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MEASURES TO STRENGTHEN INTERNATIONAL CO-OPERATION IN NUCLEAR, RADIATION AND WASTE SAFETY

(a) Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

Background

1. In March 1995, the Board of Governors endorsed a proposal of the Director General to convene an Open-ended Group of Legal and Technical Experts "for the task of carrying out the necessary substantive preparations for a proposed convention on radioactive waste management".

2. During the period from July 1995 to March 1997, the Open-ended Group, under the chairmanship of Mr. A.J. Baer of Switzerland, met six times in Vienna, at the Agency's Headquarters, and once in Pilansberg, South Africa, and elaborated a draft Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

3. In June 1997, the Board of Governors authorized the Director General to convene a Diplomatic Conference in Vienna from 1 to 5 September 1997 for the purpose of adopting the Joint Convention. The decision of the Board was taken in the light of recommendations (made by the Director General to it following finalization of the draft Joint Convention by the Open-ended Group):

- "(a) that a Diplomatic Conference open to the participation of all States be convened in Vienna from 1 September 1997 for the purpose of adopting the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, on the basis of the draft text prepared by the Open-ended Group of Experts, the duration of the Diplomatic Conference to be limited to five days;

- "(b) that the costs of organizing the Diplomatic Conference referred to above be met from the Agency's Regular Budget for 1997; and
- "(c) that the Joint Convention be opened for signature at the forty-first (1997) regular session of the General Conference."

4. On 26 May 1997 - i.e. prior to the above-mentioned decision taken by the Board in June 1997 - the Secretariat convened an informal open-ended meeting of Member States to consult on the necessary organizational arrangements for the envisaged Diplomatic Conference. The meeting participants, inter alia, discussed a draft agenda and draft provisional rules of procedure prepared by the Secretariat and made a number of proposals concerning the organization of the Conference, its structure and officers.

5. By a Note Verbale dated 27 June 1997, the Secretariat invited States to designate representatives to a Conference of Plenipotentiaries convened for 1-5 September at the Agency's Headquarters to consider and adopt a Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. Attached to the invitation were: the provisional agenda of the Conference and the text of the draft Joint Convention. Provisional rules of procedure for the Conference were sent out on 10 July 1997.

The Diplomatic Conference

6. The Conference was opened on 1 September 1997 by the Director General acting as Secretary-General of the Conference. It elected Mr. A. J. Baer (Switzerland) as President of the Conference and Mr. Jack (Canada), Mr. Aguirre (Colombia), Mr. Özbas (Turkey), Mr. Subasić (Croatia), Mr. Benmoussa (Morocco), Ms. Al-Hadid (Jordan), Mr. Suryokusumo (Indonesia) and Mr. Ikeda (Japan) as Vice-Presidents. It also elected Mr. A. C. Lacoste (France) as Chairman of the Committee of the Whole, Mr. P. Metcalf (South Africa) as Vice-Chairman of the Committee of the Whole and Mr. R. Stratford (United States of America) as Chairman of the Drafting Committee.

7. Eighty-four States participated in the Conference. The Agency, UNEP (Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal), WHO, OECD/NEA and the European Commission attended as observers.

8. On 5 September 1997 the Conference adopted the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management and also a Resolution Relating to Transboundary Movement of Spent Fuel and Radioactive Waste. The Final Act of the Conference was signed by representatives of 65 States; three States' representatives present at the time of signature refrained from signing. Appended to the present document are:

- the Final Act of the Diplomatic Conference, to which is attached the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management and the Resolution Relating to Transboundary Movement of Spent Fuel and Radioactive Waste (Appendix 1); and
- the summary records of the Diplomatic Conference (Appendix 2).

9. The Secretariat will in due course issue an IAEA publication containing the documents adopted by the Diplomatic Conference and the summary records.

FINAL ACT

1. The Board of Governors of the International Atomic Energy Agency (IAEA) at its meeting on 11 June 1997 authorized the Director General to convene a diplomatic conference to adopt a Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.
2. The Conference met in Vienna at the Headquarters of the IAEA, 1-5 September 1997.
3. The Governments of the following States were represented at the Conference: Algeria, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Germany, Ghana, Greece, Guatemala, Holy See, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Republic of, Kuwait, Lebanon, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malaysia, Mexico, Morocco, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Viet Nam, and Zimbabwe.
4. The following international organizations were represented by observers at the Conference: International Atomic Energy Agency, UNEP/Secretariat of the Basel Convention, World Health Organization, European Commission, and OECD/Nuclear Energy Agency.
5. The Conference was formally opened by Dr. Hans Blix, the Director General of the IAEA, who served as the Secretary-General of the Conference. Dr. Blix also addressed the Conference.

6. The Conference elected Prof. Alec J. Baer (Switzerland) as President, and Mr. George Jack (Canada), Mr. Elkin Aguirre (Colombia), Mr. Damir Subašić (Croatia), Mr. Sumaryo Suryokusumo (Indonesia), Mr. Yuji Ikeda (Japan), Ms. Leena Al-Hadid (Jordan), Mr. Abderrahim Benmoussa (Morocco), and Mr. Emin Özbas (Turkey) as Vice-Presidents.

7. The Conference set up a Committee of the Whole of which the members were all States participating in the Conference. The Conference elected Mr. André-Claude Lacoste (France) as Chairman of the Committee of the Whole, and Mr. Phil Metcalf (South Africa) as Vice-Chairman.

8. The Conference set up a Drafting Committee of which the members were the representatives of the following States: Australia, Austria, China, France, Germany, Ireland, Luxembourg, Mexico, Pakistan, Russian Federation, Slovakia, Spain, Sweden, Syrian Arab Republic, Tunisia, Ukraine, United Kingdom.

The Conference elected Mr. Richard Stratford (United States) as Chairman of the Drafting Committee.

9. The Conference had before it as the basic proposal for its discussions the following document: Draft Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Document RWSC/DC/1 as subsequently corrected in translation), prepared by an Open-ended Group of Legal and Technical Experts convened by the Director General of the IAEA under the Chairmanship of Prof. Alec J. Baer (Switzerland).

10. On the basis of its deliberations, the Conference adopted on 5 September 1997 the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, which is attached to this Final Act, and will be opened for signature in accordance with its provisions at the Headquarters of the IAEA from 29 September 1997. The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management is subject to ratification, acceptance, approval, accession or confirmation, in accordance with its provisions. It will be deposited with the Director General of the IAEA.

11. The Conference agreed to attach to this Final Act a resolution relating to transboundary movement of radioactive waste and spent fuel.

12. The following States made statements which will be reflected in the summary records of the Conference: Brazil on behalf of the Latin American Group, Canada, China, Czech Republic on behalf of the Central and Eastern European Group, Egypt, Ghana, India, Japan, Korea, Republic of, Luxembourg on behalf of the European Union and associated countries, Mexico, Morocco, New Zealand, Pakistan, Russian Federation, South Africa, Thailand, The former Yugoslav Republic of Macedonia, Turkey, Ukraine. A joint statement was made by France, Japan and the United Kingdom which will also be reflected in the summary records of the Conference.

13. The Conference adopted this Final Act. The original of this Final Act, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, is deposited with the Director General of the IAEA.

IN WITNESS WHEREOF the undersigned have affixed their signatures to this Final Act.

DONE at Vienna this fifth day of September, one thousand nine hundred and ninety-seven.

**JOINT CONVENTION
ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

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PREAMBLE

The Contracting Parties

- (i) Recognizing that the operation of nuclear reactors generates spent fuel and radioactive waste and that other applications of nuclear technologies also generate radioactive waste;
- (ii) Recognizing that the same safety objectives apply both to spent fuel and radioactive waste management;
- (iii) Reaffirming the importance to the international community of ensuring that sound practices are planned and implemented for the safety of spent fuel and radioactive waste management;
- (iv) Recognizing the importance of informing the public on issues regarding the safety of spent fuel and radioactive waste management;
- (v) Desiring to promote an effective nuclear safety culture worldwide;
- (vi) Reaffirming that the ultimate responsibility for ensuring the safety of spent fuel and radioactive waste management rests with the State;
- (vii) Recognizing that the definition of a fuel cycle policy rests with the State, some States considering spent fuel as a valuable resource that may be reprocessed, others electing to dispose of it;
- (viii) Recognizing that spent fuel and radioactive waste excluded from the present Convention because they are within military or defence programmes should be managed in accordance with the objectives stated in this Convention;

- (ix) Affirming the importance of international co-operation in enhancing the safety of spent fuel and radioactive waste management through bilateral and multilateral mechanisms, and through this incentive Convention;
- (x) Mindful of the needs of developing countries, and in particular the least developed countries, and of States with economies in transition and of the need to facilitate existing mechanisms to assist in the fulfillment of their rights and obligations set out in this incentive Convention;
- (xi) Convinced that radioactive waste should, as far as is compatible with the safety of the management of such material, be disposed of in the State in which it was generated, whilst recognizing that, in certain circumstances, safe and efficient management of spent fuel and radioactive waste might be fostered through agreements among Contracting Parties to use facilities in one of them for the benefit of the other Parties, particularly where waste originates from joint projects;
- (xii) Recognizing that any State has the right to ban import into its territory of foreign spent fuel and radioactive waste;
- (xiii) Keeping in mind the Convention on Nuclear Safety (1994), the Convention on Early Notification of a Nuclear Accident (1986), the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986), the Convention on the Physical Protection of Nuclear Material (1980), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter as amended (1994) and other relevant international instruments;
- (xiv) Keeping in mind the principles contained in the interagency "International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources" (1996), in the IAEA Safety Fundamentals entitled "The Principles of Radioactive Waste Management" (1995), and in the existing international standards relating to the safety of the transport of radioactive materials;

- (xv) Recalling Chapter 22 of Agenda 21 by the United Nations Conference on Environment and Development in Rio de Janeiro adopted in 1992, which reaffirms the paramount importance of the safe and environmentally sound management of radioactive waste;

- (xvi) Recognizing the desirability of strengthening the international control system applying specifically to radioactive materials as referred to in Article 1(3) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989);

Have agreed as follows:

CHAPTER 1. OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION

ARTICLE 1. OBJECTIVES

The objectives of this Convention are:

- (i) to achieve and maintain a high level of safety worldwide in spent fuel and radioactive waste management, through the enhancement of national measures and international co-operation, including where appropriate, safety-related technical co-operation;
- (ii) to ensure that during all stages of spent fuel and radioactive waste management there are effective defenses against potential hazards so that individuals, society and the environment are protected from harmful effects of ionizing radiation, now and in the future, in such a way that the needs and aspirations of the present generation are met without compromising the ability of future generations to meet their needs and aspirations;
- (iii) to prevent accidents with radiological consequences and to mitigate their consequences should they occur during any stage of spent fuel or radioactive waste management.

ARTICLE 2. DEFINITIONS

For the purposes of this Convention:

- (a) "*closure*" means the completion of all operations at some time after the emplacement of spent fuel or radioactive waste in a disposal facility. This includes the final engineering or other work required to bring the facility to a condition that will be safe in the long term;

- (b) *"decommissioning"* means all steps leading to the release of a nuclear facility, other than a disposal facility, from regulatory control. These steps include the processes of decontamination and dismantling;
- (c) *"discharges"* means planned and controlled releases into the environment, as a legitimate practice, within limits authorized by the regulatory body, of liquid or gaseous radioactive materials that originate from regulated nuclear facilities during normal operation;
- (d) *"disposal"* means the emplacement of spent fuel or radioactive waste in an appropriate facility without the intention of retrieval;
- (e) *"licence"* means any authorization, permission or certification granted by a regulatory body to carry out any activity related to management of spent fuel or of radioactive waste;
- (f) *"nuclear facility"* means a civilian facility and its associated land, buildings and equipment in which radioactive materials are produced, processed, used, handled, stored or disposed of on such a scale that consideration of safety is required;
- (g) *"operating lifetime"* means the period during which a spent fuel or a radioactive waste management facility is used for its intended purpose. In the case of a disposal facility, the period begins when spent fuel or radioactive waste is first emplaced in the facility and ends upon closure of the facility;
- (h) *"radioactive waste"* means radioactive material in gaseous, liquid or solid form for which no further use is foreseen by the Contracting Party or by a natural or legal person whose decision is accepted by the Contracting Party, and which is controlled as radioactive waste by a regulatory body under the legislative and regulatory framework of the Contracting Party;
- (i) *"radioactive waste management"* means all activities, including decommissioning activities, that relate to the handling, pretreatment, treatment, conditioning,

storage, or disposal of radioactive waste, excluding off-site transportation. It may also involve discharges;

- (j) *"radioactive waste management facility"* means any facility or installation the primary purpose of which is radioactive waste management, including a nuclear facility in the process of being decommissioned only if it is designated by the Contracting Party as a radioactive waste management facility;
- (k) *"regulatory body"* means any body or bodies given the legal authority by the Contracting Party to regulate any aspect of the safety of spent fuel or radioactive waste management including the granting of licences;
- (l) *"reprocessing"* means a process or operation, the purpose of which is to extract radioactive isotopes from spent fuel for further use;
- (m) *"sealed source"* means radioactive material that is permanently sealed in a capsule or closely bonded and in a solid form, excluding reactor fuel elements;
- (n) *"spent fuel"* means nuclear fuel that has been irradiated in and permanently removed from a reactor core;
- (o) *"spent fuel management"* means all activities that relate to the handling or storage of spent fuel, excluding off-site transportation. It may also involve discharges;
- (p) *"spent fuel management facility"* means any facility or installation the primary purpose of which is spent fuel management;
- (q) *"State of destination"* means a State to which a transboundary movement is planned or takes place;
- (r) *"State of origin"* means a State from which a transboundary movement is planned to be initiated or is initiated;

- (s) *"State of transit"* means any State, other than a State of origin or a State of destination, through whose territory a transboundary movement is planned or takes place;
- (t) *"storage"* means the holding of spent fuel or of radioactive waste in a facility that provides for its containment, with the intention of retrieval;
- (u) *"transboundary movement"* means any shipment of spent fuel or of radioactive waste from a State of origin to a State of destination.

ARTICLE 3. SCOPE OF APPLICATION

1. This Convention shall apply to the safety of spent fuel management when the spent fuel results from the operation of civilian nuclear reactors. Spent fuel held at reprocessing facilities as part of a reprocessing activity is not covered in the scope of this Convention unless the Contracting Party declares reprocessing to be part of spent fuel management.

2. This Convention shall also apply to the safety of radioactive waste management when the radioactive waste results from civilian applications. However, this Convention shall not apply to waste that contains only naturally occurring radioactive materials and that does not originate from the nuclear fuel cycle, unless it constitutes a disused sealed source or it is declared as radioactive waste for the purposes of this Convention by the Contracting Party.

3. This Convention shall not apply to the safety of management of spent fuel or radioactive waste within military or defence programmes, unless declared as spent fuel or radioactive waste for the purposes of this Convention by the Contracting Party. However, this Convention shall apply to the safety of management of spent fuel and radioactive waste from military or defence programmes if and when such materials are transferred permanently to and managed within exclusively civilian programmes.

4. This Convention shall also apply to discharges as provided for in Articles 4, 7, 11, 14, 24 and 26.

CHAPTER 2 SAFETY OF SPENT FUEL MANAGEMENT

ARTICLE 4. GENERAL SAFETY REQUIREMENTS

Each Contracting Party shall take the appropriate steps to ensure that at all stages of spent fuel management, individuals, society and the environment are adequately protected against radiological hazards.

In so doing, each Contracting Party shall take the appropriate steps to:

- (i) ensure that criticality and removal of residual heat generated during spent fuel management are adequately addressed;
- (ii) ensure that the generation of radioactive waste associated with spent fuel management is kept to the minimum practicable, consistent with the type of fuel cycle policy adopted;
- (iii) take into account interdependencies among the different steps in spent fuel management;
- (iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;
- (v) take into account the biological, chemical and other hazards that may be associated with spent fuel management;
- (vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;
- (vii) aim to avoid imposing undue burdens on future generations.

ARTICLE 5. EXISTING FACILITIES

Each Contracting Party shall take the appropriate steps to review the safety of any spent fuel management facility existing at the time the Convention enters into force for that Contracting Party and to ensure that, if necessary, all reasonably practicable improvements are made to upgrade the safety of such a facility.

ARTICLE 6. SITING OF PROPOSED FACILITIES

1. Each Contracting Party shall take the appropriate steps to ensure that procedures are established and implemented for a proposed spent fuel management facility:

- (i) to evaluate all relevant site-related factors likely to affect the safety of such a facility during its operating lifetime;
- (ii) to evaluate the likely safety impact of such a facility on individuals, society and the environment;
- (iii) to make information on the safety of such a facility available to members of the public;
- (iv) to consult Contracting Parties in the vicinity of such a facility, insofar as they are likely to be affected by that facility, and provide them, upon their request, with general data relating to the facility to enable them to evaluate the likely safety impact of the facility upon their territory.

2. In so doing, each Contracting Party shall take the appropriate steps to ensure that such facilities shall not have unacceptable effects on other Contracting Parties by being sited in accordance with the general safety requirements of Article 4.

ARTICLE 7. DESIGN AND CONSTRUCTION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the design and construction of a spent fuel management facility provide for suitable measures to limit possible radiological impacts on individuals, society and the environment, including those from discharges or uncontrolled releases;
- (ii) at the design stage, conceptual plans and, as necessary, technical provisions for the decommissioning of a spent fuel management facility are taken into account;
- (iii) the technologies incorporated in the design and construction of a spent fuel management facility are supported by experience, testing or analysis.

ARTICLE 8. ASSESSMENT OF SAFETY OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) before construction of a spent fuel management facility, a systematic safety assessment and an environmental assessment appropriate to the hazard presented by the facility and covering its operating lifetime shall be carried out;
- (ii) before the operation of a spent fuel management facility, updated and detailed versions of the safety assessment and of the environmental assessment shall be prepared when deemed necessary to complement the assessments referred to in paragraph (i).

ARTICLE 9. OPERATION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the licence to operate a spent fuel management facility is based upon appropriate assessments as specified in Article 8 and is conditional on the completion of a

commissioning programme demonstrating that the facility, as constructed, is consistent with design and safety requirements;

- (ii) operational limits and conditions derived from tests, operational experience and the assessments, as specified in Article 8, are defined and revised as necessary;
- (iii) operation, maintenance, monitoring, inspection and testing of a spent fuel management facility are conducted in accordance with established procedures;
- (iv) engineering and technical support in all safety-related fields are available throughout the operating lifetime of a spent fuel management facility;
- (v) incidents significant to safety are reported in a timely manner by the holder of the licence to the regulatory body;
- (vi) programmes to collect and analyse relevant operating experience are established and that the results are acted upon, where appropriate;
- (vii) decommissioning plans for a spent fuel management facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility, and are reviewed by the regulatory body.

ARTICLE 10. DISPOSAL OF SPENT FUEL

If, pursuant to its own legislative and regulatory framework, a Contracting Party has designated spent fuel for disposal, the disposal of such spent fuel shall be in accordance with the obligations of Chapter 3 relating to the disposal of radioactive waste.

CHAPTER 3 SAFETY OF RADIOACTIVE WASTE MANAGEMENT

ARTICLE 11. GENERAL SAFETY REQUIREMENTS

Each Contracting Party shall take the appropriate steps to ensure that at all stages of radioactive waste management individuals, society and the environment are adequately protected against radiological and other hazards.

In so doing, each Contracting Party shall take the appropriate steps to:

- (i) ensure that criticality and removal of residual heat generated during radioactive waste management are adequately addressed;
- (ii) ensure that the generation of radioactive waste is kept to the minimum practicable;
- (iii) take into account interdependencies among the different steps in radioactive waste management;
- (iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;
- (v) take into account the biological, chemical and other hazards that may be associated with radioactive waste management;
- (vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;
- (vii) aim to avoid imposing undue burdens on future generations.

ARTICLE 12. EXISTING FACILITIES AND PAST PRACTICES

Each Contracting Party shall in due course take the appropriate steps to review:

- (i) the safety of any radioactive waste management facility existing at the time the Convention enters into force for that Contracting Party and to ensure that, if necessary, all reasonably practicable improvements are made to upgrade the safety of such a facility;
- (ii) the results of past practices in order to determine whether any intervention is needed for reasons of radiation protection bearing in mind that the reduction in detriment resulting from the reduction in dose should be sufficient to justify the harm and the costs, including the social costs, of the intervention.

