the Agency might - as suggested by the representative of Germany - be in a position to confirm that there had been an increase in illicit trafficking, as the evidence had not yet been made available to Member States it would be wrong to imply in the draft resolution that there had been an increase.

159. Mr. WOJCIK (Poland) concurred that as yet no evidence had been adduced of an increase in illicit trafficking. However, there was equally little information about the consequences of illicit trafficking. Preambular paragraph (a) should perhaps therefore refer to "reported incidences" or "reports" of illicit trafficking.

160. Mr. STRATFORD (United States of America) said that he could go along with the wording suggested by the representative of the Russian Federation.

161. Mr. MENDEN (Germany) suggested that the wording be amended to "... about the recent increase in reporting of illicit trafficking ..."

162. Mr. LEE (Republic of Korea) supported the suggestion made by the representative of Germany.

163. Mr. JAMEEL (Pakistan) said he could go along with the suggestion.

164. The CHAIRMAN asked the Committee whether it was willing to accept preambular paragraph (a) with the change suggested by the representative of Germany.

165. It was so agreed.

166. The CHAIRMAN, noting that no-one wished to comment on preambular paragraphs (b), (c) and (d), on operative paragraph 1 or on operative sub-paragraph 2(a), assumed that the Committee wished to accept them as they stood.

167. It was so agreed.

168. Mr. PRAKASH (India) said that operative sub-paragraph 2(b) should perhaps be deleted. It appeared to be redundant since the preparation of proposals - called for in operative sub-paragraph 2(c) - implied that additional options would be examined.

169. Mr. JAMEEL (Pakistan) suggested that a phrase like "with a view to first verifying the veracity of reports on trafficking incidents" be inserted after "analysis" and that "mandate" be replaced by "Statute".

170. Mr. QUAYES (Bangladesh) suggested that operative sub-paragraph 2(b) be shortened to read "to examine, in conformity with the Agency's mandate, additional options available in this field," and that operative sub-paragraphs 2(b) and (c) then be combined. That should go some way towards meeting the concern of the representative of India.

171. Mr. PRAKASH (India) said that his concern in suggesting that operative sub-paragraph 2(b) be deleted had been that the Director General should be given a free hand in examining additional options. Operative sub-paragraph 2(b), by mentioning specific fields, appeared to prejudge the matter. In addition, it was not clear what types of data were to be collected and analysed.



172. Operative sub-paragraph 2(c) was sufficient in itself, but he would not object to the retention of the phrase "to examine additional options available" in an appropriate context. His delegation was not in any way opposed to the Agency's carrying out the activities envisaged in the draft resolution.

173. Mr. TITKOV (Russian Federation) endorsed the comments made by the representative of India.

174. Mr. MENDEN (Germany) said that the Agency was already performing data collection and analysis and that he therefore saw no reason why those activities should not be mentioned in the draft resolution. His delegation would not oppose the combining of operative sub-paragraphs 2(b) and (c) as long as the full text was retained. Also, it would not object to the replacing of "mandate" by "Statute".

175. Mr. ISASHIKI (Japan) agreed with the representative of Germany that the activities mentioned in operative sub-paragraph 2(b) were ones already being conducted by the Agency and that they should therefore be mentioned.

176. Like the representative of Germany, he had no objection to the combining of operative sub-paragraphs 2(b) and (c).

177. Mr. PRAKASH (India) said he had no objection to the mentioning of data collection and analysis, but it should be made clear that the data in question related to illicit trafficking.

178. Mr. MENDEN (Germany) said his delegation could go along with that idea.

179. Ms. ROCKWOOD (Legal Division) suggested that the phrase "data collection and analysis" be expanded to read something like "collection and analysis of data relating to reported incidents of illicit trafficking".

180. Ms. BATACLAN (Philippines) suggested that ", verification" be inserted after "data collection" in operative sub-paragraph 2(b).

181. Mr. JAMEEL (Pakistan) and Mr. TITKOV (Russian Federation) supported the suggestion.

182. Mr. MENDEN (Germany) said that he could go along with it.

183. Mr. FITZGERALD (Ireland) suggested that the phrase "and that of physical protection" be replaced by "and the field of physical protection".

184. Mr. GIOVANSILY (France) requested clarification from the Secretariat regarding its data verification activities.

185. Mr. TANI (Director, Division of Safeguards Information Treatment) said that the Agency, which collected data on illicit trafficking from all possible sources, verified such data by making inquiries of the relevant authorities in the Member States concerned. If the Agency established that impounded nuclear material was safeguards-relevant, it requested the Member State concerned to include that material in its safeguards inventory.

186. The CHAIRMAN, noting that there had been no objections to the combining of operative sub-paragraphs 2(b) and (c), suggested that operative sub-paragraph 2(b) be amended to read as follows: "to examine additional options available in the field of collecting, verifying and analysing data relating to incidents of illicit trafficking and in the field of physical protection, in conformity with the Agency's Statute,".

187. It was so agreed.

188. The CHAIRMAN recalled that, earlier in the discussion, the representative of Brazil had suggested that in operative sub-paragraph 2(c) the phrase "a small group" be amended to "an open-ended group". He invited comments on that suggestion.

189. Mr. MENDEN (Germany) said his delegation would prefer to retain the phrase "a small group". That would not prevent the Director General from consulting as widely as he wished.

190. Mr. JAMEEL (Pakistan) said that, in the interest of transparency, his delegation would prefer the phrase "an open-ended group".

191. Mr. ZHU (China) said his delegation also would prefer the phrase "an open-ended group".

192. Mr. QUAYES (Bangladesh) suggested the simple deletion of the word "small".

193. Mr. MENDEN (Germany) said his delegation could go along with that suggestion.

194. Mr. GIOVANSILY (France) said that the suggestion was acceptable to his delegation also.

195. The CHAIRMAN said he took it that the simple deletion of the word "small" was acceptable to the Committee.

196. It was so agreed.

197. The CHAIRMAN, turning to operative sub-paragraph 2(d), recalled that the representative of China had proposed that the envisaged December 1994 deadline be replaced by a March 1995 deadline.

198. Mr. MENDEN (Germany) proposed, as a compromise, the wording "if possible at its December 1994 session but no later than its March 1995 session".

199. The CHAIRMAN asked whether that formulation was acceptable to the Committee.

200. It was so agreed.

201. The CHAIRMAN took it that the Committee wished to recommend to the General Conference that it adopt the draft resolution with the amendments on which the Committee had agreed.

202. It was so decided.

The meeting rose at 8.45 p.m.

