



GC

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FORTIETH (1996) REGULAR SESSION

GENERAL COMMITTEE

RECORD OF THE FIRST MEETING

Held at the Austria Center Vienna
on Monday, 16 September 1996, at 2.35 p.m.

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[*] GC(40)/1.

96-03437 (XXI)

ATTENDANCE AT THE MEETING

Chairman

Mr. PADOLINA (Philippines), President of the General Conference

Members

Mr. WALKER (Canada), Vice-President of the General Conference

Mr. DASQUE, representing Mr. D'ESCATHA (France), Vice-President of the General Conference

Mr. SURYOKUSUMO (Indonesia), Vice-President of the General Conference

Mr. INOMATA, representing Mr. NAKAGAWA (Japan), Vice-President of the General Conference

Mr. HOBEICA (Lebanon), Vice-President of the General Conference

Mr. BENMOUSSA (Morocco), Vice-President of the General Conference

Mr. ARGÜELLO HURTADO (Nicaragua), Vice-President of the General Conference

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

Mr. AYATOLLAHI (Islamic Republic of Iran), Chairman of the Committee of the Whole

Ms. BEŠKER (Croatia), Additional Member

Mr. MICHAELIDES (Cyprus), Additional Member

Mr. ALEMAYEHU (Ethiopia), Additional Member

Ms. LAJOUS VARGAS (Mexico), Additional Member

Mr. MAZILU, representing Mr. PALADE (Romania), Additional Member

Mr. SNYDER, representing Ms. O'LEARY (United States of America), Additional Member

Secretariat

Mr. STURMS, Director, Legal Division

Mr. SANMUGANATHAN, Secretary of the Committee

ADOPTION OF THE COMMITTEE'S AGENDA (GC(40)/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(40)/GEN/1.
3. It was so decided.

ARRANGEMENTS FOR THE CONFERENCE

- (a) ADOPTION OF THE AGENDA AND ALLOCATION OF ITEMS FOR INITIAL DISCUSSION (GC(40)/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(40)/1.
5. It was so decided.

Allocation of items for initial discussion and order of items

6. The CHAIRMAN drew attention to the annotations in document GC(40)/1 containing suggestions as to where the substance of individual items might first be discussed. The order of items would be agreed by the Committee on the understanding that circumstances or the efficient conduct of business might call for changes to be made by the Plenary or the Committee of the Whole, with adequate notice being given of such changes.
7. Mr. BENMOUSSA (Morocco) said it was particularly important, in the case of agenda item 19 on Article VI of the Statute, that sub-item (a) concerning the amendment of Article VI should be considered prior to sub-item (b) on the composition of regional groups.

8. The CHAIRMAN said he took it that the Committee wished to recommend to the General Conference the allocation of items for initial discussion and the order of items set forth in document GC(40)/1.

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 80 delegates had already entered their names on 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, 20 September 1996.

11. It was so decided.

12. The CHAIRMAN proposed that the Committee recommend to the Conference that the opening date of the 1997 regular session of the General Conference be Monday, 29 September.

13. It was so decided.

RESTORATION OF VOTING RIGHTS (GC(40)/INF/6 and 8)

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(40)/INF/6, and Peru, which had explained its case in document GC(40)/INF/8. 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(40)/INF/11, "Statement of financial contributions to the Agency as at 13 September 1996", listed the countries in arrears in the payment of financial contributions within the meaning of Article XIX.A of the Statute.

16. Mr. ARGÜELLO HURTADO (Nicaragua) said that he had been asked to transmit to the Committee a note verbale from the Permanent Mission of Bolivia dated 16 September 1996 announcing that the Government of Bolivia had authorized payment of the minimum amount required according to document GC(40)/INF/11 for Bolivia to avoid the application of Article XIX.A and participate fully in the current session.

17. The CHAIRMAN said he took it that the Committee wished to accept the note verbale¹ for consideration under the current item.

18. It was so decided .

19. Mr. BENMOUSSA (Morocco), referring to Iraq's request in document GC(40)/INF/6, said that the second sentence of Article XIX.A of the Statute was clearly applicable to that Member State since its failure to pay its contributions was due to conditions beyond its control, namely the fact that its assets abroad had been frozen. He stressed that his argument was based on a strictly legal interpretation of the article and took no account of the political dimensions of the issue. Moreover, he fully respected the relevant Security Council resolutions concerning Iraq.