ARTICLE 13. SITING OF PROPOSED FACILITIES

1. Each Contracting Party shall take the appropriate steps to ensure that procedures are established and implemented for a proposed radioactive waste management facility:

- (i) to evaluate all relevant site-related factors likely to affect the safety of such a facility during its operating lifetime as well as that of a disposal facility after closure;
- (ii) to evaluate the likely safety impact of such a facility on individuals, society and the environment, taking into account possible evolution of the site conditions of disposal facilities after closure;
- (iii) to make information on the safety of such a facility available to members of the public;
- (iv) to consult Contracting Parties in the vicinity of such a facility, insofar as they are likely to be affected by that facility, and provide them, upon their

request, with general data relating to the facility to enable them to evaluate the likely safety impact of the facility upon their territory.

2. In so doing, each Contracting Party shall take the appropriate steps to ensure that such facilities shall not have unacceptable effects on other Contracting Parties by being sited in accordance with the general safety requirements of Article 11.

ARTICLE 14. DESIGN AND CONSTRUCTION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the design and construction of a radioactive waste management facility provide for suitable measures to limit possible radiological impacts on individuals, society and the environment, including those from discharges or uncontrolled releases;
- (ii) at the design stage, conceptual plans and, as necessary, technical provisions for the decommissioning of a radioactive waste management facility other than a disposal facility are taken into account;
- (iii) at the design stage, technical provisions for the closure of a disposal facility are prepared;
- (iv) the technologies incorporated in the design and construction of a radioactive waste management facility are supported by experience, testing or analysis.

ARTICLE 15. ASSESSMENT OF SAFETY OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) before construction of a radioactive waste management facility, a systematic safety assessment and an environmental assessment appropriate to the hazard presented by the facility and covering its operating lifetime shall be carried out;

- (ii) in addition, before construction of a disposal facility, a systematic safety assessment and an environmental assessment for the period following closure shall be carried out and the results evaluated against the criteria established by the regulatory body;
- (iii) before the operation of a radioactive waste management facility, updated and detailed versions of the safety assessment and of the environmental assessment shall be prepared when deemed necessary to complement the assessments referred to in paragraph (i).

ARTICLE 16. OPERATION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the licence to operate a radioactive waste management facility is based upon appropriate assessments as specified in Article 15 and is conditional on the completion of a commissioning programme demonstrating that the facility, as constructed, is consistent with design and safety requirements;
- (ii) operational limits and conditions, derived from tests, operational experience and the assessments as specified in Article 15 are defined and revised as necessary;
- (iii) operation, maintenance, monitoring, inspection and testing of a radioactive waste management facility are conducted in accordance with established procedures. For a disposal facility the results thus obtained shall be used to verify and to review the validity of assumptions made and to update the assessments as specified in Article 15 for the period after closure;
- (iv) engineering and technical support in all safety-related fields are available throughout the operating lifetime of a radioactive waste management facility;
- (v) procedures for characterization and segregation of radioactive waste are applied;

- (vi) incidents significant to safety are reported in a timely manner by the holder of the licence to the regulatory body;
- (vii) programmes to collect and analyse relevant operating experience are established and that the results are acted upon, where appropriate;
- (viii) decommissioning plans for a radioactive waste management facility other than a disposal facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility, and are reviewed by the regulatory body;
- (ix) plans for the closure of a disposal facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility and are reviewed by the regulatory body.

ARTICLE 17. INSTITUTIONAL MEASURES AFTER CLOSURE

Each Contracting Party shall take the appropriate steps to ensure that after closure of a disposal facility:

- (i) records of the location, design and inventory of that facility required by the regulatory body are preserved;
- (ii) active or passive institutional controls such as monitoring or access restrictions are carried out, if required; and
- (iii) if, during any period of active institutional control, an unplanned release of radioactive materials into the environment is detected, intervention measures are implemented, if necessary.

CHAPTER 4 GENERAL SAFETY PROVISIONS

ARTICLE 18. IMPLEMENTING MEASURES

Each Contracting Party shall take, within the framework of its national law, the legislative, regulatory and administrative measures and other steps necessary for implementing its obligations under this Convention.

ARTICLE 19. LEGISLATIVE AND REGULATORY FRAMEWORK

1. Each Contracting Party shall establish and maintain a legislative and regulatory framework to govern the safety of spent fuel and radioactive waste management.
2. This legislative and regulatory framework shall provide for:
 - (i) the establishment of applicable national safety requirements and regulations for radiation safety;
 - (ii) a system of licensing of spent fuel and radioactive waste management activities;
 - (iii) a system of prohibition of the operation of a spent fuel or radioactive waste management facility without a licence;
 - (iv) a system of appropriate institutional control, regulatory inspection and documentation and reporting;
 - (v) the enforcement of applicable regulations and of the terms of the licences;
 - (vi) a clear allocation of responsibilities of the bodies involved in the different steps of spent fuel and of radioactive waste management.

3. When considering whether to regulate radioactive materials as radioactive waste, Contracting Parties shall take due account of the objectives of this Convention.

ARTICLE 20. REGULATORY BODY

1. Each Contracting Party shall establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework referred to in Article 19, and provided with adequate authority, competence and financial and human resources to fulfill its assigned responsibilities.

2. Each Contracting Party, in accordance with its legislative and regulatory framework, shall take the appropriate steps to ensure the effective independence of the regulatory functions from other functions where organizations are involved in both spent fuel or radioactive waste management and in their regulation.

ARTICLE 21. RESPONSIBILITY OF THE LICENCE HOLDER

1. Each Contracting Party shall ensure that prime responsibility for the safety of spent fuel or radioactive waste management rests with the holder of the relevant licence and shall take the appropriate steps to ensure that each such licence holder meets its responsibility.

2. If there is no such licence holder or other responsible party, the responsibility rests with the Contracting Party which has jurisdiction over the spent fuel or over the radioactive waste.

ARTICLE 22. HUMAN AND FINANCIAL RESOURCES

Each Contracting Party shall take the appropriate steps to ensure that:

(i) qualified staff are available as needed for safety-related activities during the operating lifetime of a spent fuel and a radioactive waste management facility;

- (ii) adequate financial resources are available to support the safety of facilities for spent fuel and radioactive waste management during their operating lifetime and for decommissioning;
- (iii) financial provision is made which will enable the appropriate institutional controls and monitoring arrangements to be continued for the period deemed necessary following the closure of a disposal facility.

ARTICLE 23. QUALITY ASSURANCE

Each Contracting Party shall take the necessary steps to ensure that appropriate quality assurance programmes concerning the safety of spent fuel and radioactive waste management are established and implemented.

ARTICLE 24. OPERATIONAL RADIATION PROTECTION

1. Each Contracting Party shall take the appropriate steps to ensure that during the operating lifetime of a spent fuel or radioactive waste management facility:

- (i) the radiation exposure of the workers and the public caused by the facility shall be kept as low as reasonably achievable, economic and social factors being taken into account;
- (ii) no individual shall be exposed, in normal situations, to radiation doses which exceed national prescriptions for dose limitation which have due regard to internationally endorsed standards on radiation protection; and
- (iii) measures are taken to prevent unplanned and uncontrolled releases of radioactive materials into the environment.

2. Each Contracting Party shall take appropriate steps to ensure that discharges shall be limited:

- (i) to keep exposure to radiation as low as reasonably achievable, economic and social factors being taken into account; and
- (ii) so that no individual shall be exposed, in normal situations, to radiation doses which exceed national prescriptions for dose limitation which have due regard to internationally endorsed standards on radiation protection.

3. Each Contracting Party shall take appropriate steps to ensure that during the operating lifetime of a regulated nuclear facility, in the event that an unplanned or uncontrolled release of radioactive materials into the environment occurs, appropriate corrective measures are implemented to control the release and mitigate its effects.

ARTICLE 25. EMERGENCY PREPAREDNESS

1. Each Contracting Party shall ensure that before and during operation of a spent fuel or radioactive waste management facility there are appropriate on-site and, if necessary, off-site emergency plans. Such emergency plans should be tested at an appropriate frequency.

2. Each Contracting Party shall take the appropriate steps for the preparation and testing of emergency plans for its territory insofar as it is likely to be affected in the event of a radiological emergency at a spent fuel or radioactive waste management facility in the vicinity of its territory.

ARTICLE 26. DECOMMISSIONING

Each Contracting Party shall take the appropriate steps to ensure the safety of decommissioning of a nuclear facility. Such steps shall ensure that:

- (i) qualified staff and adequate financial resources are available;
- (ii) the provisions of Article 24 with respect to operational radiation protection, discharges and unplanned and uncontrolled releases are applied;

- (iii) the provisions of Article 25 with respect to emergency preparedness are applied;
and
- (iv) records of information important to decommissioning are kept.

CHAPTER 5 MISCELLANEOUS PROVISIONS

ARTICLE 27. TRANSBOUNDARY MOVEMENT

1. Each Contracting Party involved in transboundary movement shall take the appropriate steps to ensure that such movement is undertaken in a manner consistent with the provisions of this Convention and relevant binding international instruments.

In so doing:

- (i) a Contracting Party which is a State of origin shall take the appropriate steps to ensure that transboundary movement is authorized and takes place only with the prior notification and consent of the State of destination;
- (ii) transboundary movement through States of transit shall be subject to those international obligations which are relevant to the particular modes of transport utilized;
- (iii) a Contracting Party which is a State of destination shall consent to a transboundary movement only if it has the administrative and technical capacity, as well as the regulatory structure, needed to manage the spent fuel or the radioactive waste in a manner consistent with this Convention;
- (iv) a Contracting Party which is a State of origin shall authorize a transboundary movement only if it can satisfy itself in accordance with the consent of the State of destination that the requirements of subparagraph (iii) are met prior to transboundary movement;

- (v) a Contracting Party which is a State of origin shall take the appropriate steps to permit re-entry into its territory, if a transboundary movement is not or cannot be completed in conformity with this Article, unless an alternative safe arrangement can be made.
2. A Contracting Party shall not licence the shipment of its spent fuel or radioactive waste to a destination south of latitude 60 degrees South for storage or disposal.
3. Nothing in this Convention prejudices or affects:
- (i) the exercise, by ships and aircraft of all States, of maritime, river and air navigation rights and freedoms, as provided for in international law;
 - (ii) rights of a Contracting Party to which radioactive waste is exported for processing to return, or provide for the return of, the radioactive waste and other products after treatment to the State of origin;
 - (iii) the right of a Contracting Party to export its spent fuel for reprocessing;
 - (iv) rights of a Contracting Party to which spent fuel is exported for reprocessing to return, or provide for the return of, radioactive waste and other products resulting from reprocessing operations to the State of origin.

ARTICLE 28. DISUSED SEALED SOURCES

1. Each Contracting Party shall, in the framework of its national law, take the appropriate steps to ensure that the possession, remanufacturing or disposal of disused sealed sources takes place in a safe manner.
2. A Contracting Party shall allow for reentry into its territory of disused sealed sources if, in the framework of its national law, it has accepted that they be returned to a manufacturer qualified to receive and possess the disused sealed sources.

CHAPTER 6 MEETINGS OF THE CONTRACTING PARTIES

ARTICLE 29. PREPARATORY MEETING

1. A preparatory meeting of the Contracting Parties shall be held not later than six months after the date of entry into force of this Convention.

2. At this meeting, the Contracting Parties shall:
 - (i) determine the date for the first review meeting as referred to in Article 30. This review meeting shall be held as soon as possible, but not later than thirty months after the date of entry into force of this Convention;

 - (ii) prepare and adopt by consensus Rules of Procedure and Financial Rules;

 - (iii) establish in particular and in accordance with the Rules of Procedure:
 - (a) guidelines regarding the form and structure of the national reports to be submitted pursuant to Article 32;

 - (b) a date for the submission of such reports;

 - (c) the process for reviewing such reports.

3. Any State or regional organization of an integration or other nature which ratifies, accepts, approves, accedes to or confirms this Convention and for which the Convention is not yet in force, may attend the preparatory meeting as if it were a Party to this Convention.

ARTICLE 30. REVIEW MEETINGS

1. The Contracting Parties shall hold meetings for the purpose of reviewing the reports submitted pursuant to Article 32.

2. At each review meeting the Contracting Parties:
 - (i) shall determine the date for the next such meeting, the interval between review meetings not exceeding three years;
 - (ii) may review the arrangements established pursuant to paragraph 2 of Article 29, and adopt revisions by consensus unless otherwise provided for in the Rules of Procedure. They may also amend the Rules of Procedure and Financial Rules by consensus.

3. At each review meeting each Contracting Party shall have a reasonable opportunity to discuss the reports submitted by other Contracting Parties and to seek clarification of such reports.

ARTICLE 31. EXTRAORDINARY MEETINGS

An extraordinary meeting of the Contracting Parties shall be held:

- (i) if so agreed by a majority of the Contracting Parties present and voting at a meeting; or
- (ii) at the written request of a Contracting Party, within six months of this request having been communicated to the Contracting Parties and notification having been received by the secretariat referred to in Article 37 that the request has been supported by a majority of the Contracting Parties.

ARTICLE 32. REPORTING

1. In accordance with the provisions of Article 30, each Contracting Party shall submit a national report to each review meeting of Contracting Parties. This report shall address the measures taken to implement each of the obligations of the Convention. For each Contracting Party the report shall also address its:

- (i) spent fuel management policy;
- (ii) spent fuel management practices;
- (iii) radioactive waste management policy;
- (iv) radioactive waste management practices;
- (v) criteria used to define and categorize radioactive waste.

2. This report shall also include:

- (i) a list of the spent fuel management facilities subject to this Convention, their location, main purpose and essential features;
- (ii) an inventory of spent fuel that is subject to this Convention and that is being held in storage and of that which has been disposed of. This inventory shall contain a description of the material and, if available, give information on its mass and its total activity;
- (iii) a list of the radioactive waste management facilities subject to this Convention, their location, main purpose and essential features;
- (iv) an inventory of radioactive waste that is subject to this Convention that:
 - (a) is being held in storage at radioactive waste management and nuclear fuel cycle facilities;
 - (b) has been disposed of; or
 - (c) has resulted from past practices.

This inventory shall contain a description of the material and other appropriate information available, such as volume or mass, activity and specific radionuclides;

- (v) a list of nuclear facilities in the process of being decommissioned and the status of decommissioning activities at those facilities.

ARTICLE 33. ATTENDANCE

1. Each Contracting Party shall attend meetings of the Contracting Parties and be represented at such meetings by one delegate, and by such alternates, experts and advisers as it deems necessary.

2. The Contracting Parties may invite, by consensus, any intergovernmental organization which is competent in respect of matters governed by this Convention to attend, as an observer, any meeting, or specific sessions thereof. Observers shall be required to accept in writing, and in advance, the provisions of Article 36.

ARTICLE 34. SUMMARY REPORTS

The Contracting Parties shall adopt, by consensus, and make available to the public a document addressing issues discussed and conclusions reached during meetings of the Contracting Parties.

ARTICLE 35. LANGUAGES

1. The languages of meetings of the Contracting Parties shall be Arabic, Chinese, English, French, Russian and Spanish unless otherwise provided in the Rules of Procedure.

2. Reports submitted pursuant to Article 32 shall be prepared in the national language of the submitting Contracting Party or in a single designated language to be agreed in the Rules of Procedure. Should the report be submitted in a national language other than the designated language, a translation of the report into the designated language shall be provided by the Contracting Party.

3. Notwithstanding the provisions of paragraph 2, the secretariat, if compensated, will assume the translation of reports submitted in any other language of the meeting into the designated language.

ARTICLE 36. CONFIDENTIALITY

1. The provisions of this Convention shall not affect the rights and obligations of the Contracting Parties under their laws to protect information from disclosure. For the purposes of this article, "information" includes, inter alia, information relating to national security or to the physical protection of nuclear materials, information protected by intellectual property rights or by industrial or commercial confidentiality, and personal data.

2. When, in the context of this Convention, a Contracting Party provides information identified by it as protected as described in paragraph 1, such information shall be used only for the purposes for which it has been provided and its confidentiality shall be respected.

3. With respect to information relating to spent fuel or radioactive waste falling within the scope of this Convention by virtue of paragraph 3 of Article 3, the provisions of this Convention shall not affect the exclusive discretion of the Contracting Party concerned to decide:

- (i) whether such information is classified or otherwise controlled to preclude release;
- (ii) whether to provide information referred to in sub-paragraph (i) above in the context of the Convention; and
- (iii) what conditions of confidentiality are attached to such information if it is provided in the context of this Convention.

4. The content of the debates during the reviewing of the national reports at each review meeting held pursuant to Article 30 shall be confidential.

ARTICLE 37. SECRETARIAT

1. The International Atomic Energy Agency, (hereinafter referred to as "the Agency") shall provide the secretariat for the meetings of the Contracting Parties.

2. The secretariat shall:

- (i) convene, prepare and service the meetings of the Contracting Parties referred to in Articles 29, 30 and 31;
- (ii) transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention.

The costs incurred by the Agency in carrying out the functions referred to in subparagraphs (i) and (ii) above shall be borne by the Agency as part of its regular budget.

3. The Contracting Parties may, by consensus, request the Agency to provide other services in support of meetings of the Contracting Parties. The Agency may provide such services if they can be undertaken within its programme and regular budget. Should this not be possible, the Agency may provide such services if voluntary funding is provided from another source.

CHAPTER 7. FINAL CLAUSES AND OTHER PROVISIONS

ARTICLE 38. RESOLUTION OF DISAGREEMENTS

In the event of a disagreement between two or more Contracting Parties concerning the interpretation or application of this Convention, the Contracting Parties shall consult within the framework of a meeting of the Contracting Parties with a view to resolving the disagreement. In the event that the consultations prove unproductive, recourse can be made to the mediation, conciliation and arbitration mechanisms provided for in international law, including the rules and practices prevailing within the IAEA.

ARTICLE 39. SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL, ACCESSION

1. This Convention shall be open for signature by all States at the Headquarters of the Agency in Vienna from 29 September 1997 until its entry into force.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. After its entry into force, this Convention shall be open for accession by all States.
4.
 - (i) This Convention shall be open for signature subject to confirmation, or accession by regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.
 - (ii) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.
 - (iii) When becoming party to this Convention, such an organization shall communicate to the Depositary referred to in Article 43, a declaration indicating which States are members thereof, which Articles of this Convention apply to it, and the extent of its competence in the field covered by those articles.
 - (iv) Such an organization shall not hold any vote additional to those of its Member States.
5. Instruments of ratification, acceptance, approval, accession or confirmation shall be deposited with the Depositary.

ARTICLE 40. ENTRY INTO FORCE

1. This Convention shall enter into force on the ninetieth day after the date of deposit with the Depository of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.

2. For each State or regional organization of an integration or other nature which ratifies, accepts, approves, accedes to or confirms this Convention after the date of deposit of the last instrument required to satisfy the conditions set forth in paragraph 1, this Convention shall enter into force on the ninetieth day after the date of deposit with the Depository of the appropriate instrument by such a State or organization.

ARTICLE 41. AMENDMENTS TO THE CONVENTION

1. Any Contracting Party may propose an amendment to this Convention. Proposed amendments shall be considered at a review meeting or at an extraordinary meeting.

2. The text of any proposed amendment and the reasons for it shall be provided to the Depository who shall communicate the proposal to the Contracting Parties at least ninety days before the meeting for which it is submitted for consideration. Any comments received on such a proposal shall be circulated by the Depository to the Contracting Parties.

3. The Contracting Parties shall decide after consideration of the proposed amendment whether to adopt it by consensus, or, in the absence of consensus, to submit it to a Diplomatic Conference. A decision to submit a proposed amendment to a Diplomatic Conference shall require a two-thirds majority vote of the Contracting Parties present and voting at the meeting, provided that at least one half of the Contracting Parties are present at the time of voting.

4. The Diplomatic Conference to consider and adopt amendments to this Convention shall be convened by the Depository and held no later than one year after the appropriate decision taken in accordance with paragraph 3 of this article. The Diplomatic Conference

shall make every effort to ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted with a two-thirds majority of all Contracting Parties.

5. Amendments to this Convention adopted pursuant to paragraphs 3 and 4 above shall be subject to ratification, acceptance, approval, or confirmation by the Contracting Parties and shall enter into force for those Contracting Parties which have ratified, accepted, approved or confirmed them on the ninetieth day after the receipt by the Depository of the relevant instruments of at least two thirds of the Contracting Parties. For a Contracting Party which subsequently ratifies, accepts, approves or confirms the said amendments, the amendments will enter into force on the ninetieth day after that Contracting Party has deposited its relevant instrument.

