



**GC**

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**THIRTY-NINTH (1995) REGULAR SESSION**

**GENERAL COMMITTEE**

**RECORD OF THE FIRST MEETING**

Held at the Austria Center Vienna  
on Monday, 18 September 1995, at 2.40 p.m.

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[\*] GC(39)/1.

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**ATTENDANCE AT THE MEETING**

**Chairman**

**Mr. KASEMSARN (Thailand), President of the General Conference**

**Members**

**Mr. CEYSSENS (Belgium), Vice-President of the General Conference**

**Mr. BOBADILLA LOPEZ, representing Mr. PUCCIO HUIDOBRO (Chile),  
Vice-President of the General Conference**

**Mr. LI, representing Mr. JIANG (China), Vice-President of the General Conference**

**Mr. AL-GHAIS (Kuwait), Vice-President of the General Conference**

**Mr. RYZHOV, representing Mr. MIKHAILOV (Russian Federation), Vice-President  
of the General Conference**

**Mr. ROUX, representing Mr. MINTY (South Africa), Vice-President of the General  
Conference**

**Mr. MEADWAY (United Kingdom), Vice-President of the General Conference**

**Mr. SNYDER, representing Ms. O'LEARY (United States of America),  
Vice-President of the General Conference**

**Ms. LAJOUS VARGAS (Mexico), Chairman of the Committee of the Whole**

**Ms. DEVMENDJIEVA, representing Mr. YANEV (Bulgaria), Additional Member**

**Ms. DRDAKOVA, representing Mr. ŠTULLER (Czech Republic), Additional  
Member**

**Ms. MÄKELÄINEN (Finland), Additional Member**

**Mr. ADEKANYE (Nigeria), Additional Member**

**Mr. JAMAL (Qatar), Additional Member**

**Chairman of the Board of Governors**

**Mr. CHIDAMBARAM (India)**

**Secretariat**

**Mr. STURMS, Director, Legal Division**

**Mr. SANMUGANATHAN, Secretary of the Committee**

**ADOPTION OF THE COMMITTEE'S AGENDA (GC(39)/GEN/1)**

1. The CHAIRMAN pointed out that, in addition to the traditional item "Arrangements for the Conference", the provisional agenda contained an item dealing with requests for the restoration of voting rights.
2. If there were no objections, he would take it that the Committee wished to adopt the agenda proposed in document GC(39)/GEN/1.
3. It was so decided.

**ARRANGEMENTS FOR THE CONFERENCE**

- (a) **ADOPTION OF THE AGENDA AND ALLOCATION OF ITEMS FOR INITIAL DISCUSSION (GC(39)/1)**

**List of items**

4. The CHAIRMAN said he took it that the Committee wished to recommend to the Conference that the agenda for the current session consist of all the items listed in document GC(39)/1.
5. It was so decided.

**Allocation of items for initial discussion and order of items**

6. The CHAIRMAN, drawing attention to the annotations in document GC(39)/1 containing suggestions as to where the substance of individual items might first be discussed, proposed that, given the nature of the subject matter and of the documentation before the General Conference, item 28, "Appointment of the External Auditor", be discussed initially in the Committee of the Whole - instead of in plenary - and that it accordingly be taken together with other items to be discussed initially in the Committee as item 23, the subsequent items being renumbered.

7. It was so decided.
8. The CHAIRMAN said he therefore took it that the Committee wished to recommend to the General Conference the allocation of items for initial discussion suggested in document GC(39)/1 with the change just agreed upon.

9. It was so decided.

(b) **CLOSING DATE OF THE SESSION AND OPENING DATE OF THE NEXT SESSION**

10. The CHAIRMAN said that, although some 70 delegates had already inscribed themselves in the speakers' list for the general debate, he considered that the Committee should recommend to the Conference that the closing date of the session be Friday, 22 September 1995.

11. It was so decided.

12. The CHAIRMAN proposed that the Committee recommend to the Conference that the opening date of the 1996 regular session of the General Conference be Monday, 16 September.

13. It was so decided.

**RESTORATION OF VOTING RIGHTS (GC(39)/INF/7 and GC(39)/INF/17)**

14. The CHAIRMAN said that requests for the restoration of voting rights had been received from Iraq, which had explained its case in document GC(39)/INF/7, and Belarus, which had explained its case in document GC(39)/INF/17. The Committee's task was to recommend to the General Conference whether or not it should accede to those requests. Under Article XIX.A of the Statute, the General Conference could permit a Member State disqualified from voting because of defaults in the payment of its contributions to vote if it was satisfied that the failure to pay was due to conditions beyond the Member State's control.

15. Document GC(39)/INF/20, "Statement of financial contributions to the Agency as at 15 September 1995", listed the countries in arrears in the payment of financial contributions within the meaning of Article XIX.A of the Statute.

16. Mr. SNYDER (United States of America), referring to Iraq's request in document GC(39)/INF/7, said that his Government opposed any waiver of the obligation to pay assessed contributions to the Agency in order to allow Iraq to vote during the current General Conference session. Iraq had placed itself in the position in which it found itself and

could extricate itself by meeting in full its obligations under the United Nations Security Council resolutions relating to it. His Government's view on the matter had been strengthened by recent revelations regarding the degree to which Iraq had lied and avoided compliance with those resolutions. When full compliance occurred, the subject of the removal of sanctions against Iraq could be addressed, and Iraq should then make every effort to pay its assessed contributions.