20. Quoting from an information note published by the United Nations Industrial Development Organization (UNIDO) on 10 September 1996, he said that an open-ended discussion group set up to study applicable measures to expedite timely payment of assessed contributions had, inter alia, proposed a model procedure for dealing with cases similar to those currently before the Committee. Where a body found that a Member State's failure to pay was due to conditions beyond its control and that it should therefore be permitted to vote, the body's report on that decision should, under the model procedure, explain the nature of the conditions concerned, review financial relations between the Member State and the organization over the previous ten years, and indicate the measures that should be taken to settle the arrears. In his view, such

¹ Subsequently issued as document GC(40)/INF/15.

a procedure should be applicable as a matter of principle throughout the United Nations system.

21. Mr. SNYDER (United States of America) said that he could not accept the argument that the freezing of Iraqi assets abroad pursuant to Security Council resolutions created conditions that were beyond the control of the Government of Iraq. If Iraq complied with the provisions of the resolutions concerned, the Security Council sanctions would immediately be lifted and its assets would be released.

22. In reply to a question by Mr. AYATOLLAHI (Chairman of the Committee of the Whole), the CHAIRMAN said that Iraq's request for restoration of voting rights had been rejected at the thirty-eighth and thirty-ninth sessions of the General Conference.

23. Mr. KONACHKOV (Russian Federation) said that he was inclined to support the statement by the delegate of Morocco in view of the need to keep the Agency free from ideological influences and to maintain its universality.

24. Mr. DASQUE (France) said that, having consulted representatives of other Member States of the European Union, he considered that the situation did not justify changing the policy on Iraqi voting rights adopted at the previous two sessions. He was not convinced that Iraq's failure to pay its contributions was due to conditions beyond its control, since its inability to effect the necessary financial transactions was an indirect consequence of Iraqi policy.

25. Mr. WALKER (Canada) said that he shared the views expressed by the representatives of the United States and France.

26. Mr. AYATOLLAHI (Chairman of the Committee of the Whole) suggested that since there were two possible approaches to the issue, one strictly legalistic and the other involving sensitive political considerations, the matter should be referred to the Plenary.

27. Ms. LAJOUS VARGAS (Mexico) said that she did not think it appropriate to refer the matter to the Plenary. It was customary for the General Committee to seek

a consensus on all questions placed before it. A majority of Committee members appeared to be against restoring Iraq's voting rights and her own view was that the Agency should respect the resolutions of the Security Council and their implications for all member bodies of the United Nations system.

28. Mr. BENMOUSSA (Morocco) said that he knew of no Security Council resolution that expressly prohibited the granting of voting rights to Iraq in organizations of the United Nations system.

29. The CHAIRMAN, noting that there 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.

30. It was so decided.

31. Mr. BENMOUSSA (Morocco) said he wished it to be placed on record that the decision just taken had not been unanimous and had been motivated by political rather than legal considerations.

32. The CHAIRMAN, replying to a question by Mr. DASQUE (France), said that the payment announced by the Government of Peru in document GC(40)/INF/8 had been received by the Agency.

33. In reply to a question by Mr. INOMATA (Japan), Mr. SANMUGANATHAN (Secretary of the Committee) said that there was no consistent General Conference practice with respect to the restoration of Member States' voting rights under Article XIX.A of the Statute. Some requests had been granted at previous sessions and others had been refused.

34. Mr. INOMATA (Japan) said that he would agree to the restoration of Peru's voting rights provided that such action did not set a precedent either for the General Conference or for other organizations of the United Nations system.

35. The CHAIRMAN said he took it that the Committee wished to recommend that the Conference permit Peru to vote pursuant to the second sentence of Article XIX.A of the Statute.

36. It was so decided.

37. Mr. ARGÜELLO HURTADO (Nicaragua), referring to the request made by Bolivia, said that the Permanent Mission had announced a payment of US \$81 000 for 18 September 1996. He recommended that the Committee acknowledge Bolivia's financial effort and the confidence it had shown in the Agency's work.

38. Mr. MAZILU (Romania) and Mr. BENMOUSSA (Morocco) said that they were prepared, as an exception, to support the restoration of Bolivia's voting rights.

39. The CHAIRMAN said he took it that the Committee wished to recommend that the Conference permit Bolivia to vote pursuant to the second sentence of Article XIX.A of the Statute.

40. It was so decided.

41. The CHAIRMAN proposed that the Committee meet again as a credentials committee, in accordance with Rule 28 of the Rules of Procedure, on Thursday, 19 September 1996, at 9.15 a.m.

42. It was so decided.

The meeting rose at 3.35 p.m.