ARTICLE 42. DENUNCIATION

1. Any Contracting Party may denounce this Convention by written notification to the Depository.
2. Denunciation shall take effect one year following the date of the receipt of the notification by the Depository, or on such later date as may be specified in the notification.

ARTICLE 43. DEPOSITARY

1. The Director General of the Agency shall be the Depository of this Convention.
2. The Depository shall inform the Contracting Parties of:
 - (i) the signature of this Convention and of the deposit of instruments of ratification, acceptance, approval, accession or confirmation in accordance with Article 39;
 - (ii) the date on which the Convention enters into force, in accordance with Article 40;

RESOLUTION RELATING TO TRANSBOUNDARY MOVEMENT OF RADIOACTIVE
WASTE AND SPENT FUEL

The Conference,

Recognizing States' responsibilities in respect of the protection and preservation of the environment,

Aware of the function of the IAEA as established in Article III.A.6 of its Statute,

Whereas, by the decision GOV/DEC/73(XV), No. (52) of the Board of Governors of the IAEA, the Director General had been authorized to promulgate as part of the Agency's Safety Standards (INFCIRC/18) the Regulations for the Safe Transport of Radioactive Materials and to recommend to the Governments of Member States that the Regulations be used in formulating national regulations,

Recalling maritime, river and air navigation rights and freedoms, as provided for in international law,

Recalling the provisions of chapter VII of the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, and the provisions of the International Maritime Dangerous Goods Code (IMDG),

Recognizing that the IMDG Code, which generally implements the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Materials, contains no specific requirement for the design and equipment of ships engaged in the carriage of irradiated nuclear fuel, plutonium and high-level radioactive waste,

Having noted with satisfaction that the "Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes in flasks on board ships" (INF Code) adopted on 4 November 1993 by the IMO Assembly does contain such requirements and will enhance maritime safety and protection of marine environment,

1- URGES all States parties to this Convention to take into full consideration the IAEA Regulations for the Safe Transport of Radioactive Material (1996), in particular in the case of transboundary movement of spent fuel and radioactive waste, notably in the formulation and implementation of their national laws and regulations.

2- INVITES the International Atomic Energy Agency (IAEA), in consultation, and where appropriate in collaboration, with the competent organs of the United Nations and with the specialized organizations concerned, including the International Maritime Organization (IMO) and the United Nations Environment Programme (UNEP), to keep under review the existing rules and regulations with respect to the safety of the transboundary movement of spent fuel and radioactive waste.

SUMMARY RECORDS

RWSC/DC/SR.1

**SUMMARY RECORD OF THE FIRST PLENARY MEETING
OF THE
DIPLOMATIC CONFERENCE CONVENED TO ADOPT A JOINT
CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

Held at the Headquarters of the
International Atomic Energy Agency,
Vienna,
on Monday, 1 September 1997, at 10.55 a.m.

Temporary President: Mr. BLIX (Director General of the IAEA
and Secretary-General of the Conference)
President: Mr. BAER (Switzerland)

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* RWSC/DC/2.

OPENING OF THE CONFERENCE

1. The TEMPORARY PRESIDENT, opening the Conference in accordance with Rule 8 of the Conference's Provisional Rules of Procedure and welcoming the delegates, said that it was a great pleasure for the IAEA to be hosting the Conference and that the IAEA's Secretariat would assist the Conference in practical, legal and technical matters as appropriate. It might also, as an observer, present its views on issues which arose.
2. It was a well-known fact that the many and diverse uses of radiation and radioactive material worldwide had produced great benefits and were continuing to do so and that, from the outset, a concern for safety had been a special hallmark of nuclear activities. That concern for safety had applied not least to spent sources and to waste. No technology, no matter how beneficial, could be considered truly sustainable unless the waste and by-products that it generated could be managed safely. Perhaps equally important if the technology was to enjoy widespread acceptance, the waste needed to be seen to be managed safely. Certainly that was true of radioactive waste or spent fuel.
3. The non-proliferation aspects of managing spent fuel and radioactive waste had long been considered to be of international concern, and the IAEA's safeguards systems had been established to meet that concern by verification on the basis of binding agreements. Other aspects of the safe management of radioactive waste and spent fuel had historically been considered to be largely national in nature. The general responsibility for safety had rested, and continued to rest, with national authorities. However, international norms, including binding conventions on a range of safety-related issues, had gradually come to be seen as elements which helped to promote a global safety culture.
4. The IAEA had long been and continued to be a major contributor to the development of agreed international nuclear safety norms. The safety of radioactive waste management had first been seen as having an international dimension in the context of the disposal of solid waste into the sea, a practice which had been widely favoured from the early days of nuclear energy until well into the 1970s. It was perhaps not surprising that

the IAEA's first major publication on nuclear waste management — issued in 1961 — had set out safety procedures and practices for waste disposal at sea.

5. Underground disposal of radioactive waste had been practised for at least as long as marine disposal, but there had been less of a tendency to regard it as a matter of international concern. The IAEA had issued guidance on underground disposal as early as 1965, but interest in the safety of land disposal as an international issue had only gradually gathered momentum in the 1970s and 1980s. During that period, the IAEA had built up a comprehensive collection of Safety Series documents on underground disposal. By the late 1980s, radioactive waste disposal, even though the amounts were relatively small and the technology was known, had acquired increasing importance as a social and as a political issue, and the IAEA had responded by producing a high-profile collection of safety publications — the Radioactive Waste Safety Standards, or RADWASS — to document the international consensus which existed in that area.

6. The IAEA had not, of course, been alone in addressing radioactive waste management as an international issue. Other international organizations and various national ones had made major contributions to the development of a global consensus on waste safety. The work of the Nuclear Energy Agency of OECD in exploring many of the issues raised by the special characteristics of radioactive waste management was particularly noteworthy.

7. Waste management was much more than just disposal, and the RADWASS publications also addressed pre-disposal aspects such as waste characterization, segregation, conditioning and packaging. The International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources established the basic requirements for protection against the risks associated with exposure to ionizing radiation. The area with the most obvious international aspect, the transport of waste, was already covered not only by the IAEA's "Regulations for the Safe Transport of Radioactive Material", but also by the IAEA's "Code of Practice on the International Transboundary Movement of Radioactive Waste". One of the objectives of the draft text before the

Diplomatic Conference had been to incorporate the substantive provisions of the Code of Practice into what would become a binding instrument.

8. The management of spent fuel had a history all of its own, and the IAEA had responded to the different approaches which had been taken with a series of documents on the design, operation and safety assessment of spent fuel storage facilities.

9. The development of the Convention on Nuclear Safety and that of the draft Joint Convention which the Diplomatic Conference would consider and, he hoped, adopt had been major steps beyond the Agency consensus standards which had existed before.

10. During the development of the Convention on Nuclear Safety in the early 1990s, many participants had proposed that the safety issues relating to the management of radioactive waste be covered in the Convention. No consensus had been reached on that proposal, but the Preamble to the Convention on Nuclear Safety did speak of affirming “the need to begin promptly the development of an international convention on the safety of radioactive waste management as soon as the ongoing process to develop waste management safety fundamentals has resulted in broad international agreement”. That message had been reinforced in a resolution adopted by the IAEA’s General Conference in 1994.

11. Accordingly, in March 1995 he had established an open-ended group of technical and legal experts and given it the task of drafting a convention. One might say that he had asked the group to “pick up where the Convention on Nuclear Safety had left off”. Wisely, the earlier convention had been used by the group as a model for the new one.

12. In some respects, it could be said that the experts who had elaborated the present draft Joint Convention had had the advantage of hindsight over the drafters of the Convention on Nuclear Safety. However, they had also had many new difficult questions to address. In fact, for example, only at the group’s final meeting had agreement been reached on the position of spent fuel management within the structure of the draft convention. Another indication of the complexity of the task was perhaps the number of definitions required in the Joint Convention — 21, compared with only three in the

Convention on Nuclear Safety. Furthermore, while closure might not be the end of the story for any nuclear facility, that was especially true for a waste disposal facility, whose primary function was performed after its closure. Disposal facilities for both radioactive and non-radioactive waste required the contemplation of timescales far beyond those of concern in most other safety-related fields.

13. The draft Joint Convention addressed spent fuel and radioactive waste from civilian applications and also spent fuel and radioactive waste of military or defence origin that had been transferred permanently to, and were being managed within, exclusively civilian programmes. The Preamble to the draft Joint Convention made it clear, however, that the safety objectives espoused in the Convention should also be adhered to in the management of military and defence waste. The Convention would not, as currently drafted, apply to spent fuel held at reprocessing facilities as part of a reprocessing activity, and it would not apply to most waste containing only naturally occurring radionuclides, except for sealed sources and waste originating in the nuclear fuel cycle.

14. The obligations embodied in the draft Convention were based in part on the principles contained in the IAEA document entitled "The Principles of Radioactive Waste Management", which represented an international consensus on the basic concepts underlying the safe management and disposal of waste and on the legislative and regulatory framework needed to achieve it.

15. The draft Convention contained two parallel sets of requirements governing the safety of spent fuel management and of radioactive waste management, and also some requirements common to both. The common requirements included the establishment and maintenance of a legislative and regulatory framework for the safety of spent fuel and radioactive waste management, the provision of adequate financial and human resources for safety, and the implementation of adequate quality assurance, radiation protection and emergency preparedness programmes. Additional requirements were specified relating to the transboundary movement of spent fuel or radioactive waste and to the handling of disused sealed sources.

16. The Convention would thus require that each Contracting Party take appropriate national measures to ensure the safety of spent fuel and radioactive waste management. It would also require that each Contracting Party report at meetings of the Contracting Parties on the measures taken by it. That peer review process, whereby the Contracting Parties met to discuss national reports, would be a key mechanism for promoting a high level of safety worldwide, the practices in all States parties being subjected to critical scrutiny. A by-product of that transparent process ought to be an increased acceptance of waste management practices and an increase in public confidence. There was a common misconception in the public mind that the nuclear community did not know how to handle and dispose of radioactive waste with full responsibility vis-à-vis present and future generations. Dispelling that misconception was not stated to be one of the objectives enunciated in Article 1 of the draft Convention, but it should be a by-product.

17. The world had arrived at an important milestone in spent fuel and radioactive waste management. There was broad international agreement on the fundamental safety principles. The technology existed to act on them and was being put into practice. The point had been reached where nations were preparing to commit themselves as a matter of law to abiding by a set of fundamental safety principles on spent fuel and radioactive waste management. One could only wish that other major industries of the world had acted similarly in their respective fields.

18. The path to the Diplomatic Conference had not always been easy. The fact that the Conference was taking place owed much to the skill and stature of the Chairman of the group of experts, Professor Alec Baer, to whom he personally was very grateful. It also owed much to the many experts who had conducted their debates throughout in a spirit of determination, compromise and co-operation. He trusted that, even though some difficulties remained, the same mood and respect for strategic goals would prevail during the week to come and that a final text would be adopted by the end of it.

ELECTION OF THE PRESIDENT

19. The TEMPORARY PRESIDENT said he understood that there was a general wish that Professor Alec Baer of Switzerland be elected President of the Conference by acclamation.

20. Mr. Baer (Switzerland) was elected President of the Conference by acclamation.

Mr. Baer (Switzerland) took the Chair.

21. The PRESIDENT thanked delegates for the honour they had done him and his country by electing him President of the Conference and for the confidence they had placed in him. Thanking the Director General for the laudatory remarks about him which he had just made when speaking as Temporary President, he said that the success of the group of legal and technical experts had been attributable to the efforts of its members as much as, if not more than, to those of its Chairman.

22. During the previous couple of years he had, like many other delegates, necessarily acquired a certain familiarity with the draft text now before the Diplomatic Conference. Obviously, he would endeavour to use his knowledge to good effect during the days to come.

23. In the course of its deliberations the group of legal and technical experts had, to its credit, found solutions to all the legal and technical problems encountered by it. However, a Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management would have to be more than just a legal and technical document. If well drafted, it would inevitably affect the national nuclear policies of future signatory States and thus assume a more political dimension.

24. There had been remarkable agreement within the expert group on the need to draft a "good" convention and, even when opinions had diverged on the best way of achieving the common goal, the desire to achieve it had always been unanimous and the determination to do so had never faltered. The resulting text was not perfect but, faced with a difficult choice, the group of experts had selected a middle road between two possible extremes.

On one hand, some representatives would undoubtedly have liked to have very quickly a document that they could use in reacting immediately to any suggestion that the safe management of radioactive waste was impossible. However, yielding to such pressure would inevitably have led to a botched document of very little value. On the other hand, the group had realized that, once a convention had been drafted and - even more so - had entered into force, it would be virtually impossible to amend it, and some representatives had therefore felt that the group should aim at nothing short of perfection. However, if the group had polished and repolished each phrase and discussed each comma at great length the Diplomatic Conference would not be taking place now.

25. The draft before the Conference was not the result of horse trading and shaky compromises, but a realistic document that - in his view - represented a good response to the imperatives with which the group had been faced.

26. Given the constraints imposed on the group, one should not be surprised that the draft Convention was so tightly structured. It was not a simple list of 44 articles divided into seven chapters, but a complex edifice of only apparent simplicity. It was constructed in such a way that a major change to one of its elements would have immediate consequences for several others. In other words, it constituted a whole within which each article and each paragraph played a precise role.

27. One might therefore ask what the point of the Diplomatic Conference was if the text before it was virtually immutable and whether the Diplomatic Conference had been convened merely in order to affix a seal of quality to that text. A convention, however, was something quite distinct from the many technical documents of the IAEA on nuclear safety, radioactive waste, transport safety and so forth. The text approved by the Conference at the end of the week would be one which delegates would be recommending to their governments and parliaments for signature and ratification. It would be the text of a multilateral treaty between sovereign States, with legal weight much greater than that of any other existing document on the same subject.

28. The Conference had three tasks to accomplish: firstly, and most importantly, to give the final text the political legitimacy without which it would have no value; secondly, to resolve the political questions which, in accordance with its mandate, the group of legal and technical experts had left unresolved; and thirdly, to see whether the text which had been transmitted to it could be further improved or at least clarified. The document which the Conference would approve on Friday would be of universal importance as it would be open for signature and ratification by all countries of the world, not just IAEA Member States. Following the week's work, delegates would be able to claim justifiably that they had taken a major step towards greater nuclear safety worldwide.

29. Some might not consider that to be a great achievement and might say that the millstones of international organizations ground slowly. However, the 40 years during which the IAEA had been in existence were a mere twinkling of the eye compared to the lifetime of a final disposal facility for radioactive waste - on that scale the progress made could be regarded as almost instantaneous, and it was something of which one could be proud.

30. In the next few days, all those present would have the opportunity of making a tangible contribution. The spirit of co-operation which had permeated the discussions in the group of technical and legal experts augured well for the Conference's work, on which he now invited delegates to embark.

ADOPTION OF THE AGENDA (RWSC/DC/2)

31. The PRESIDENT took it that the Conference wished to adopt the provisional agenda contained in document RWSC/DC/2.

32. It was so decided.

ADOPTION OF THE RULES OF PROCEDURE (RWSC/DC/3)

33. The PRESIDENT asked whether the Conference wished to adopt the Provisional Rules of Procedure contained in document RWSC/DC/3.

34. The delegate of MOROCCO requested clarification about the mandate of the Drafting Committee referred to in Rule 16 of the Provisional Rules of Procedure. The harmonization of texts in different languages was a task normally entrusted to conference secretariats, and he did not see how the Drafting Committee would be able to do that job within just a couple of days.

35. The PRESIDENT said that the task of the Drafting Committee would be to deal with drafting points referred to it by the Committee of the Whole, to which it would then report. It would have no mandate to make substantive changes in the draft text before the Conference.

36. The six official and working languages of the United Nations (Arabic, Chinese, English, French, Russian and Spanish) should be represented in the Drafting Committee, but the way in which translation points were handled would be for the Committee itself to decide.

37. In that connection, he said that the text endorsed by the group of experts had been in English only. It had been translated later into the other five languages and the versions in those languages had then been provided to Member States. At the same time, they had also been sent to small groups of persons for the checking of translation accuracy and quality. The texts before the Conference in languages other than English were not the texts resulting from the checking exercise. Those texts would, however, be made available in time for the Drafting Committee's deliberations.

38. The delegate of MOROCCO, noting that Rule 40 of the Provisional Rules of Procedure contained the sentence "Delegates who abstain from voting shall be considered as not voting" while Article 41.3 of the draft Joint Convention contained the sentence "Abstentions shall be considered as voting", requested clarification.

39. The PRESIDENT said that the Rules of Procedure would govern the conduct of the Diplomatic Conference, whereas Article 41 of the Joint Convention would apply to the procedures to be followed at meetings of the Contracting Parties.

40. With that clarification, he took it that the Conference wished to adopt the Provisional Rules of Procedure contained in document RWSC/DC/3.

41. It was so decided.

ELECTION OF VICE-PRESIDENTS AND OTHER OFFICERS OF THE CONFERENCE

42. The PRESIDENT noted that, in accordance with Rule 9 of the Rules of Procedure that had just been adopted, the Conference was required to elect eight Vice-Presidents. In the course of informal consultations among Heads of Delegation earlier that morning, there had been general agreement that the following delegates should be nominated: Mr. Jack (Canada) for the North America Group, Mr. Aguirre (Colombia) for the Latin America Group, Mr. Özbas (Turkey) for the Western Europe Group, Mr. Subasić (Croatia) for the Eastern Europe Group, Mr. Benmoussa (Morocco) for the Africa Group, Ms. Al-Hadid (Jordan) for the Middle East and South Asia Group, Mr. Suryokusumo (Indonesia) for the South East Asia and the Pacific Group, and Mr. Ikeda (Japan) for the Far East Group. He took it that the Conference wished to elect the delegates whom he had named as Vice-Presidents by acclamation.

43. It was so decided.

44. The PRESIDENT, having congratulated the Vice-Presidents on their election, said that the Heads of Delegation involved in the informal consultations had recommended that Mr. Lacoste (France) and Mr. Metcalf (South Africa) be appointed Chairman and Vice-Chairman of the Committee of the Whole, and he took it that the Conference wished to elect them by acclamation.

45. It was so decided.

46. The PRESIDENT, having congratulated the Chairman and Vice-Chairman of the Committee of the Whole on their election, said that the Heads of Delegation had further recommended that Mr. Stratford (United States of America) be appointed Chairman of the Drafting Committee, and he took it that the Conference wished to elect him by acclamation.

47. It was so decided.

48. The PRESIDENT, having congratulated Mr. Stratford on his election, said that, in accordance with Rule 16 of the Rules of Procedure, a Drafting Committee composed of not more than 18 members had to be set up, its members being selected in such a way that each language in which the Convention was to be authentic would be represented. In the informal consultations among Heads of Delegation it had been agreed that the following States should be nominated for membership of the Drafting Committee: Australia, Austria, China, France, Germany, Ireland, Luxembourg, Mexico, Pakistan, the Russian Federation, Slovakia, Spain, Sweden, the Syrian Arab Republic, Tunisia, Ukraine and the United Kingdom. He took it that the Conference wished to elect those States as members of the Drafting Committee.

49. It was so decided.

ORGANIZATION OF THE WORK OF THE CONFERENCE

50. The PRESIDENT noted that the Rules of Procedure provided for plenary meetings, a Committee of the Whole and a Drafting Committee. The plenary meetings would be devoted at the beginning of the Conference to general statements on the draft Joint Convention including proposals for resolutions, if any, and at the end of the Conference to the adoption of the text of the Convention, any resolutions and the Final Act. Consideration of the text of the draft Joint Convention and the Final Act and any other matters of substance referred to it by the Plenary would take place in the Committee of the Whole, which would take up the articles of the draft Joint Convention in a manner to be decided on by the Committee. The Committee of the Whole would begin its work as soon as the Plenary had finished hearing general statements. It would refer all drafting matters to the Drafting Committee, which would prepare drafts and report back to the Committee of the Whole, which would in turn report to the Plenary.

51. It was expected that the Committee of the Whole would begin its work as soon as the Plenary had completed its initial business. The Drafting Committee would be convened

as soon as proposals had been referred to it by the Committee of the Whole, which would report to the Plenary on Friday, 5 September.