17. The CHAIRMAN, noting that there were no other speakers, said that he took it that the Committee did not wish to recommend that Iraq be permitted to vote pursuant to the second sentence of Article XIX.A of the Statute.

18. It was so decided.

19. Mr. RYZHOV (Russian Federation), referring to the request made by Belarus, said that, while his delegation did not accept all of the reasons for the situation of Belarus given in the Memorandum attached to document GC(39)/INF/17, the fact remained that Belarus was undergoing transition to a market economy and consequently experiencing great economic difficulties. Those difficulties were to some extent beyond the control of Belarus, which clearly intended to make every effort to meet its financial obligations in full. He therefore urged the Committee to support the request of Belarus.

20. Mr. MEADWAX (United Kingdom) said that, while his delegation had every sympathy for Belarus, it considered that the principle at stake was a very important one from the point of view of the continuing funding of the Agency. He therefore felt that it would be unwise for the Committee to recommend that the Conference accede to the request of Belarus.

21. Ms. MÄKELÄINEN (Finland) asked whether the US \$100 000 referred to in the penultimate paragraph of the Memorandum attached to document GC(39)/INF/17 had in fact been received.

22. Mr. SANMUGANATHAN (Secretary of the Committee) replied that they had been received earlier in the day.

23. Mr. ADEKANYE (Nigeria) said that from the Memorandum there appeared to be some dispute over the level of Belarus's assessment and that he would appreciate some clarification.
24. Mr. SANMUGANATHAN (Secretary of the Committee) said that, as he understood it, the Agency was not directly involved in the dispute, which was a system-wide problem being examined in the General Assembly's Committee on Contributions in New York.
25. Mr. RYZHOV (Russian Federation) said that the existence of a dispute did not mean that Belarus was refusing to pay its assessed contributions in full.
26. Mr. SANMUGANATHAN (Secretary of the Committee), replying to a question put by Mr. RYZHOV (Russian Federation), said that during the past decade requests from six Member States for the restoration of voting rights had been acceded to.
27. Mr. ADEKANYE (Nigeria) said that, in view of the very difficult economic situation in Belarus, the system-wide dispute regarding Belarus's rate of assessment and the fact that Belarus had just demonstrated its good faith by making a payment to the Agency, his delegation was in favour of restoring Belarus's voting rights.
28. The CHAIRMAN said that he took it that the Committee wished to recommend that the Conference permit Belarus to vote pursuant to the second sentence of Article XIX.A of the Statute.
29. It was so decided.
30. Mr. AL-GHAIS (Kuwait) asked whether the delegate of a Member State which had lost its vote in the Agency, still had the right to request a vote in the General Conference on a draft resolution, the right to request a particular method of voting and the right to propose amendments to a draft resolution.
31. In his opinion, such a delegate should not have the right to do any of those things, particularly if the Member State in question was failing to pay its assessed contributions for political - not economic or financial - reasons.



32. Mr. STURMS (Director, Legal Division) said that Article 19 of the Charter of the United Nations, which was worded in essentially the same way as Article XIX.A of the Statute, had been consistently interpreted as meaning that the penalty in question was restricted to the act of casting a vote and did not extend to other forms of participation, such as the introduction of motions which could eventually lead to a vote or to the adoption of a particular method of voting and the sponsoring of draft resolutions.
33. It was, of course, for the General Conference to interpret the Statute of the Agency, and different interpretations were possible. At the same time, consideration should be given to the practice of the United Nations in New York based on the interpretation given there to a provision that was essentially the same as the relevant provision of Article XIX.A of the Statute.
34. Mr. ROUX (South Africa) said that in his view the interpretation prevailing in New York was correct.
35. Mr. BOBADILLA LOPEZ (Chile) asked whether the matter had been considered in the General Committee during the Conference's 1994 regular session.
36. Mr. SANMUGANATHAN (Secretary of the Committee) said that it had not been the subject of formal discussion and that the President of the Conference at its 1994 regular session, Mr. Baer, had not made a ruling in the matter. Mr. Baer had sought the views of General Committee members informally, however, and it seemed that in the light of those views he had spoken about the matter with the delegate of a Member State which had lost the vote. The Secretariat had not been privy to the talks in question.
37. Mr. AL-GHAIS (Kuwait) said it was his understanding that in 1994 the President of the General Conference had told the delegate of that Member State that, if he [the delegate] were to request a vote on a certain draft resolution, he [the President] would inform the General Conference that in his view the delegate did not have the right to make such a request. That delegate had refrained from making such a request, and the matter had therefore not come up formally. In the opinion of his delegation, that constituted a precedent which should be taken into account.

38. Mr. RYZHOV (Russian Federation) suggested that, before the General Committee attempted to arrive at agreement on a recommendation to the Conference, the members of the Committee consult their own legal advisers.

39. Mr. LI (China) supported the suggestion made by the representative of the Russian Federation.

40. The CHAIRMAN proposed that the Committee go along with the suggestion made by the representative of the Russian Federation and that it express no formal view in the matter at the present time.

41. It was so decided.

42. The CHAIRMAN proposed that the Committee meet again as a credentials committee, in accordance with Rule 28 of the Rules of Procedure, on Thursday, 21 September 1995 at 9.15 a.m.

43. It was so decided.

The meeting rose at 3.45 p.m.