52. He took it that the Conference approved the organization of its work as he had just outlined.

53. It was so agreed.

CONSIDERATION OF:

(a) THE DRAFT JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT (RWSC/DC/1)

(b) DRAFT CONFERENCE RESOLUTIONS

54. The delegate of NEW ZEALAND said that his country's aspirations for the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management fully coincided with the three objectives set forth in Article 1 of the draft text and that his delegation looked forward to the adoption of a convention which would ensure that those objectives were achieved. Accordingly, his delegation considered that the scope of the draft Convention should be as broad as possible and that spent fuel should fall within its scope.

55. The Joint Convention was described as an "incentive Convention". The mechanisms established by it for reviewing the compliance of Parties with their obligations would serve to motivate all States to put in place and maintain the highest possible standards.

56. The increasing number of radioactive waste shipments through the Pacific region gave New Zealand and small island States a direct and fundamental interest in ensuring that the transboundary movement of nuclear waste by sea not only conformed to the highest safety standards but also took full account of the rights and concerns of coastal States and their peoples. Traditionally, the Pacific region had been dependent on the marine environment for sustenance and survival. The value placed on the marine environment had been demonstrated first by the establishment in 1985 of a South Pacific nuclear-free zone

and subsequently by the conclusion in 1986 of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (known as the Noumea Convention). That convention reflected collective concerns about radioactive contamination and the wish of all the countries in the region to take concrete steps consistent with international law, including the law of the sea, to protect the environment. The South Pacific Nuclear Free Zone Treaty specifically expressed the determination of its Parties to “ensure, so far as lies within their power, that the bounty and beauty of the land and sea in their region shall remain the heritage of their peoples and their descendants in perpetuity to be enjoyed by all in peace”. The Treaty further recorded the Parties’ determination “to keep the region free of environmental pollution by radioactive wastes and other radioactive matter”.

57. Thus, many States in the South Pacific region would welcome a positive outcome to the Conference. Indeed, the Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (known as the Waigani Convention) had charged the Parties to it to actively participate in the development of the convention which was the subject of the present Diplomatic Conference.

58. It was encouraging to see that the draft text before the Conference highlighted the need for international co-operation and recognized the desirability of strengthening the international control system applying specifically to radioactive materials referred to in the Basel Convention.¹ His delegation would like the draft text to be improved so as to provide for the establishment of a prior informed consent procedure for transboundary movements of spent fuel and radioactive waste for States of transit. Sufficiently early notice and full consultation concerning and consent to such movements were transparent procedures consistent with the rights of coastal States to protect and preserve their environment.

¹ Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989.

59. The delegate of the RUSSIAN FEDERATION paid tribute to the work done under the IAEA's auspices in preparing the draft of a Joint Convention which would contribute to the implementation of decisions taken at the Moscow Nuclear Safety and Security Summit and of recommendations concerning the environment and radioactive waste management made at the General Assembly's special session on sustainable development. Russia was convinced that adoption of the Convention would facilitate the further development of a global nuclear safety culture and ensure broad application of international standards and recommendations in that connection.

60. It had taken less than two years to prepare the draft text now under consideration, which, in his delegation's view, would meet the important objective of rounding off the set of international agreements designed to ensure comprehensive regulation of the safe management of nuclear materials. Thanks in no small measure to the skilful leadership of Professor Baer, Chairman of the Open-ended Group of Legal and Technical Experts, concrete results had been achieved speedily in an atmosphere of compromise.

61. The Russian Federation would oppose any amendment of the main provisions agreed upon by those experts regarding the scope of the Convention and the transboundary movement of radioactive waste; the relevant articles of the draft text were well balanced and reflected the interests of the majority of the States which had taken part in the drafting exercise. Furthermore, it could not go along with the idea of using the Joint Convention as an instrument for regulating international transport and other activities not falling directly within its scope.

62. In the Russian Federation a national legal structure for regulating the management of nuclear materials was currently in the process of being created. His country's authorities were therefore extremely interested in the functioning of a system of international agreements which reflected the experience of different countries in that field, and his delegation looked forward to a constructive examination of the draft Joint Convention.

63. The delegate of INDIA said his country had taken an active part in the meetings of the Open-ended Group of Legal and Technical Experts as it attached great importance to

safety issues, which had been its prime concern when establishing an indigenous capability covering the entire nuclear fuel cycle.

64. In resolution GC(XXXVIII)/RES/6, the General Conference had in 1994 invited the Board and the Director General “to commence preparations for a convention on the safety of waste management”. The Open-ended Group convened pursuant to that resolution had in mid-1995 started to negotiate a draft text relating only to the safety of radioactive waste management, in accordance with the express wish of the General Conference.

65. Radioactive waste was defined as “material that contains or is contaminated with radionuclides at concentrations or activities greater than clearance levels as established by the regulatory body, and for which no use is foreseen”; that definition had been arrived at during the Agency’s extensive work on developing safety fundamentals and safety standards under the RADWASS programme and had been agreed upon as recently as January 1995. It had therefore been reasonable to expect that a convention on the safety of radioactive waste management would deal with radioactive waste as defined in the safety fundamentals, and at the early meetings of the Open-ended Group it had appeared that the envisaged convention would indeed deal with radioactive waste as so defined. A reference to spent fuel had been regarded merely as a way of providing for situations where, in some States, spent fuel was declared to be radioactive waste. From March 1996 onwards, however, attempts had been made in the Open-ended Group to convert the envisaged convention into a joint instrument which would also cover spent fuel.

66. Although some contracting parties might perceive spent fuel to be of no further use, for India the plutonium-239 contained in uranium-based spent fuel and the uranium-233 contained in thorium-based spent fuel were a resource. The recent “Symposium on Nuclear Fuel Cycle and Reactor Strategies - Adjusting to New Realities” had made it clear that sooner or later fast breeders and thorium-based reactors would be essential if there was to be sustainable nuclear power development, and in that context his delegation wondered whether one should speak of “spent fuel” when the energy potential of the material in question was far from spent; a paper by authors from the Korea Atomic Energy Research

Institute and Atomic Energy of Canada Ltd. (paper IAEA-SM-346/26, "The DUPIC alternative for backend fuel cycle") presented at that symposium had gone into the possibility of using "spent" fuel from LWRs directly in PHWRs.

67. In some countries, particularly countries where there was a surplus of energy and where energy production was declining, the public tended to consider everything that came out of a reactor to be waste. The Agency, as an international organization with a mandate to promote the peaceful uses of atomic energy, had a responsibility to dispel such erroneous perceptions.

68. With developing countries striving to attain energy security, the importance of public perceptions regarding the nuclear fuel cycle could not be over-emphasized. In a country where energy policy was based on the closed nuclear fuel cycle, it was imperative that spent fuel be regarded as a national resource; any attempt to associate spent fuel management with radioactive waste management would run counter to such a view. For its part, India could not subscribe to a convention that linked spent fuel with radioactive waste.

69. On the other hand, every effort should be made to include within the scope of the Joint Convention radioactive waste resulting from military activities of contracting parties, as all radioactive waste - regardless of origin - demanded safe management. Unsafe reactors could always be shut down, but the past could not be buried as far as radioactive waste was concerned.

70. In a spirit of co-operation, his delegation would suggest that every State, in the exercise of its sovereign rights and without discrimination, should have the right to decide what it was going to bring within the scope of the Joint Convention and what it was going to exclude from it, the objective being to develop a model for good radioactive waste management which could be applied voluntarily by the State concerned to all its radioactive waste, whether or not declared under the Joint Convention.

71. It would not be possible for India to accept in respect of spent fuel any obligations arising out of the Joint Convention in its current form. His delegation therefore proposed that Article 3, on the scope of application, be amended to read:

“This Convention shall also apply to the safe management of spent fuel resulting from the operation of civil nuclear reactors except spent fuel that is to be reprocessed.”

72. The delegate of JAPAN said that safety was a prerequisite for the use of nuclear energy for peaceful purposes. His country's authorities therefore attached great importance to the safe management of spent fuel and radioactive waste resulting from nuclear activities and had endeavoured to achieve transparency in providing information on that subject to the general public. It was in that spirit that Japan had contributed to discussions in the Open-ended Group which, under the outstanding chairmanship of Professor Baer, had produced the draft Joint Convention now before the Diplomatic Conference. The Joint Convention would undoubtedly result in improved standards of spent fuel and radioactive waste management worldwide, but some difficult issues still had to be resolved. He hoped, therefore, that a spirit of co-operation and compromise would prevail during the Diplomatic Conference.

73. The delegate of the REPUBLIC OF KOREA, having commended the efforts of the Open-ended Group under the leadership of Professor Baer, said that the Joint Convention would constitute a major contribution to the safety of spent fuel and radioactive waste management and that the adoption of a convention promoting the safe management not only of radioactive waste but also of spent fuel would be consistent with Article 19 and the preamble of the Convention on Nuclear Safety.

74. Over the past five decades, nuclear power and nuclear applications in various fields had helped to improve the quality of life and bring about advances in science and technology. However, the full benefits of nuclear energy and its applications could be enjoyed only when there was safe management of radioactive waste and spent fuel. His delegation hoped, therefore, that the Diplomatic Conference would lead to the establishment of an international regime for their safe management. Recent developments regarding proposed transboundary movements of radioactive waste in the Far East underlined the urgent need for such an international regime.

75. His delegation was concerned about possible overlapping between the Joint Convention and the Convention on Nuclear Safety. Duplication of reporting should be avoided, and he hoped that the matter would be addressed at the preparatory meeting of the Contracting Parties to the Joint Convention.

76. The delegate of SOUTH AFRICA said that, when signing the Convention on Nuclear Safety some three years previously, her country had welcomed the affirmation contained in it of the need to commence work on a convention on the safety of radioactive waste management as soon as broad international agreement had been reached on the relevant safety fundamentals. Once such agreement had been reached, South Africa, which was committed to the safe management of all its radioactive waste, had become actively involved in the convention drafting exercise.

77. South Africa was among the many countries that wanted a convention covering - inter alia - all activities associated with the management of spent fuel, which should be managed safely whether it was ultimately to be disposed of or reprocessed. At the same time, her country accepted the fact that spent fuel was considered by some States to be a valuable resource and that the simple inclusion of spent fuel within the scope of a convention on radioactive waste management could give rise to misconceptions. Consequently, it regarded a joint convention as a very reasonable compromise.

78. As to the waste arising from military activities, which had not been included within the scope of the draft Joint Convention, South Africa welcomed the proposed recognition that it "should be managed in accordance with the objectives stated in this Convention".

79. South Africa, which was pleased that the draft Joint Convention recognized the needs of developing countries and of countries with economies in transition, endorsed the principle that existing mechanisms should be used to assist those countries "in the fulfilment of their rights and obligations" and hoped that, at future meetings of the Contracting Parties, relevant procedures would be adopted.

80. During the convention drafting exercise it had become clear that not many developing countries - and very few African ones - were participating. In order to increase

the awareness of African countries with regard to the proposed convention, her country's authorities had invited the Open-ended Group to hold its fifth meeting in South Africa. The meeting, which had taken place in November 1996, had been attended by representatives of five African States which had not been represented at the Group's previous meetings.

81. Her delegation looked forward to agreement being reached on the draft Joint Convention during the next few days, to its entry into force and to its subsequent successful implementation.

82. The delegate of PAKISTAN said that his country, which shared the global concern for nuclear, radiation and waste safety, was committed to the promotion of safety in all peaceful uses of nuclear technology. For that reason it had supported both the Convention on Nuclear Safety, the preamble of which affirmed "the need to begin promptly the development of an international convention on the safety of radioactive waste management", and resolution GC(XXXVIII)/RES/6, in which the General Conference had invited the Board of Governors and the Director General to commence preparations for such a convention.

83. In the same spirit, Pakistan had from the outset participated actively in the work of the group entrusted with the task of drafting a convention on the safety of radioactive waste management. At first, things had gone smoothly - in line with the agreed mandate. Then suggestions had been made regarding the inclusion of spent fuel within the scope of the convention. The logical response would have been to include such spent fuel as was declared by a Contracting Party to be radioactive waste; that would have met the concerns of those States which regarded spent fuel as having no further use and considered it to be waste.

84. The group had started to drift away from its mandate, which called for the development of an international convention on the safety of radioactive waste management, and Pakistan had reminded it of the need to respect that mandate. At the group's fourth meeting, Pakistan's representative had pointed out that, if spent fuel was to be included

within the scope of the convention, the group's mandate would have to be changed. Although the mandate had not been changed, the draft now before the Diplomatic Conference related not only to the safety of radioactive waste management but also to the safety of spent fuel management. Pakistan had reservations about that.

85. Pakistan also had reservations about the definition of "radioactive waste management" given in Article 2 of the draft text, which contained the phrase "including decommissioning operations"; there was no reference to decommissioning in the definition of "radioactive waste management" given in "The Principles of Radioactive Waste Management" (IAEA Safety Series No. 111-F). In addition it had doubts about the appropriateness of the article on decommissioning (Article 26).

86. As regards reporting requirements, in his country's view it was imperative that Article 32 of the draft text be revised so as to ensure that an excessive burden was not imposed on Contracting Parties.

87. Like the Convention on Nuclear Safety, the operative part of the draft Joint Convention contained no provision for international co-operation. Without integrated international co-operation, however, the safe disposal of radioactive waste - including disused sources - might never be possible. Provision for such co-operation should be made in the operative part of the text now under consideration.

88. The delegate of BELARUS said that nuclear safety and the protection of people and the environment from the harmful effects of ionizing radiation required considerable material, political, scientific and technical inputs at the national and the international level and that the development and adoption, under IAEA auspices, of international safety standards for the management of nuclear materials and the operation of nuclear facilities represented a valuable contribution in that connection.

89. The envisaged Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management should help in achieving high levels of safety in the areas to which it related, through the intensification of national measures and international co-operation, in preventing accidents with radiological consequences and in

mitigating the consequences of any such accident at any stage in the management of spent fuel or radioactive waste.

90. Belarus did not yet have any nuclear power plants, but it was engaging in peaceful nuclear activities which involved - inter alia - the operation and decommissioning of nuclear research facilities and the operation of storage facilities for spent and fresh nuclear fuel and a site for the disposal of low- and intermediate-level radioactive waste. Consequently, it was very interested in strengthening international co-operation in nuclear safety and the management of radioactive waste. The latter was of particular current interest for Belarus, where - with IAEA support - the technology and safety of the only national radioactive waste disposal site ("Ehkores") were being upgraded.

91. Belarus was taking steps to establish a legislative and regulatory framework for radioactive waste management operations and to ensure that the personnel engaging in such operations received proper training. It hoped that the international co-operative activities involved in the implementation of the Joint Convention would assist it in that connection.

92. Like many other countries, Belarus made wide use of sealed sources. Consequently, Article 28 of the draft Joint Convention, which envisaged the return of disused sources to their manufacturers, was important for it.

93. Article 11 spoke of striving to avoid "actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation". Unfortunately, such actions were still quite commonplace in many countries - including Belarus, which, in order to comply with the Joint Convention, would have to take and implement decisions on matters such as the relocation of spent fuel stored at a near-surface repository, the safety of "old" disposal sites and the safe disposal of radionuclide sources.

94. The delegate of ARGENTINA said that his country had strongly supported the efforts made by the international community in recent years within the framework of the IAEA to strengthen nuclear safety culture worldwide. For example, it had participated very actively in the drafting of the Convention on Nuclear Safety, which it had subsequently signed and ratified, and had advocated the negotiation of a companion

instrument establishing clear international parameters with respect to the safe management of radioactive waste.

95. The excellent work done by the Open-ended Group of Technical And Legal Experts under Professor Baer's admirable leadership had resulted in the draft Joint Convention before the Conference. From his country's point of view, that draft met the main concerns of the international community and also represented an appropriate balance of different interests - achieved thanks to the spirit of compromise shown by all the delegations which had participated in the Group's work.

96. It was to be hoped that the same atmosphere of flexibility and co-operation would prevail and that the issues still outstanding despite intensive consultations would be satisfactorily resolved during the Diplomatic Conference. For its part, his delegation would make every effort to bring about the adoption of the draft Joint Convention.

97. The delegate of POLAND said that the draft Joint Convention, which represented an important step forward in the difficult process of establishing a proper international safety regime for the management of spent nuclear fuel and radioactive waste, was the product of a compromise between differing - often conflicting - interests reached after extensive negotiations among legal and technical experts from over fifty States.

98. Although Poland had relatively little spent nuclear fuel (from research reactors) and radioactive waste, it was surrounded by States operating and constructing nuclear power plants. Consequently, his delegation hoped that the Joint Convention would, by strengthening the international legal regime in the nuclear area, increase Poland's overall safety. It also hoped that the Joint Convention would promote nuclear safety culture worldwide, including the establishment of regional radioactive waste repositories.

99. Poland particularly welcomed the fact that the draft Joint Convention covered both radioactive waste and spent fuel management and hoped that its scope of application would in due course be enlarged to include the safe management of radioactive waste from military or defence programmes.

100. In conclusion, he expressed his delegation's appreciation of the manner in which the President had chaired the Open-ended Group of Legal and Technical Experts and said that he looked forward to signing the Joint Convention during the forthcoming session of the IAEA's General Conference.

101. The delegate of NORWAY, having congratulated the group of experts and its Chairman on their constructive work, said that one of the group's objectives had been to fill in some of the gaps left by the Convention on Nuclear Safety. Adoption of the draft Joint Convention would provide increased assurance to the public that the protection of health and the environment from the harmful effects of radiation was being given the highest priority.

102. His delegation welcomed the fact that there had been sufficient support among the experts for a convention with a broad scope which included spent nuclear fuel and some military waste; that would enhance the convention's credibility as far as the public was concerned. Like some other countries, however, Norway would have liked the convention to cover also the safety of spent fuel reprocessing.

103. At all events, the effectiveness of the convention in promoting safety would be demonstrated at the review meetings for which it provided.

104. The delegate of the UNITED KINGDOM, having commended the President, the members of the group of experts and the Secretariat for their efforts and the Government of South Africa for hosting the fifth meeting of the group of experts, said that the Joint Convention would be a valuable contribution to the safety of spent fuel and radioactive waste management worldwide; his country looked forward to its early entry into force.

105. Nevertheless, the United Kingdom regretted the apparently arbitrary explicit exclusion of all reprocessing activities from the scope of the Joint Convention, which - as currently drafted - would encompass the management of spent fuel destined for reprocessing and the radioactive waste and radioactive discharges associated with reprocessing, but would not encompass reprocessing itself. Since reprocessing was undoubtedly one of the more controversial aspects of spent fuel management, its exclusion

would be very difficult to explain to the public and was likely to damage the Convention's credibility. His delegation was convinced that the Joint Convention could be a suitable vehicle for addressing the safety of reprocessing. Accordingly, it had submitted proposals for amending Article 2 and 3 which it hoped would be taken up in the Committee of the Whole.

106. The delegate of SLOVAKIA, having commended the Open-ended Group of Legal and Technical Experts for completing its task within a reasonably short time, said that, in his country's view, spent fuel management and radioactive waste management were the most sensitive and important issues associated with the current utilization and future development of nuclear power. He hoped that public acceptance of nuclear power would be enhanced by the early entry into force of the Joint Convention.

107. Slovakia, which had participated in the work of the Open-ended Group, had not yet decided whether its spent fuel would be reprocessed. However, it attached great importance to the safety of spent fuel management and therefore welcomed the fact that the draft text before the Diplomatic Conference covered that topic as well as the safety of radioactive waste. Its new atomic energy law, which was approaching the end of the approval process, would be fully consistent with the provisions contained in that text.

108. His delegation believed that, like the Convention on Nuclear Safety, the Joint Convention would be important for the protection of human health and of the environment at large and in Central Europe in particular. It liked the draft Joint Convention in its present form, but was prepared to be flexible in the interests of achieving consensus.

109. The delegate of the CZECH REPUBLIC said that his country, which had taken part in the process of drafting the text under consideration, was of the view that the obligations for which it provided were appropriate to ensuring the safe management of spent fuel and radioactive waste worldwide. His country's new atomic energy law, which had recently entered into force, met all the principle requirements of the envisaged Joint Convention, so he did not think that his country would have serious problems in complying with the Joint Convention's provisions.

110. Although the Czech Republic's new atomic energy law did not cover the safety of spent fuel management, his delegation was very much in favour of the joint convention format which had resulted from the work of the Open-ended Group of Legal and Technical Experts. Moreover, it could go along with the idea of broadening the scope of the draft text under consideration to include facilities such as reprocessing plants. Indeed, it was prepared to give serious thought to any worthwhile proposals for amending the draft text provided that the sensitive compromise arrived at in the Open-ended Group was not endangered.

111. The delegate of IRELAND said that his delegation, which welcomed the inclusion of spent fuel management within the scope of the draft text under consideration, believed that reprocessing should also be included. The reasons which had been given for the exclusion of reprocessing seemed arbitrary and illogical. A convention which failed to tackle the problem of reprocessing would be incomprehensible to discerning members of the public, and his delegation therefore welcomed the amendment proposals submitted by the United Kingdom with a view to the inclusion of reprocessing.

112. The delegate of BULGARIA said that in his delegation's view the Joint Convention, together with the Convention on Nuclear Safety, would enhance international co-operation in resolving issues connected with the safety of the nuclear fuel cycle.

113. Bulgaria, which had taken part in all meetings of the Open-ended Group, felt that the draft text before the Diplomatic Conference was acceptable, but it would like a definition of "safety" to be included in Article 2. At the same time, in order not to jeopardize the consensus underlying the draft text, it was withdrawing the proposal - made by it at the March 1997 meeting of the Open-ended Group - that "to consult" be replaced by "to inform" in Articles 6.1(iv) and 13.1(iv).

114. The delegate of TURKEY, commending the efforts of Professor Baer, said that in her delegation's view the draft treaty under consideration was a good basis for co-operation in ensuring that transboundary movements were conducted in a safe manner but would need to be refined during the Diplomatic Conference and at future review meetings. The

number of decommissioned nuclear reactors would continue to grow, particularly in the Russian Federation and other countries of Eastern Europe, and huge amounts of spent fuel and radioactive waste would need to be disposed of as a result. Against that background, Turkey believed that, besides making transboundary movements safer, one should try to reduce their frequency by reducing the amounts of radioactive waste being moved across national boundaries. Accordingly, her country fully endorsed preambular paragraph (xi) of the draft text, which in effect called for the disposal of most radioactive waste in the countries where it was generated.

115. In cases where spent fuel or radioactive waste was - exceptionally - to be disposed of in another country, the originating State had a responsibility for ensuring the safety of the transboundary movement. That responsibility needed to be taken seriously, and in that context the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the IAEA Safety Fundamentals entitled “The Principles of Radioactive Waste Management” and the existing international standards relating to safety in the transport of radioactive materials - referred to in preambular paragraphs (xvi) and (xiv) - were highly relevant.

116. The reasonable balance with regard to transboundary movements which existed in the Preamble was, in her delegation’s view, disturbed by Article 27(ii), which related to States of transit and spoke of “those international obligations which are relevant to the particular modes of transport utilized”. What international obligations were being referred to?

117. The most important international documents relating to transboundary movements through States of transit - namely, the IAEA’s Regulations for the Safe Transport of Radioactive Materials, the International Maritime Dangerous Goods (IMDG) Code and the Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes in Flasks on Board Ships (the INF Code) - were unfortunately not binding instruments. A convention which did not provide for adequate protection of people and the environment in States of transit was seriously flawed.

118. Turkey had submitted a proposal for amending Article 27 through the insertion of a reference to the IAEA's Regulations for the Safe Transport of Radioactive Materials, and her delegation could not imagine that there would be objections to it. The insertion of such a reference would ensure that States of transit were notified about and their consent sought for transboundary movements, enabling them to take necessary precautions.

119. During consultations which had taken place prior to the Diplomatic Conference, it had been argued that the right of innocent passage existed under international law. It should be borne in mind, however, that under international law, passage was considered innocent so long as it did not endanger the peace, good order or security of coastal States. Could the passage of radioactive waste and spent fuel be regarded as "innocent" in cases where no precautionary measures had been taken? Turkey wanted Article 27 to be drafted in a manner such as to ensure that necessary precautionary measures were taken. If objections were raised to its amendment proposal, it would nevertheless co-operate as a State of transit in transboundary movements only if they complied with the provisions of the IAEA Regulations, the IMDG Code and the INF Code.

The meeting rose at 1.10 p.m.

**SUMMARY RECORD OF THE SECOND PLENARY MEETING
OF THE
DIPLOMATIC CONFERENCE CONVENED TO ADOPT A JOINT
CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

Held at the Headquarters of the
International Atomic Energy Agency,
Vienna,
on Monday, 1 September 1997, at 3.10 p.m.

President: Mr. BAER (Switzerland)

CONTENTS

<u>Item of the agenda*</u>		<u>Paragraphs</u>
7	Consideration of:)
)
(a)	the draft Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management)))))
)
(b)	draft Conference resolutions)
)
	(continued))

* RWSC/DC/2.

CONSIDERATION OF:

- (a) THE DRAFT JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT (RWSC/DC/1)
- (b) DRAFT CONFERENCE RESOLUTIONS

(continued)

1. The delegate of HUNGARY said that the safe management of radioactive waste and spent fuel was an important aspect of the overall safety of nuclear energy applications and that their acceptance by the public could not be certain without clear proof that it had been dealt with appropriately through legal and technical measures at the international level.
2. Hungary, which attached great importance to the early adoption and entry into force of the draft Joint Convention, considered that the work done by the legal and technical experts under the able chairmanship of Professor Baer had resulted in a well-balanced text which reflected a widespread spirit of compromise - especially as regards the draft text's structure and the provisions relating to transboundary movements and to radioactive waste and spent fuel from military and defence activities. It would have welcomed a draft convention with a broader scope of application, but could go along with the text now under consideration.
3. Hungary had recently launched a national programme for the safe management of spent fuel and radioactive waste, and his delegation was convinced that the Joint Convention would provide the appropriate international framework for the activities involved.
4. The delegate of SWEDEN commended Professor Baer and the Secretariat on the work accomplished by the Open-ended Group of Legal and Technical Experts, which had resulted in a well prepared draft text which Sweden considered to be in line with its own views and priorities in all essential aspects.
5. The safety issues involved in the management of spent fuel had attracted the attention of the general public and become a source of political controversy in many

countries. Accordingly, Sweden favoured a convention that covered all stages of spent fuel management. Moreover, it had come to conclusion that reprocessing should also be covered.

6. Sweden was convinced that the management of spent fuel and radioactive waste arising in the military sector should be subject to the same safety rules as the management of such material arising in the civilian sector and to the control of countries' radiation protection and safety authorities. In various international fora, it had repeatedly urged governments to ensure that their countries' military activities conformed to strict environmental standards. Accordingly, his delegation believed that the envisaged convention should cover military spent fuel and radioactive waste, with reporting requirements designed to preclude the disclosure of classified information.

7. Sweden believed that the present generation had a responsibility to ensure that the residues from nuclear power production, once disposed of, remained secure without surveillance.. International collaboration had an important role to play in the establishment of the necessary fundamental principles and also in the acquisition of the basic scientific knowledge and the development of reliable and economical technology. In addition, it would help to ensure the transparency of national activities that would be necessary in order to maintain trust among countries. There was a need for an international agreement on the fundamental principles and for an open exchange of information among the States concerned.

8. Sweden, which had participated - together with other Nordic countries - in the work of the Open-ended Group, believed that the draft Joint Convention, once in force, would help the international community ensure that spent nuclear fuel and radioactive waste were managed and disposed of in a manner that protected human health and the environment.

9. The delegate of the SYRIAN ARAB REPUBLIC said that in his country's view the exclusion of some categories of spent fuel and radioactive waste from the scope of application of the convention would run counter to the idea of achieving the highest

possible safety levels worldwide and would also undermine the international community's efforts to prevent nuclear proliferation and reduce nuclear arsenals.

10. In the Middle East, Israel, the only country of the region with a nuclear arsenal, still posed a threat to security and also to the environment. Its nuclear installations were not subject to international control of any kind, and it was continuing - unhindered - to bury nuclear and chemical waste in the Arab territories occupied by it.

11. Unfortunately, however, the draft Joint Convention gave the IAEA no legal mandate to intervene in cases where a State complained about the proximity to its territory of harmful radioactive waste produced in a neighbouring State.

12. Thus, in 1996, in reply to concerns expressed by Ambassador Al-Nowaiser of Saudi Arabia regarding the threat to regional safety posed by possible radioactivity leakages from Israeli's Dimona research reactor and by the disposal of its waste, the Director General had said that "the Agency's role is limited to providing advisory services, facilitating exchange of information and developing safety standards" and that, "unless requested and authorized by a Member State, the Agency has no legal authority to make radiological measurements within a State or intervene, even in cases of nuclear accidents except with regard to an Agency project."

13. His delegation believed that the Agency should be legally empowered to intervene if the environment of an entire region was threatened.

14. That having been said, his delegation appreciated the efforts which had gone into the preparation of the draft text under consideration. With regard to the transboundary movement issue, however, it believed that approval by States of transit should be a requirement.

15. The delegate of SLOVENIA expressed his delegation's appreciation of the work done by the Open-ended Group of Legal and Technical Experts and its Chairman, Professor Baer, in producing a consensus draft text which reconciled diverse and often divergent viewpoints. The text, which reflected a broad agreement among the experts and

had their overall support, had resulted from the readiness of all the experts to accept compromises in the interests of completing their task successfully and within a reasonable time.

16. Slovenia shared the global concern for nuclear safety and was committed to the safe management of spent fuel and radioactive waste in all nuclear activities, without exception. It therefore welcomed the draft Joint Convention, which covered both spent fuel and radioactive waste, and also favoured the inclusion of reprocessing facilities within the Joint Convention's scope of application, especially in view of the need to secure long-term public acceptance of the nuclear option.

17. Slovenia recognized that "the ultimate responsibility for ensuring the safety of spent fuel and radioactive waste management rests with the State". However, as there were already States engaged in joint nuclear projects and more such projects would probably be launched in the future, it liked the idea - encouraged in preambular paragraph (xi) - of "agreements among Contracting Parties to use facilities in one of them for the benefit of the other Parties, particularly where waste originates from joint projects".

18. As in the case of the Convention on Nuclear Safety, the success of the Joint Convention would ultimately depend on the effectiveness of the meetings of the Contracting Parties as a peer review mechanism, and his delegation therefore hoped that a very large number of countries - particularly countries with nuclear installation - would participate in those meetings. In that regard, recalling that the Convention on Nuclear Safety had entered into force only two years after being opened for signature, he expressed his hope that the Joint Convention would enter into force within a similarly short period.

19. His delegation wished to work constructively with other delegations in finalizing a legal instrument which would attract universal adherence and, together with the Convention on Nuclear Safety, make a significant contribution to the promotion of nuclear safety worldwide.

20. The delegate of GERMANY, said that the Open-ended Group of Legal and Technical Experts had succeeded in reaching consensus on a draft text within a remarkably

short period of time and that the guidance of its Chairman, Professor Baer, had been a major contributing factor.

21. The envisaged Joint Convention would be a necessary addition to the existing family of conventions on nuclear safety issues and an important complement to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

22. His delegation could accept the draft text as it stood, and he hoped that other delegations could as well. The draft text constituted a package of closely linked elements which was to a large extent the result of compromises arrived at in the Open-ended Group, and deletion or modification of any of those elements would destroy its integrity. His delegation therefore hoped very much that debates which had taken place in the Group's meetings would not be reopened, although it was aware that some delegations had problems with some parts of the package.

23. For good reason, the draft text was similar in its legal aspects to the Convention on Nuclear Safety. It spelled out a set of obligations which originated largely in international safety standards (especially the RADWASS Safety Fundamentals), and the instrument for verifying the compliance of Contracting Parties with those obligations was to be peer review - in his delegation's opinion the most appropriate instrument for worldwide strengthening of safety culture in the areas to which the draft text related.

24. His delegation endorsed the envisaged scope of application, but in the light of statements by earlier speakers it would go along with an extension of the scope of application if the Conference as a whole so wished and the well-balanced compromise arrived at in the Open-ended Group was not thereby endangered.

25. His delegation hoped that the resulting convention would enter into force soon after being opened for signature and that it would gain broad adherence.

26. The delegate of the UNITED STATES OF AMERICA thanked Professor Baer for his efforts as Chairman of the Open-ended Group of Legal and Technical Experts and

expressed his delegation's appreciation of the Group's work and the spirit of compromise which had been displayed in the Group and had enabled the Group to complete its task expeditiously. He also thanked South Africa for hosting the Group's fifth meeting, at which much progress had been made and which had provided an opportunity for additional African countries to participate in the Group's work.

27. His delegation favoured the adoption of a joint convention covering the safety of spent fuel management and the safety of radioactive waste management. Such a convention could make an important contribution to the strengthening of safety culture in the areas concerned.

28. The draft text before the Diplomatic Conference was well balanced, reflecting appropriate compromises on the difficult issues of spent fuel, the transboundary movement of materials, and the inclusion of military waste within the adopted convention's scope of application under certain circumstances.

29. Clearly some issues remained unresolved, and his delegation would be as flexible as possible when they arose, with a view to improving the draft text where significant improvement was possible. At the same time, however, it was reluctant to re-fight old battles, or to engage in new ones which called into question the delicate compromises which had been reached only after great effort.

30. The Secretariat was to be commended for its careful editing of the text handed down from the Open-ended Group. As a result of that editing, the Drafting Committee would have to consider only texts referred to it by the Committee of the Whole.

31. Speaking as Chairman of the Drafting Committee, he said it was his understanding that checking of the non-English versions of the draft text had not yet been completed and expressed the hope that the Committee of the Whole would address the matter as soon as it started work.

32. The PRESIDENT, responding to the final comment made by the delegate of the United States of America, said that the checking process had in fact been completed and

that the corrected non-English versions of the draft text would, if the Committee of the Whole agreed, be made available to the Drafting Committee.

33. The delegate of CHINA said his delegation welcomed the fact that, after almost three years of consultations and discussions, preliminary agreement had been reached on a draft joint convention text reflecting the desire of Member States to ensure a high level of safety at nuclear facilities worldwide and also an admirable spirit of co-operation and compromise.

34. The safe management of spent fuel and radioactive waste was crucial to the protection of human health and the environment. Moreover, it was extremely important from the point of view of the acceptance of nuclear power by the public. That was why China had participated very actively in the drafting exercise.

35. Broad accession to international conventions was important for their effectiveness. His delegation therefore hoped that the Conference would be able to resolve States' outstanding concerns and produce a legal instrument which was universally acceptable.

36. For its part, China continued to be concerned about the issue of transboundary movements between Contracting Parties and non-State entities. It had made several proposals for resolving that issue, which it regarded as directly affecting the sovereignty and safety of Contracting Parties, and considered that it had displayed a very high degree of flexibility. It hoped that the other countries interested in the issue would be equally flexible and that the issue would thus be resolved. Inclusion in the approved convention of appropriate provisions relating to the issue would contribute to regional - even global - safety and also to the cause of non-proliferation. The approved convention would be seriously flawed if it did not contain such provisions.

37. The delegate of NIGERIA said his delegation hoped that the informal consultations held in advance of the Diplomatic Conference had narrowed the differences of opinion that existed on some aspects of the draft text now under consideration.

38. The importance of adequate safety in the management of nuclear waste could not be overemphasized, and Nigeria fully accepted the principles underlying the draft text.

39. His delegation hoped that the spirit of compromise which had facilitated the drafting exercise would also prevail during the Conference.

40. Many developing countries would need assistance in implementing the resulting convention once it had entered into force, and his delegation hoped that such assistance would be forthcoming.

41. The delegate of MOROCCO commended Professor Baer on his efforts in guiding the work of the Open-ended Group of Legal and Technical Experts, which had produced a draft convention of considerable merit.

42. Morocco, which had for a long time been using nuclear techniques in various sectors, which had developed the necessary regulatory texts and which had acceded to a number of relevant conventions, continued to support the IAEA's efforts to strengthen international co-operation in radiological protection and related fields.

43. Against that background, his delegation hoped that the Conference would adopt by consensus the draft text before it and that, once in force, the Joint Convention would - among other things - prevent the transfer of radioactive waste to developing countries, particularly those in Africa. It also hoped that the Joint Convention would strengthen the legal regime concerned with transboundary movements of radioactive material, particularly by sea; an accident involving radioactive waste being transported through the Straits of Gibraltar could have serious environmental consequences for Morocco.

44. The delegate of AUSTRALIA commended the work done and the co-operative spirit displayed by the Open-ended Group of Legal and Technical Experts, which had resulted in the draft text before the Conference. His delegation had noted the concerns expressed by various delegates regarding that text, but was optimistic that they could be addressed in a manner that maintained the text's integrity.

45. Given the widely recognized need for a comprehensive international nuclear safety framework, Australia was still strongly in favour of the adoption of a joint convention covering both spent fuel management and radioactive waste management. That did not mean that it considered spent fuel to be radioactive waste; rather, its view was that they represented identical safety hazards during the period of interim storage prior to reprocessing or final disposal.

46. Australia recognized the importance to the international community of ensuring that transboundary movements of spent fuel and radioactive waste were carried out in accordance with international transport safety standards. The issue was one of particular concern to South Pacific countries, and Australia therefore supported in principle the efforts being made within the framework of the International Maritime Organization to make the INF Code¹ mandatory. Ultimately, however, the countries involved in transfers of spent fuel and radioactive waste were responsible for ensuring that internationally agreed safety, shipping and waste management standards were met.

47. The delegate of CROATIA said that significant progress had been made in the convention drafting exercise within the Open-ended Group and that her delegation looked forward to a successful completion of the task during the Diplomatic Conference. Adoption of the resulting document would be a further step in enhancing nuclear safety culture worldwide.

48. It was appropriate that the document should cover the safety of both radioactive waste management and spent fuel management, and Croatia could go along with an expansion of the scope of the present draft text to cover reprocessing facilities as well.

49. Her delegation regretted that the present draft text did not cover spent fuel and radioactive waste within military or defence programmes and hoped that those States which had spent fuel and radioactive waste within such programmes would manage them in accordance with the objectives of the envisaged convention. As regards the question of

¹ Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes in Flasks on Board Ships.

transboundary movements, her delegation hoped that the concern expressed by previous speakers would be adequately addressed in the days to come.

50. As a country whose economy was in transition, Croatia especially appreciated preambular paragraph (x) in the draft text, which stressed the need “to facilitate existing mechanisms to assist [States with economies in transition] in the fulfilment of their rights and obligations set out in this incentive Convention”. Also, as co-owner of a nuclear power plant, Croatia welcomed preambular paragraph (xi), which encouraged the launching of joint projects like the one in which Croatia and Slovenia were engaged. In that regard, she recalled the concern expressed by the Director General during the June meetings of the Board about the formulation of that paragraph on the grounds that it “might be taken to mean that safety considerations alone could justify joint arrangements between two or more States for the disposal of waste or the management of spent fuel.”² As implied by the Director General, such arrangements could be made also in order to promote efficiency and safety, which might yield non-proliferation benefits as well. Perhaps the Diplomatic Conference could confirm that understanding of paragraph (xi)

The meeting rose at 4 p.m.

² See para. 22 of GOV/OR.917.

CONSIDERATION OF:

- (a) THE DRAFT JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT
- (b) DRAFT CONFERENCE RESOLUTIONS

(continued)

1. The PRESIDENT, noting that the Committee of the Whole had completed its work and that the Working Group on Articles 3, 24 and 32 and the Working Group on Article 27 had met, invited the Chairman of the Working Group on Articles 3, 24 and 32 to report on the outcome of the Group's discussions.
2. The CHAIRMAN OF THE WORKING GROUP ON ARTICLES 3, 24 AND 32 said that unfortunately, despite the constructive attitude displayed by the members of the Working Group and their sincere attempts to arrive at a compromise, no agreement had been reached in the limited time available.
3. Work had started with consideration of Article 3, and the relevant documents before the Group had been: the text of Article 3 contained in document RWSC/DC/1; a proposal amending Article 3 made by the United Kingdom; a modified amendment proposal made by the United Kingdom; and an amendment proposal made by India. During the meeting, several other amendments had been suggested.
4. Some proposals and suggestions had been considered acceptable by some Working Group members, but none of them had gained the support of the Group as a whole.
5. One avenue explored at some length had been the idea of the inclusion of reprocessing at the discretion of Contracting Parties, but again the efforts to reach consensus had failed.
6. A number of difficulties had contributed to the failure to reach consensus - in particular, lack of time, problems in assessing the impact of amendments on other parts of the draft Convention text and, in some instances, the need to check with capitals.

7. The PRESIDENT invited other members of the Working Group to comment.
8. The delegate of INDIA said that, as a direct consequence of not completing its consideration of Article 3, the Working Group had been unable to proceed to Article 32. Article 24 had been considered briefly, but consensus had not been reached, although it had seemed to be close at one point.
9. The PRESIDENT invited the Chairman of the Working Group on Article 27 to report on the outcome of the Group's discussions.
10. The CHAIRMAN OF THE WORKING GROUP ON ARTICLE 27 said that the discussions had centred on the States of transit issue. The proposal made some time previously by Turkey had called for a textual amendment and a resolution. In view of the short time available, the Group had agreed to pursue the resolution approach. The resulting draft resolution was contained in document RWSC/DC/L25. It was a fair reflection of the views of the Working Group as a whole, but, since the Group had not had enough time to reach final agreement on the wording, it was being proposed by Australia.
11. The delegate of Morocco had introduced his country's proposals for amending Articles 41 and 38, contained in documents RWSC/DC/L23 and L24 respectively. The Working Group had agreed that it would be best if those proposals were taken up at the following plenary meeting.
12. The PRESIDENT pointed out that a proposal for amending Article 27 had been submitted by China and was contained in document RWSC/DC/L5.
13. The delegate of MOROCCO commended the Chairman of the Working Group on the excellent atmosphere that had prevailed during the Group's discussions.
14. The PRESIDENT said - following a procedural discussion in which the delegates of the UNITED STATES OF AMERICA, AUSTRALIA and CANADA took part - that, as the text of the Joint Convention was organized in chapters, it seemed appropriate to deal with it chapter by chapter. If a chapter contained articles on which there had been

discussion leading to amendment proposals, it seemed appropriate to deal first with the articles in question and then consider the chapter as a whole.

15. The usual approach in the consideration of a number of proposed amendments to a text was to begin with the amendment furthest removed in substance from that text. He intended to proceed in accordance with that approach, endeavouring to exercise the utmost discretion in the process.

16. If an amendment was accepted, the resulting amended article would then have to be considered. If no amendment was accepted, the Conference would then have to consider the original text.

17. As envisaged in Rule 37 of the Conference's Rules of Procedure, every effort should be made to ensure that decisions were taken by consensus. Clearly, however, on some particularly difficult issues consensus was unlikely to be reached. The Conference would then have to vote in accordance with Rule 41 of the Rules of Procedure. In the case of articles containing one or more paragraphs which clearly presented no problem to the Conference and one or more on which no consensus had been reached, he proposed that the unproblematical parts be accepted by consensus and that the Conference vote on the remainder.

18. With regard to the draft resolution relating to Article 27 proposed by Australia, the accepted approach was to consider draft resolutions once decisions had been taken on the articles to which they related.

19. He proposed that, once all the articles and chapters had been accepted, the Conference proceed to adoption of the Convention as a whole. Following its adoption, there would be a necessary break in the proceedings.

20. He assumed that some delegates would want to make statements for incorporation into the summary records of the Conference. He would give them the floor for that purpose during the signing of the Final Act.

21. In response to a question raised by the delegate of AUSTRALIA as to which members of delegations were entitled to sign the Final Act, he said that normally Heads of Delegation signed such instruments. However, authority to sign could be assigned to other delegation members.

22. The delegate of FRANCE asked whether, if voting proved to be necessary, the entitlement to vote would be limited to those delegates for whom credentials in due form had been submitted.

23. The PRESIDENT said that the Bureau's report, which would be circulated the following day, contained a list of countries for whose delegates the credentials satisfied the requirements of Rule 3 of the Conference's Rules of Procedures and a list of countries with regard to the status of whose delegates other official communications had been received. The Bureau had approved those official communications on the understanding that credentials in due form would be submitted as soon as possible.

24. The DIRECTOR OF THE LEGAL DIVISION pointed out that Rule 5 of the Conference's Rules of Procedure stated that "Pending a decision of the Conference upon their credentials, delegations shall be entitled to participate provisionally in the Conference" and that "Any delegate to whose admission a State participating in the Conference has made objection shall be seated provisionally with the same rights as other delegations ...".

25. The PRESIDENT said - in response to questions raised by the delegates of INDIA, TURKEY, FRANCE and PAKISTAN - that normally the Final Act of conferences like the present one did not contain the texts of reservations expressed by delegates; rather, it dealt with matters of a procedural nature.

26. At the time of signing of the Joint Convention, which would be opened for signature during the forty-first session of the IAEA's General Conference, States' plenipotentiaries could express reservations that would have legal force. As he had indicated earlier, during the signing of the Final Act he would give delegates the floor in order to make statements for inclusion in the summary records.

27. The delegate of the UNITED STATES OF AMERICA recalled that a non-binding Annex containing “Some clarification with respect to procedural and financial arrangements, national reports and the conduct of review meetings, envisaged in the Convention on Nuclear Safety “had been attached to the Final Act of the Diplomatic Conference on a Nuclear Safety Convention. No such document was to be attached to the Final Act of the present Diplomatic Conference, and questions might therefore arise regarding the status of views about procedural and financial arrangements, national reports the conduct of review meetings expressed by individual delegates during the present Diplomatic Conference.

28. The delegate of INDIA, pointing out that paragraph 10 of the draft Final Act read “... the Conference on 5 September 1997 adopted the Joint Convention ... , which is attached to this Final Act, ...”, said that some delegates would be unwilling to sign the Final Act if signature implied approval of the Joint Convention. The reservations expressed by those delegates would surely have to be attached to the Final Act.

29. The delegate of TURKEY urged that the reservations and understandings expressed by delegates be attached to the Final Act.

30. The delegate of FRANCE said he took it that signing of the Final Act did not imply approval of the Joint Convention.

31. The PRESIDENT suggested that a decision be deferred until the following meeting of the Plenary.

The meeting rose at 6.10 p.m.

**SUMMARY RECORD OF THE FOURTH PLENARY MEETING
OF THE
DIPLOMATIC CONFERENCE CONVENED TO ADOPT A JOINT
CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

Held at the Headquarters of the
International Atomic Energy Agency,
Vienna,
on Friday, 5 September 1997, at 10.20 a.m.

President: Mr. BAER (Switzerland)

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* RWSC/DC/2.

CONSIDERATION OF:

- (a) THE DRAFT JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT
- (b) DRAFT CONFERENCE RESOLUTIONS

(continued)

1. The PRESIDENT, pointing out that the Conference was in its final day, said that several major decisions remained to be taken. It was important, therefore, that delegates keep any statements they wished to make as short as possible.
2. The aim was to achieve consensus on outstanding issues wherever possible, not only because that was the standard practice within the IAEA but also because dissatisfaction inevitably arose when issues had to be put to the vote. Consensus did not of course mean unanimity, but rather a compromise which delegations could live with.
3. He reminded delegates that a two-thirds majority was required in any vote on an amendment, an article of the Joint Convention or the Joint Convention as a whole, whereas only a simple majority was required in a vote on a resolution.

CONSIDERATION OF THE REPORTS OF THE COMMITTEES

The report of the Bureau (RWSC/DC/7)

4. The PRESIDENT drew the attention of delegates to document RWSC/DC/7, which contained the report of the Bureau on its examination of delegates' credentials. Paragraph 5 of that report contained a draft resolution which the Bureau was recommending to the Conference for adoption.
5. The delegate of the RUSSIAN FEDERATION said he was surprised to see that his country had been included in the list of States for whose delegates various official communications had been received in the form of telefax copies of original credentials, notes or letters from Permanent Missions or other authorities, but not formal credentials satisfying the requirement of Rule 3 of the Rules of Procedure. The credentials of the

Russian Federation's delegate had been submitted in the form in which the Russian Federation regularly submitted credentials for international conferences and, as far as he was aware, they fulfilled all the necessary requirements.

6. The PRESIDENT noted that that did not affect the right of the Russian Federation's delegate to vote or otherwise participate in the Conference's work.

7. The delegate of FRANCE said that his delegation was in a position to accept the report but hoped that the situation with regard to credentials would be clarified before the following week. His delegation would not be able to accept credentials which did not meet the formal requirements for the Diplomatic Conference convened to adopt a Protocol to amend the Vienna Convention on Civil Liability for Nuclear Damage and to adopt a Convention on Supplementary Funding.

8. The PRESIDENT took it that the Conference was prepared to adopt the Bureau's report.

9. It was so decided.

The report of the Committee of the Whole (RWSC/DC/6)

10. The PRESIDENT drew attention to the report of the Committee of the Whole, which was contained in document RWSC/DC/6. The report contained a simple, factual account of the events which had taken place during the week. It did not call for any decision on the part of the Conference, and he therefore did not propose to invite discussion on it.

11. Annex A contained a draft of the Joint Convention from which those articles had been removed which were still causing problems - namely, Articles 2, 3, 24, 27 and 32. The Committee of the Whole had received but not considered proposals for amending Articles 38 and 41; those proposals would have to be considered by the Plenary.

12. He proposed that the Conference go through the text contained in Annex A and asked whether it was prepared to adopt the Preamble by consensus.

13. It was so decided.

14. The delegate of TURKEY said that her Government, mindful of the principle that it was the sovereign right of every State to prohibit the movement of radioactive waste into, out of or through its territory, regretted that preambular paragraph (xii) did not clearly reflect that principle. For the sake of consensus, however, her delegation had not opposed the adoption of preambular paragraph (xii). When signing the Final Act, she would make a declaration of understanding with regard to Article 27 and preambular paragraph (xii).
15. The PRESIDENT asked whether the Conference was prepared to adopt Chapter 1 by consensus.
16. It was so decided.
17. The PRESIDENT asked whether the Conference was prepared to adopt Chapter 2 by consensus.
18. It was so decided.
19. The PRESIDENT asked whether the Conference was prepared to adopt Chapter 3 by consensus.
20. It was so decided.
21. The PRESIDENT asked whether the Conference was prepared to adopt Chapter 4 by consensus.
22. It was so decided.
23. The PRESIDENT asked whether the Conference was prepared to adopt Chapter 5 by consensus.
24. It was so decided.
25. The PRESIDENT asked whether the Conference was prepared to adopt Chapter 6 by consensus.
26. It was so decided.
27. The PRESIDENT, turning to Chapter 7, drew attention to the proposal to amend Article 38 contained in document RWSC/DC/L24, which had been submitted by Morocco.

28. The delegate of INDIA said he would prefer the phrase “recourse shall be had” in the Moroccan proposal to read “recourse can be had” in order to avoid any implication that the recourse in question was mandatory.
29. The delegates of the UNITED STATES OF AMERICA and FRANCE associated themselves with the comment made by the delegate of India.
30. The delegate of MOROCCO said that in his view there was an error in the English version of the Moroccan proposal; the phrase “recourse shall be had” should read “recourse shall be made”.
31. The delegate of TURKEY associated herself with the comment made by the delegate of India and that made by the delegate of Morocco.
32. The delegate of the NETHERLANDS associated himself with the comment made by the delegate of Morocco.
33. The delegate of MOROCCO said he could go along with the substitution of “can” for “shall” as envisaged by the delegate of India.
34. The delegate of the UNITED KINGDOM suggested that “may” was stylistically preferable to “can”.
35. The delegate of MOROCCO said that he would prefer “can” to “may”.
36. The PRESIDENT asked whether the proposal submitted by Morocco, as amended by the substitution of “recourse can be made” for “recourse shall be had”, was acceptable to the Conference.
37. It was so decided.
38. The PRESIDENT recalled that Morocco had also proposed two amendments to Article 41; they were contained in document RWSC/DC/L23. The first proposal was for the deletion of the last sentence in paragraph 3 of Article 41: “Abstentions shall be considered as voting.”
39. The delegate of TURKEY expressed support for the proposal.

40. The PRESIDENT asked whether the Conference was prepared to adopt the amendment in question, it being understood that throughout the Convention the established United Nations and IAEA practice with regard to abstentions should be followed.

41. It was so decided.

42. The PRESIDENT asked whether the Conference was prepared to adopt the second amendment to Article 41 proposed by Morocco - the replacement of "three fourths" by "two-thirds" in paragraph 5.

43. It was so decided.

44. The PRESIDENT then asked the Conference whether it was prepared to accept Article 41 as a whole in its amended form.

45. It was so decided.

46. Finally, the PRESIDENT asked whether the Conference was prepared to accept Chapter 7 as a whole.

47. It was so decided.

CONSIDERATION OF:

(a) THE DRAFT JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

(b) DRAFT CONFERENCE RESOLUTIONS

(resumed)

48. The PRESIDENT, turning to those articles which had been excluded in Annex A of the report of the Committee of the Whole, said that he proposed to deal with them in three groups: first of all Articles 3, 24 and 32, followed by Article 27, and then by Article 2. Finally, he would ask the Conference to approve the Joint Convention as a whole.

49. Three proposals had been submitted for amending Article 3 - one by the United Kingdom (RWSC/DC/L3/Rev.1) one by India (RWSC/DC/L4/Rev.1) and one by

France (RWSC/DC/L26). He would like the Conference to start with the proposal furthest removed in substance from the original text - namely, the United Kingdom proposal - and then move on to the proposal submitted by India and finally to that submitted by France.

50. The United Kingdom proposal related not only to Article 3.1, but also to definition (o) - "*spent fuel management*" - in Article 2. The two proposed amendments should clearly be viewed as a package.

51. The delegate of INDIA said that he objected to the proposed inclusion of "reprocessing" in the definition of "*spent fuel management*".

52. The delegate of PAKISTAN associated himself with the comment made by the delegate of India.

53. The delegate of the UNITED KINGDOM said that he had been encouraged by the widespread support which his country's proposal had received. However, as the reservations of a small number of countries - based, he believed, on a misunderstanding - had not been dispelled in the course of the week, his delegation wished to withdraw the proposal.

54. The delegate of MOROCCO said that, given the United Kingdom delegation's position, he felt it would be appropriate for India and France to withdraw their proposals.

55. The delegate of the NETHERLANDS said that his delegation would not like India and France to withdraw their proposals as they had the potential for improving the Joint Convention.

56. The delegate of FRANCE said that, in the view of his delegation, India's proposal did not improve the existing text. His own country's proposal represented an attempt to bring about a compromise; all of the existing text would be retained, and the proposed additional sentence would accommodate the positions of countries which - like France - engaged in reprocessing and wanted reprocessing to be covered by the Joint Convention.

57. The delegate of INDIA said that his country's proposal had been made in an effort to accommodate as many national positions as possible. If no consensus on it was forthcoming, his delegation would withdraw it, on the understanding that the second sentence ("Spent fuel held at reprocessing facilities as part of a reprocessing activity is not covered in the scope of this Convention unless the Contracting Party declares reprocessing to be part of spent fuel management.") meant the same as the phrase "except spent fuel held at reprocessing facilities as part of a reprocessing activity" in the original text.

58. The delegate of the UNITED KINGDOM, urging the delegate of India not to withdraw his country's proposal, said that the United Kingdom delegation would support any form of words which had the effect of including the United Kingdom's reprocessing activities within the scope of application of the Joint Convention. It could therefore support either India's or France's proposal.

59. The delegates of AUSTRIA and ITALY said that their delegations could not go along with India's proposal.

60. The delegate of INDIA said that, as his country's proposal did not seem to command a consensus, he wished to withdraw it.

61. The delegate of FRANCE suggested that the Conference establish whether there was any formal opposition to his country's proposal.

62. The delegate of CHINA said that India's proposal had appeared to offer the basis for a compromise and that his delegation would have difficulty in going along with France's proposal.

63. The delegate of JAPAN expressed support for France's proposal.

64. The delegate of IRELAND, supported by the delegate of NORWAY, said that the Conference should carefully consider India's even-handed proposal if the delegate of India could be persuaded to resubmit it.

65. The delegate of the UNITED STATES OF AMERICA said that the substance of the proposals submitted by India and France was essentially the same, although his delegation

preferred India's proposal. Perhaps one could establish whether any delegation wished to block a consensus on that proposal.

The meeting was suspended at 11.20 a.m. and resumed at 11.35 a.m.

66. The delegates of JAPAN and ITALY said that their delegation's could go along with India's proposal if it was resubmitted.

67. The delegate of INDIA said that he wished to resubmit his country's proposal.

68. The delegate of AUSTRIA said that his delegation would have preferred France's proposal but, in a spirit of compromise, was prepared to accept India's proposal.

69. The delegate of the RUSSIAN FEDERATION said that in his delegation's view no consensus had been reached on any of the three proposals for amending Article 3 and the Conference should therefore retain the original text.

70. In order to accommodate certain delegations' views about reprocessing, perhaps one could include in the Final Act wording to the effect that nothing in the Joint Convention should be regarded as an obstacle to Contracting Parties' extending the scope of application of the Convention, on a unilateral basis, to their own reprocessing facilities.

71. The PRESIDENT said that in his view that approach would cause difficulties, as the Conference would not consider the Final Act until after approval of the outstanding articles of the Convention.

72. The delegate of FRANCE, associating himself with the comment made by the President, said that his delegation would not oppose a consensus on India's proposal.

73. The delegate of MOROCCO said that in his view a consensus on the basis of India's proposal would be possible if wording to accommodate the position of one delegation could be found.

74. The delegate of INDIA suggested that the Conference vote on his country's proposal.

75. The PRESIDENT asked whether there were any objections to consensus approval of India's proposal.
76. The delegate of PAKISTAN said that his delegation, while not wishing to block a consensus, did not favour either France's or India's proposal.
77. The delegate of the RUSSIAN FEDERATION said that his delegation's position had not changed during the previous few minutes. It could not go along with a consensus, and it would like that position to be taken into account.
78. The delegate of CHINA, supported by the delegate of FRANCE, suggested that an attempt be made to arrive at a consensus by making the Russian Federation's position clear in an appropriate manner elsewhere in the documentation resulting from the Conference.
79. The delegate of BELARUS said that his delegation was also unable to go along with India's proposal and would prefer the text of Article 3.1 to remain unchanged.
80. The PRESIDENT asked whether any delegation wished actively to block a consensus on India's proposal.
81. The delegate of the RUSSIAN FEDERATION said that his delegation wished to do so.
82. The PRESIDENT suggested that the Conference move to a vote.
83. The delegate of MOROCCO said that no delegate had explicitly called for a vote.
84. The PRESIDENT asked whether the delegate of the Russian Federation or the delegate of Belarus wished to call for a vote on India's proposal.
85. The delegate of BELARUS said that he wished there to be a vote.
86. The PRESIDENT said that the Conference would vote by show of hands.
87. The delegate of the RUSSIAN FEDERATION said that, in view of the importance of the issue, his delegation would prefer a roll-call vote.
88. The PRESIDENT invited the Conference to proceed to a roll-call vote on India's proposal, contained in document RWSC/DC/L4/Rev.1.

89. Nicaragua, having been drawn by lot by the President, was called upon to vote first.

90. The result of the vote was as follows:

In favour: Algeria, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Ghana, Greece, Hungary, India, Ireland, Italy, Japan, the Republic of Korea, Kuwait, Lithuania, Luxembourg, Mexico, Morocco, Namibia, the Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, Romania, Saudi Arabia, Slovakia, Slovenia, South Africa, Sudan, Sweden, Switzerland, Tunisia, Turkey, Ukraine, the United Arab Emirates, the United Kingdom and the United States of America.

Against: Belarus, Paraguay and the Russian Federation.

Abstaining: Argentina, Armenia, Bulgaria, Egypt, the Holy See, Indonesia, Israel, Jordan, Malaysia, Pakistan, the Philippines, Thailand and The former Yugoslav Republic of Macedonia.

91. The proposed amendment was adopted by 52 votes to 3, with 13 abstentions.¹

92. The delegate of INDIA thanked those delegates who had supported his country's proposal.

93. The delegate of FRANCE, withdrawing his country's proposal, said it was regrettable that no consensus had been reached on the inclusion of reprocessing within the scope of application of the Convention. France would report voluntarily on reprocessing as if it were included, and he hoped that other States would do so as well.

94. The delegate of the UNITED KINGDOM, associating himself with the statement made by the delegate of France, said that his country too would report on reprocessing as if it were included within the scope of application of the Convention.

95. The delegate of JAPAN said that his country would report on reprocessing as if it were part of spent fuel management.

¹ The number of States present and voting was 55. Under the Rules of Procedure, a two-thirds majority of the States present and voting (37) was required for adoption of the proposal.

96. The PRESIDENT asked the Conference whether it was prepared to adopt Article 3 in its amended form.

97. The delegate of the RUSSIAN FEDERATION said that, since his delegation had voted against the amendment proposed by India, it could not go along with the adoption of Article 3 as amended.

98. The PRESIDENT asked whether the delegate of the Russian Federation wished to have Article 3 in its amended form put to a vote.

99. The delegate of the RUSSIAN FEDERATION said that he did.

100. The PRESIDENT asked those present to vote by show of hands on Article 3 as a whole in its amended form.

101. There were 60 votes in favour of adoption and 3 votes against, with 7 abstentions. Article 3 as a whole in its amended form was therefore adopted.²

102. The PRESIDENT, turning to Article 24, pointed out that two amendment proposals had been submitted, one by France (RWSC/DC/L7) and one by the Working Group on Article 24 (RWSC/DC/L18). Since France's proposal was the most remote in substance from the original text, he suggested that it be discussed first.

103. The delegate of FRANCE said that he could accept the first option suggested by the Working Group of Article 24 and was prepared to withdraw France's proposal.

104. The delegate of IRELAND said that, in the light of what the delegate of France had just said, he too could accept the Working Group's first option, although he would have preferred Article 24 to remain unchanged.

105. The delegate of AUSTRIA associated himself with what had been said by the delegation of Ireland.

² The number of States present and voting was 63. Under the Rules of Procedure, a two-thirds majority of the States present and voting (42) was required for the adoption of Article 3.

106. The PRESIDENT asked the Conference whether it was prepared to accept the first option for amending Article 24 suggested by the Working Group.³

107. It was so decided.

108. The PRESIDENT asked the Conference whether it was prepared to adopt Article 24 as a whole in its amended form.

109. It was so decided.

110. The PRESIDENT, turning to Article 32, pointed out that a proposal for amendment had been submitted by Canada (RWSC/DC/L8).

111. The delegate of INDIA, recalling the wording of preambular paragraph (vii), said that India considered spent fuel to be a resource and not a waste product. Consequently, there could be no question of India's having an obligation under Article 32 to report on spent fuel.

112. The delegate of PAKISTAN said that his country would not report on spent fuel since it too considered it to be a resource.

113. The PRESIDENT asked whether the Conference was prepared to accept Article 32 amended in the manner proposed by Canada.

114. It was so decided.

115. The PRESIDENT, turning to Article 27, pointed out that proposals relating to it had been submitted by Turkey (RWSC/DC/L1), New Zealand (RWSC/DC/L9), Brazil (RWSC/DC/L16), Poland (RWSC/DC/L20) and China (RWSC/DC/L5).

116. The proposal submitted by Turkey seemed to be the furthest removed in substance from the original text and should therefore, in his view, be considered first.

117. The delegate of NEW ZEALAND said that in his view the New Zealand proposal was furthest removed from the original text and it should therefore be considered first.

³ The first option suggested by the Working Group was the moving of subparagraph 3(i) of Article 24 so that it became subparagraph 1(iii).

118. The delegate of MOROCCO supported what had been said by the delegate of New Zealand.

119. The PRESIDENT invited the Conference to consider the New Zealand proposal, which involved amendments to Article 27.1 and the rewording of Article 2(s).⁴

120. The delegate of the UNITED STATES OF AMERICA said that his delegation would not like to see the word “binding” dropped from the chapeau of Article 27.1; without that word, how would States decide which international instruments were relevant?

121. The proposed rewording of subparagraph (ii) of Article 27.1 seemed to be an attempt to introduce a provision of the Agency’s Code of Practice on the International Transboundary Movement of Radioactive Waste. However, the Open-ended Group of Legal and Technical Experts had not accepted that approach.

122. As to the definition of “State of transit” in Article 2(i), his delegation was very unhappy about the proposed replacement of “territory” by “areas of national jurisdiction”. That implied inclusion of the exclusive economic zone and that prior notification and consent of States of transit would be required for transboundary movements taking place at sea all the way out to the 200-mile limit, with serious implications for the right of innocent passage. If the amendment proposal was accepted, the United States would probably not be in a position to become a party to the Joint Convention.

⁴ The proposed amendments to Article 27.1 were:

- the deletion of “binding” in the chapeau; and
- the rewording of subparagraph (ii) to read “a Contracting Party which is a State of origin shall take the appropriate steps to ensure that transboundary movement is authorized and takes place only with the prior notification and consent of all States of transit;”.

The proposed rewording of Article 2(s) was:

“State of transit” means any State, other than a State of origin or a State of destination, through whose areas of national jurisdiction a transboundary movement is planned, takes place, or where there is a reasonable likelihood of it taking place.

123. The delegate of FRANCE said that many other countries - including France - would not be able to become a party to the Joint Convention if New Zealand's amendment proposal was accepted.

124. The delegate of MOROCCO said that he could go along with New Zealand's amendment proposal on the understanding that it was without prejudice to the provisions on innocent passage contained in the United Nations Convention on the Law of the Sea.

125. The delegate of EGYPT associated himself with the comment made by the delegate of Morocco.

126. The delegate of CHILE said that, as the representative of a country with over 4500 km of coastline, he felt it was important to aim for an international legal instrument without loopholes. For that reason he was in favour of the New Zealand amendment proposal.

127. Concerns similar to those of New Zealand been expressed in a joint declaration by the Governments of Argentina, Brazil, Chile and Uruguay made on 17 January 1997 (reproduced in IAEA document INFCIRC/533), and his country, as a party to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, attached great importance to Article 6.4 of the Basel Convention, which envisaged that States of transit should receive prior notification of transboundary movements and that their prior consent should be required.

128. He called upon all delegates to support New Zealand's amendment proposal.

129. The delegate of the RUSSIAN FEDERATION said that he could not support the amendment. If it was accepted, his country would have difficulty in becoming a party to the Joint Convention.

130. The delegates of the NETHERLANDS and JAPAN said that they could not go along with New Zealand's amendment proposal.

131. The delegate of TURKEY expressed support for the proposal.

132. The PRESIDENT said that there seemed to be strong feelings in favour of and against the New Zealand amendment proposal. Since it was unlikely that a consensus would be reached, perhaps the Conference should take a vote on it.

133. The delegates of FRANCE and MOROCCO suggested that, in order to avoid a confrontation, the Conference first take up the other proposals relating to Article 27 which had been submitted.

134. The PRESIDENT said that he appreciated the efforts of delegates to avoid confrontational situations. However, the issues involved had been under consideration all week and it was the duty of the Conference - on its last day - to resolve them.

135. The delegate of NEW ZEALAND, agreeing with the President, said that he was not empowered to compromise on the position reflected in his country's amendment proposal. He would therefore like a roll-call vote to be taken on that proposal.

136. The PRESIDENT invited the Conference to proceed to a roll-call vote on the proposal contained in document RWSC/DC/L9.

137. France, having been drawn by lot by the President, was called upon to vote first.

138. The result of the vote was as follows:

In favour: Algeria, Chile, China, Costa Rica, Egypt, Indonesia, Ireland, Jordan, Lebanon, Lithuania, Luxembourg, Malaysia, Mexico, Morocco, Namibia, New Zealand, Nigeria, the Philippines, Saudi Arabia, Sudan, the Syrian Arab Republic, Thailand, Tunisia, Turkey and Viet Nam.

Against: Armenia, Australia, Belgium, Bulgaria, Canada, Cuba, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Japan, the Netherlands, Norway, Poland, Portugal, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, the United Kingdom and the United States of America.

Abstaining: Argentina, Austria, Belarus, Brazil, Colombia, Croatia, Ecuador, Ghana, the Holy See, India, Israel, Italy, the Republic of Korea, Pakistan, Paraguay, Romania, South Africa, The former Yugoslav Republic of Macedonia, and Uruguay.

139. The proposal was rejected by 28 votes to 25, with 19 abstentions.⁵

The meeting rose at 12.55 p.m.

⁵ The number of States present and voting was 53. Under the Rules of Procedure, a two-thirds majority of the States present and voting (36) was required for acceptance of the proposal.

CONSIDERATION OF:

- (a) THE DRAFT JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT
- (b) DRAFT CONFERENCE RESOLUTIONS

(continued)

(RWSC/DC/1; RWSC/DC/L9, L1, L16, L20, L5, L17, L25, L2)

1. The delegate of CANADA, explaining his vote against the New Zealand proposal towards the end of the previous meeting, said that it had not been related directly to the substance of the proposal, but had been motivated by Canada's strong desire to ensure that the Joint Convention was adopted and by the belief that to discuss the details of various transport regulations in the present forum would have been counter-productive.
2. The delegate of the REPUBLIC OF KOREA said that his delegation appreciated the concern which had prompted the submission of the New Zealand proposal. He had abstained in the vote on it, however, because he felt that some of the language was rather over-ambitious
3. The delegate of AUSTRALIA, explaining why he had voted against the New Zealand proposal, said that its adoption would have run counter to the United Nations Convention on the Law of the Sea.
4. Moreover, there was no point in agreeing on a provision if, as a result, the States with the largest amounts of radioactive waste and spent fuel did not become parties to the Joint Convention.
5. The delegate of BRAZIL said that he had abstained in the vote on the New Zealand proposal because of the importance which he attached to the Convention's being accepted by as many countries as possible, and in particular by those countries which had significant nuclear activities.

6. Brazil believed that the situation of States of transit should be taken very much into account in the implementation of the Joint Convention in cases of transboundary movement of spent fuel and radioactive waste. It would have liked to see in the Joint Convention a provision regarding the notification of States of transit in conformity with the joint declaration on the transport of radioactive waste made by the Governments of Argentina, Brazil, Chile and Uruguay on 17 January 1997 (reproduced in IAEA document INFCIRC/533).

7. In any event, his Government would expect to be notified well in advance of all transboundary movements of spent fuel and radioactive waste through its territory, so that the Brazilian authorities might have the time to take the necessary steps.

8. The delegate of IRELAND said that he had voted in favour of the New Zealand proposal partly out of solidarity with the aims of New Zealand regarding the United Nations Convention on the Law of the Sea.

9. The important thing now was to ensure that at least the principles reflected in Article 27 were upheld, and in the interests of achieving agreement on the Joint Convention as a whole, to agree that the issues to which the New Zealand proposal related should be dealt with in another forum.

10. The delegate of CROATIA, explaining her abstention in the vote, said that she appreciated the concerns underlying the New Zealand proposal but felt - and hoped - that they would be addressed more adequately in another forum.

11. The delegate of MEXICO, recalling that he had voted in favour of the New Zealand proposal, endorsed the statement made by the delegate of Ireland.

12. If the prior consent of States of transit to transboundary movements was not to be required; one could perhaps at least provide for States of transit to be notified in advance of transboundary movements. With that thought in mind, his delegation believed that serious consideration should be given to the proposal by Poland reproduced in document RWSC/DC/L20.

13. The delegate of NEW ZEALAND thanked those delegates who had voted for his country's proposal. The support which it had received demonstrated the widespread concern felt about the issues to which it related.

14. The PRESIDENT invited the Conference to take up the proposal by Turkey reproduced in document RWSC/DC/L1.

15. The delegates of the NETHERLANDS, the UNITED KINGDOM, the RUSSIAN FEDERATION, JAPAN and AUSTRALIA said that it was not acceptable for reasons given earlier.

16. The delegate of FRANCE said that, while he also considered Turkey's proposal to be unacceptable, as it ran counter to provisions of the United Nations Convention on the Law of the Sea, he would like to point out that France, like many other countries, voluntarily notified States of transit when transboundary movements were due to take place.

17. The delegates of MOROCCO, EGYPT, SUDAN, CHILE, TUNISIA, the SYRIAN ARAB REPUBLIC and NEW ZEALAND expressed support for Turkey's proposal.

18. At the request of TURKEY, the PRESIDENT invited the Conference to proceed to a roll-call vote on the proposal contained in document RWSC/DC/L1.

19. Luxembourg, having been drawn by lot by the President, was called upon to vote first.

20. The result of the vote was as follows:

In favour: Algeria, Chile, Egypt, Luxembourg, Morocco, Namibia, New Zealand, Nigeria, Saudi Arabia, Sudan, the Syrian Arab Republic, Tunisia and Turkey,

Against: Armenia, Australia, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Malaysia, the Netherlands, Norway, the Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Ukraine, the United Kingdom and the United States of America.

Abstaining: Argentina, Austria, Belarus, Bosnia & Herzegovina, Brazil, China, Colombia, Costa Rica, Croatia, Cuba, Ecuador, Ghana, the Holy See, India, Indonesia, Israel, Jordan, the Republic of Korea, Lebanon, Lithuania, Mexico, Pakistan, Paraguay, the Philippines, Poland, Portugal, Romania, Thailand, The former Yugoslav Republic of Macedonia and Uruguay

21. The proposal was rejected by 29 votes to 13, with 30 abstentions.¹
22. The delegate of LUXEMBOURG said that he had voted in favour of Turkey's proposal for humanitarian reasons - in the light of the fact that ships regularly passed very close by a Turkish city of several million inhabitants.
23. The PRESIDENT invited the Conference to take up the proposal by Brazil reproduced in document RWSC/DC/L16.
24. The delegate of BRAZIL, pointing out that a very similar proposal had been put forward by Poland, said that having consulted with other delegates, he was withdrawing his country's proposal in the interests of saving time.
25. The PRESIDENT invited the Conference to take up the proposal by Poland reproduced in document RWSC/DC/L20.
26. The delegation of EGYPT, recalling that he had supported the proposals of New Zealand and Turkey, which had not been accepted, said he hoped that Poland's proposal would be. It represented the minimum acceptable to Egypt.
27. The concerns of his country as a State of transit about the possible dangers associated with the transboundary movement of radioactive waste and spent fuel were very genuine, and he might be obliged not to accept Article 27 if it did not provide for the prior notification of States of transit.
28. The delegate of MOROCCO, recalling that he voted in favour of the proposals submitted by New Zealand and Turkey, said that a number of States, including his own

¹ The number of States present and voting was 42. Under the Rules of Procedure, a two-thirds majority of the States present and voting ((28) was required for acceptance of the proposal.

country, wished to use the Joint Convention as a means of bringing about improvements in existing international law.

29. Provision for the prior notification of States of transit - envisaged in Poland's proposal - should be an ingredient of the Joint Convention, and it was the minimum acceptable to his country, along whose coast over 60 000 ships passed (through the Straits of Gibraltar) each year, giving rise to some 15 calls for assistance a day to the port of Tangiers. Some of the passing ships might well contain radioactive waste which could endanger Morocco's population and environment.

30. Those delegation which were opposed to the inclusion of a provision regarding the prior notification of States of transit on the grounds that such a provision would run counter to the United Nations Convention on the Law of the Sea should bear in mind Article 27.3(i), of the draft Joint Convention, which stated that nothing in the Convention prejudiced or affected "the exercise, by ships and aircraft of all States, of maritime, river and air navigation rights and freedoms, as provided for in international law".

31. The delegate of NEW ZEALAND, expressing support for Poland's proposal, said that in his view it represented the minimum acceptable to States of transit.

32. The delegate of AUSTRALIA said that in his view the Diplomatic Conference was not an appropriate forum for discussions regarding the question of the notification of States of transit and that he could not support Poland's proposal. In response to the comments made by the delegate of Egypt, he said that Article 27 was primarily designed as an anti-dumping provision. There were two regional conventions with anti-dumping provisions, the Bamako Convention² and the Waigani Convention³, but so far no global ones. Accordingly, it would be a pity if Article 27 were rejected.

² Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa.

³ Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region.

33. The delegate of the NETHERLANDS endorsed the comments made by the delegate of Australia.

34. The delegate of the UNITED STATES OF AMERICA said that originally his country had been prepared to go along with the incorporation of the Code of Practice on the International Transboundary Movement of Radioactive Waste, by reference, into the Joint Convention and therefore with some form of mandatory notification of States of transit under clearly specified circumstances. Ultimately, however, the Open-ended Group of Legal and Technical Experts had agreed that there should not be such mandatory notification.

35. The Polish proposal was unacceptable to his delegation for a number of reasons. For example, it did not envisage de minimis radioactivity levels, so that prior notification would have to be given of - say - flights by aircraft carrying radiopharmaceutical products through the airspace of States of transit; and it was unclear as regards radioactive materials aboard nuclear-powered military vessels - and there was insufficient time left during the current week to clarify such matters.

36. The delegate of FRANCE, endorsing the comments made by the delegate of Australia, said it was important that States of transit be notified. However, France and various other countries were notifying on a voluntary basis.

37. The delegate of CUBA said that he had favoured acceptance of Brazil's proposal, which had just been withdrawn, and now favoured acceptance of Poland's proposal.

38. The delegate of ITALY agreed with the delegate of the United States of America that there was insufficient time left to clarify matters relating to the prior notification of States of transit. It was important to press on and conclude the work of the Conference.

39. The PRESIDENT, summing up the discussion on Article 27.1(ii), said that the Open-ended Group had spent considerable time on the issue of prior notification of States of transit and had been aware of the shortcomings of the resulting text. The Working Group on Article 27 had failed to resolve the issue. A number of delegates had spoken out

against Poland's proposal, which clearly could not be accepted by all, and he therefore felt that it should not be pursued.

40. It was so agreed.

41. The PRESIDENT invited the Conference to consider the proposal by China reproduced in document RWSC/DC/L5.⁴

42. The delegate of CHINA, introducing his country's proposal, said that it touched on an issue of great concern to China - namely, transboundary movements to or from a non-State entity and their bearing on the sovereignty and safety of the State of which that entity was a part.

43. Taiwan, a non-State entity, was an inalienable part of China, as had been recognized by the international community. For historical reasons it was not united with China, but that was only a question of time. Taiwan possessed nuclear power plants and hence was involved in transboundary movements of spent fuel and radioactive waste. That was a matter of great concern to China as the safety and stability of the Far East region was at stake; already Taiwan had exploited the situation in order to upset relations in the region. Accordingly, China felt that the Joint Convention should contain a provision on the lines of the one which he was introducing.

44. China had never interfered with any transboundary movement of spent fuel to or from Taiwan, particularly as it considered the removal of spent fuel from Taiwan to be in the interests of nuclear non-proliferation, and its proposal was couched in general terms to which he did not think other countries could have any objection.

45. Consultations on the proposal had unfortunately not resulted in a common understanding and he would therefore be interested to hear the views of further delegates.

46. The delegate of CUBA expressed support for China's proposal.

⁴ China proposed the insertion of the following paragraph after paragraph 1 of Article 27:

"2. A Contracting Party may conduct transboundary movements to or from a non-State entity without prejudice to the sovereignty and safety of the State of that entity."

47. The delegate of the UNITED STATES OF AMERICA said that in his country's view there was only one China and Taiwan was part of it and that his delegation had engaged in the consultations to which the delegate of China had referred with that in mind.

48. His delegation considered it important to ensure that transboundary movements to or from a non-State entity did not prejudice the sovereignty and safety of the State of which that entity was a part, by ensuring that they were conducted in accordance with the requirements of the Joint Convention and that Contracting Parties could deal with the appropriate authorities in the non-State entity to that end. At the same time, his delegation considered it important to ensure that transboundary movements to or from a non-State entity were not objected to by the State of which that entity was a part - or by any other State - on purely political, as opposed to safety, grounds.

49. His delegation and the Chinese delegation had not reached a common understanding as regards China's proposal, and his delegation therefore assumed that, if the proposal was accepted, the resulting provision in the Joint Convention would be used as a basis for politically motivated objections to transboundary movements to or from a non-State entity even if such movements were fully consistent with the Joint Convention.

50. The United States - and a number of other countries - had nuclear co-operation agreements with Taiwan which envisaged transboundary movements, and his delegation therefore felt that the paragraph proposed by China should not be included in the Joint Convention.

51. The delegate PAKISTAN said that, particularly in the light of the statement just made by the delegate of China, his delegation found China's proposal reasonable and worthy of serious consideration.

52. The delegates of SUDAN and MOROCCO expressed support for China's proposal.

53. The delegate of CHINA, responding to the comments made by the delegate of the United States of America, recalled that Article 38 of the draft Joint Convention provided

for the resolution of disagreements and said that it was difficult to reach agreement when subjective assumptions were being made.

54. As there was clearly not going to be a consensus on China's proposal, his delegation had no choice but to request a roll-call vote on it.

55. The PRESIDENT invited the Conference to proceed to a roll-call vote on the proposal contained in document RWSC/DC/L5.

56. China, having been drawn by lot by the President, was called upon to vote first.

57. The result of the vote was as follows:

In favour: Algeria, Belarus, China, Cuba, India, Jordan, the Republic of Korea, Malaysia, Morocco, Nigeria, Pakistan, Saudi Arabia, Sudan, the Syrian Arab Republic and Thailand.

Against: Australia, Belgium, Canada, France, Germany, Greece, Italy, Japan, the Netherlands, New Zealand, Portugal, Spain, Sweden, the United Kingdom and the United States of America.

Abstaining: Argentina, Armenia, Austria, Brazil, Bulgaria, Chile, Colombia, Costa Rica, Croatia, the Czech Republic, Denmark, Ecuador, Egypt, Estonia, Finland, Ghana, the Holy See, Indonesia, Ireland, Israel, Lebanon, Lithuania, Luxembourg, Mexico, Namibia, Nicaragua, Norway, Paraguay, Peru, the Philippines, Poland, Romania, the Russian Federation, Slovakia, Slovenia, South Africa, Switzerland, Tunisia, Turkey, Ukraine and Uruguay.

58. There being 15 votes in favour and 15 against with 41 abstentions, the proposal was not accepted.⁵

59. The delegate of INDONESIA, speaking in explanation of vote, said that he had abstained because he had received no instructions from his Government.

60. The delegate of the RUSSIAN FEDERATION, recalling that he had abstained, said that his country continued to regard Taiwan as a constituent part of China.

⁵ The number of States present and voting was 30. Under the Rules of Procedure, a two-thirds majority of the States present and voting (20) was required for acceptance of the proposal.

61. The delegate of AUSTRALIA said that his country also continued to regard Taiwan as a constituent part of China and that he had voted against the proposal because there was no common understanding as regards its meaning.

62. Although Australia was not currently involved in any transboundary movements of spent fuel or radioactive waste into or out of Taiwan, his delegation had been concerned about the implications which acceptance of the proposal might have for transboundary movements of other materials.

63. The delegate of NEW ZEALAND said that his delegation's position had been similar to the position of the Australian delegation.

64. The delegate of FRANCE, explaining his vote against the proposal, said that his delegation had not been questioning China's sovereignty with regard to Taiwan. It had been concerned about a possible ambiguity in the proposal, in the French version of which the last part seemed to contradict the first.

65. The delegate of POLAND, referring to his country's proposal (RWSC/DC/L20), said that, given the importance of the issue involved, he would not request a vote on it; such an issue should be resolved by consensus. Perhaps the issue could be discussed at the first review meeting of the Contracting Parties.

66. The PRESIDENT - following a request by the delegate of MOROCCO for permission to reintroduce Brazil's proposal (RWSC/DC/L16) and a procedural discussion in which the delegates of MOROCCO, the NETHERLANDS and FRANCE participated - ruled that, in line with Rule 34 of the Rules of Procedure, the delegate of Morocco could reintroduce that proposal.

67. The delegate of MOROCCO, reintroducing Brazil's proposal and recalling what the delegate of the United States had said earlier about pharmaceutical products and radioactive materials aboard nuclear-powered military vessels, said that the countries which had voted in favour of Poland's proposal were not concerned about radiopharmaceutical products and

that radioactive materials aboard nuclear-powered military vessels would not fall within the scope of the Joint Convention.

68. In his view, the concerns of States of transit and those of the United States could be met through the acceptance of Brazil's proposal, which contained a reference to the IAEA's Regulations for the Safe Transport of Radioactive Material.

69. If the concerns of States of transit were not met, there was a very real danger that some of the States in question would not be in a position to become parties to the Convention.

70. The delegate of IRELAND suggested that the Conference close its discussion of Article 27 as a whole.

71. The PRESIDENT asked whether Brazil's proposal, reintroduced by Morocco, was acceptable to the Conference.

72. The delegates of the NETHERLANDS, the RUSSIAN FEDERATION and JAPAN said that it was not acceptable to them.

73. The delegates of NEW ZEALAND and EGYPT said that they found it acceptable.

74. The delegate of FRANCE said that his delegation could not support a text that would lend a binding character to a non-binding IAEA document. Perhaps the issue could be resolved within the framework of the draft resolution submitted by Australia (RWSC/DC/L25).

75. The delegate of the UNITED STATES OF AMERICA, expressing opposition to the proposal, pointed out that it envisaged deletion of the word "binding" in the chapeau of Article 27.1.

76. The delegate of MOROCCO, responding to the delegate of France, said that in his view there was a big difference between the status of a convention and that of a resolution. Responding to the delegate of the United States, he said that it was not his intention that the word "binding" should be deleted.

77. The PRESIDENT - following a request for a roll-call vote made by the delegate of MOROCCO - invited the Conference to vote on the proposal for a new version of Article 27.1(ii) contained in document RWSC/DC/L16.

78. Namibia, having been drawn by lot by the President, was called upon to vote first.

79. The result of the vote was as follows:

In favour: Algeria, Argentina, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, Egypt, Guatemala, Jordan, the Republic of Korea, Lebanon, Malaysia, Mexico, Morocco, Namibia, New Zealand, Nicaragua, Nigeria, Peru, the Philippines, Saudi Arabia, Sudan, the Syrian Arab Republic, Tunisia, Turkey and Uruguay.

Against: Armenia, Australia, Belgium, Canada, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, the Netherlands, Norway, the Russian Federation, Spain, Sweden, Switzerland, Ukraine, the United Kingdom and the United States of America

Abstaining: Austria, Belarus, Bulgaria, Croatia, Ghana, the Holy See, India, Indonesia, Israel, Lithuania, Luxembourg, Pakistan, Paraguay, Poland, Portugal, Slovakia, Slovenia, South Africa, Thailand and The former Yugoslav Republic of Macedonia

80. The proposal, with 29 votes in favour and 24 against (and 20 abstentions), was not accepted.⁶

81. The delegate of MOROCCO said the closeness of the vote should give food for thought to those countries which had opposed the proposal.

82. The PRESIDENT asked the Conference whether it wished to adopt Article 27.1(ii) as contained in document RWSC/DC/1.

83. The delegate of NEW ZEALAND said that the text was not acceptable to his delegation and that he would therefore like a vote by show of hands to be held on it.

⁶ The number of States present and voting was 53. Under the Rules of Procedure, a two-thirds majority of the States present and voting (36) was required for acceptance of the proposal.

84. The delegates of AUSTRALIA and MOROCCO expressed surprise at the request made by the delegate of New Zealand.
85. The PRESIDENT invited the Conference to proceed to a vote by show of hands on Article 27.1(ii) as contained in document RWSC/DC/1.
86. The result was 57 votes in favour and 5 against, with 2 abstentions. Article 27.1(ii) as contained in document RWSC/DC/1 was adopted.⁷
87. The delegate of TURKEY said that her country would make a declaration of understanding with regard to Article 27.1(ii) when signing the Final Act.
88. The PRESIDENT asked whether Article 27 as a whole was acceptable to the Conference.
89. Article 27 as a whole was adopted.
90. The delegate of MOROCCO said that, if it signed the Joint Convention, his country would express its great disappointment with Article 27 at that time.
91. The PRESIDENT invited the Conference to consider the proposal by Pakistan, reproduced in document RWSC/DC/L17, for amending the definition of “*radioactive waste management*” in Article 2(i).⁸
92. The delegate of PAKISTAN said that, as reflected in the definition of “radioactive waste management” given in IAEA Safety Series No. 111-F (“The Principles of Radioactive Waste Management”), decommissioning was not part of radioactive waste management. The wording proposed by his country would make that clear.

⁷ The number of States present and voting was 62. Under the Rules of Procedure, a two-thirds majority of the States present and voting (42) was required for adoption.

⁸ The proposed new version of the definition read as follows:

- (i) “*radioactive waste management*” means all activities, excluding off-site transportation, that relate to the handling, pretreatment, treatment, conditioning, storage and disposal of radioactive waste, including that resulting from decommissioning activities. It may also involve discharges.

93. The delegate of FRANCE said that the proposed wording was more restrictive than the wording agreed upon by the Open-ended Group of Legal and Technical Experts. The difference seemed to be a minor one, but the consequences of accepting Pakistan's proposal might be more serious than appeared at first sight.

94. The delegate of AUSTRALIA, expressing doubts about Pakistan's proposal, said that, as he understood it, the proposal had accompanied one to amend or delete Article 26 - on decommissioning - which had been rejected by the Committee of the Whole.

95. The PRESIDENT said he believed that the delegate of Australia understood correctly.

96. The delegate of PAKISTAN said that in his view Pakistan's proposal regarding Article 2(i) had no bearing on Article 26.

97. The PRESIDENT said he took it that there was no consensus in favour of Pakistan's proposal.

98. It was so agreed.

99. The PRESIDENT, inviting the Conference to consider Article 2 as a whole as it appeared in document RWSC/DC/1, said he assumed that there was general agreement on it.

100. It was so agreed.

101. The delegate of JAPAN said that his country accepted the definition of "*nuclear facility*" - Article 2(f) - on the understanding that the words "on such a scale that consideration of safety is required" meant that a certain type of facility would not be included within the definition if no consideration of safety was required.

ADOPTION OF THE JOINT CONVENTION AND RESOLUTIONS RESULTING FROM THE WORK OF THE CONFERENCE

102. The PRESIDENT invited the Conference to consider the text of the Joint Convention as a whole as amended by it.

103. The delegate of NEW ZEALAND said that he was under strict instructions from his Government to request that the text of the Joint Convention as a whole be put to a vote by show of hands.

104. The PRESIDENT invited the Conference to proceed to a vote by show of hands on the text of the Joint Convention as a whole as amended by it.

105. The result of the vote was as follows:

In favour: 62

Against: 2

Abstaining: 3

106. The text of the Joint Convention as a whole as amended by the Conference was adopted by 62 votes to 2, with 3 abstentions.⁹

107. The delegate of TURKEY said that, although a number of delegates had pointed out during the Diplomatic Conference that the draft Joint Convention did not cover transportation, in Article 2 of the text just adopted the definitions of “radioactive waste management” and “spent fuel management” still contained the words “excluding off-site transportation”. The aim of Article 27 was not to regulate transportation, but to find a solution to the question of the dumping of radioactive waste and spent fuel, so that the text just adopted did not address problems regarding the transport of radioactive waste or other radioactive materials. Her country therefore hoped that the Agency would initiate work on *preparing a convention on the safe transport of radioactive waste and spent fuel*.

108. The delegate of PAKISTAN said that his country was very much in favour of there being an international body of law to promote safety in the area which had been under discussion and that in his opening statement to the Diplomatic Conference he had clearly outlined Pakistan’s concerns in that connection.

⁹ The number of States present and voting was 64. Under the Rules of Procedure, a two-thirds majority of the States present and voting (43) was required for adoption.

109. The Open-ended Group of Legal and Technical Experts had deviated significantly from the original objectives of the exercise; elements had been added, and there had been an expansion of scope which had unfortunately made it impossible for Pakistan to accept the Convention.

110. In the Committee of the Whole and the Drafting Committee, Pakistan had tried to introduce technical co-operation provisions designed to make the resulting text a truly incentive convention ensuring the worldwide safety of radioactive waste management. The inclusion of such provisions would have facilitated implementation in countries without the necessary technical expertise, and their non-inclusion was a further reason why Pakistan had not been able to accept the Convention.

111. The delegate of the RUSSIAN FEDERATION said that his delegation had supported adoption of the text of the Joint Convention although, in connection with Article 3.1, it objected to the fact that at the last minute, after two years of negotiations during which understandings had been reached on the basic elements of the Convention, proposals had been made not just for changing the nuance in a number of provisions but for changing the Convention's scope of application. That was bound to create doubts about the process of negotiation within the IAEA framework.

112. In his delegation's view, if anything similar happened in future during the development and finalization - under the IAEA's aegis - of other international legal instruments, that would seriously undermine confidence in the process of negotiation within the IAEA and in the IAEA's ability to co-ordinate States' efforts directed towards the peaceful utilization of atomic energy.

113. The delegate of CHINA, explaining why he had abstained in the vote on the text of the Joint Convention as a whole, said that the basic aim of the Convention was positive and that the safety of spent fuel management and radioactive waste management was extremely important for the protection of human health and the environment. No country in the world interested in developing nuclear power could afford to neglect the safety of those

activities and, with a view to promoting it, China had participated very actively throughout the process of negotiating and finalizing the Convention.

114. However, the adopted text was gravely flawed.

- Firstly, it lacked any provision governing transboundary movements between Contracting Parties and non-State entities. That could have an unfavourable impact on the sovereignty and safety of States. Also, it could prove disadvantageous from the point of view of nuclear non-proliferation, including the universality and integrity of the Treaty on the Non-Proliferation of Nuclear Weapons.
- Secondly, it contradicted provisions contained in the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. That could lead to a situation where double standards for the transboundary transportation of hazardous waste was being applied, which in turn could have an unfavourable effect on the management of spent fuel and radioactive waste.
- Thirdly, China had reservations regarding the scope of application of the Joint Convention. The technical requirements for the safe management of spent fuel regarded as waste were very different from those for the safe management of spent fuel destined for reprocessing, and China would therefore have preferred to see a separate instrument covering the safety of spent fuel management.

115. The delegate of NEW ZEALAND, explaining why he had voted against adoption of the text of the Joint Convention, said that, as had been placed on record at the start of the Diplomatic Conference, his country's prime interest had been to ensure that the procedures involved in the transboundary movement of radioactive waste were tightened up. His delegation was disappointed that its efforts and the efforts of other delegations in that regard had not met with success.

116. The Convention's Preamble and objectives were positive and forward-looking, and there was much else in the Convention that was good, but his country's principal concern had been to try to ensure that shipments of radioactive waste and spent fuel proceeded only after all nations which would or might be affected had been notified and consulted and had given their consent. The principle of prior informed consent had received widespread support in relation to transboundary movements of hazardous wastes and was reflected in a number of international instruments including the Basel Convention, the Bamako Convention¹⁰, the IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste, the IAEA Regulations for the Safe Transport of Radioactive Material and EURATOM Directive 92-3.

117. In other international fora, including the International Maritime Organization, New Zealand had called for recognition of the rights, interests and concerns of coastal States with regard to the transboundary movement of spent fuel, radioactive waste and other hazardous substances. Its call was not unreasonable, and it was fully consistent with the relevant rules of international law.

118. All States participating in the Conference had had an opportunity to contribute to the progressive evolution of norms covering the transport of nuclear material and to appreciate the value of the principle of prior informed consent. That opportunity had been lost. The limited provisions on transboundary movement contained in the Convention met the concerns of only a small group of self-interested States; the wider interests of the international community as a whole were not properly reflected. However, the Convention would not affect customary international law in the area to which it related.

119. The PRESIDENT, drawing the Conference's attention to the draft resolution submitted by Turkey in document RWSC/DC/L2 and to that submitted by Australia in document RWSC/DC/L25, said he took it that there was general agreement to adopt the latter draft resolution.

¹⁰ The Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa

120. It was so decided.

121. The delegate of TURKEY withdrew the draft resolution submitted by her country in document RWSC/DC/L2.

122. The delegate of the RUSSIAN FEDERATION said that his delegation had decided not to block adoption of the resolution contained in document RWSC/DC/L25 without a vote because the text did not directly contradict norms of international maritime law.

123. His delegation regarded the resolution as a confirmation of the need for all States to take conscientious account of the IAEA's recommendations. Nothing in the resolution affected the generally recognized rights and freedoms enshrined in international maritime law; including the right of innocent passage through territorial waters and through straits used for international navigation purposes - particularly as laid down in the 1936 Montreux Convention regarding the Régime of the Straits and the 1982 United Nations Convention on the Law of the Sea.

124. The recognition of generally recognized norms of international maritime law was the only basis for co-operation among States with regard to the world's seas and oceans.

ADOPTION AND SIGNATURE OF THE FINAL ACT

125. The PRESIDENT, having read out paragraphs 1 to 10 of the Final Act as approved by the Committee of the Whole, took it that they could be adopted.

126. It was so agreed.

127. Turning to paragraph 11 of the Final Act, the PRESIDENT recalled that some delegates had requested that statements made by them be incorporated into the Final Act and asked the Conference whether it would be acceptable to have all such statements reflected in the summary records of the Conference.

128. The delegate of TURKEY said that her country would sign the Final Act only on a certain understanding, the text of which she wanted attached to the Final Act. In her view, all States' understandings and reservations should be attached to it.

129. The delegate of PAKISTAN supported the view expressed by the delegate of Turkey.

130. The delegate of INDIA expressed misgivings about such a procedure.

131. The delegate of AUSTRALIA wondered how long it would take to prepare the Final Act if all understandings and reservations were to be attached.

132. The PRESIDENT said that the Secretariat would be unable to prepare it that evening.

133. The delegate of FRANCE suggested that the Final Act include an additional paragraph listing those States which had made statements for the record and indicating that their statements would be reflected in the summary records of the Conference.

134. The PRESIDENT asked the Conference whether that suggestion was acceptable, whether the Conference wished the resolution just approved by it to be attached the Final Act and whether it wished to adopt paragraph 12 ("The Conference adopted ... of the IAEA.") of the Final Act.

135. It was so agreed.

136. The PRESIDENT took it that the Final Act was adopted with the inclusion of an additional paragraph as agreed.

137. It was so decided.

138. The DIRECTOR GENERAL OF THE IAEA congratulated the Conference on reaching the end of a difficult and complex process of drafting, negotiation and final agreement. It was regrettable that it had not been possible to agree on all points by consensus, but an important step had been made with the adoption of a convention that covered the safe management of spent fuel and radioactive waste and touched upon military waste. Moreover, a major provision enabling countries to bring their reprocessing operations within the scope of the Convention had been added, and several countries had already declared that they would do so.

139. The text submitted to the Diplomatic Conference by the Open-ended Group of Experts had been adopted unchanged except for certain, albeit important, drafting corrections - a tribute to the quality of the Group's work under the chairmanship of Professor Baer.

140. Transboundary movements of spent fuel and radioactive waste remained a very difficult area. A way out had been found, however, with the adoption of a resolution supplemented by statements. In that resolution, all States parties to the Convention were urged to take into full consideration the IAEA Regulations for the Safe Transport of Radioactive Material. Such transport regulations had been among the first standards established by the IAEA, and the latest revision was among the IAEA's most recent standards.

141. The difficulties encountered with certain articles should not be allowed to obscure a major substantive achievement - the reaching of agreement with regard to safety obligations based on IAEA Safety Fundamentals. There had been consensus from the outset on those important technical aspects of the envisaged convention, but it was important for the international community and for the IAEA to have a legally binding text which laid down the basic safety rules governing spent fuel and radioactive waste management and demonstrated to the international community the consensus which existed.

142. Signature and subsequent ratification were the next steps, and he hoped that the Joint Convention would enter into force soon. He also hoped that the reports on the fulfilment of obligations would be substantial ones and that public opinion would thus be reassured by the fact that radioactive waste and spent fuel management was being reported upon properly and being subjected to serious periodic peer review.

143. Finally, he expressed the IAEA's gratitude to Professor Baer, whose knowledge had been invaluable and who had demonstrated such wisdom in handling both issues and people.

144. The delegate of the RUSSIAN FEDERATION said that his delegation had supported the adoption of the Final Act and was on the whole satisfied with the outcome of the Conference. However, he wished to make two comments - one of them rather critical.

145. Firstly, as he had indicated earlier in the meeting, it was unacceptable that Article 3.1 should have been changed at the last minute, after two years of negotiations during which understandings had been reached on the basic elements of the Convention. The last-minute proposals put forward had been not just for changing the nuance in a number of provisions but for changing the Convention's scope of application. He could not but repeat what he had said earlier: that was bound to create doubt about the process of negotiation within the IAEA framework. In his delegation's view, if anything similar happened in future during the development and finalization - under the IAEA's aegis - of other international legal instruments, that would seriously undermine confidence in the process of negotiation within the IAEA framework and in the IAEA's ability to co-ordinate States' efforts directed towards the peaceful utilization of atomic energy.

146. Secondly, the Conference had - he was pleased to say - resisted the temptation to modify international maritime law. Nothing in the documents resulting from the Convention restricted the right of innocent passage through territorial waters and through straits used for international navigation purposes - particularly as laid down in the 1936 Montreux Convention on the Regime of Navigable Straits of International Concern and the 1982 United Nations Convention on the Law of the Sea. The recognition of generally recognized norms of international maritime law was the only basis for co-operation among States with regard to the world's seas and oceans.

147. The delegate of TURKEY said, in respect of Article 27.1(ii) of the Joint Convention, that the Government of Turkey, mindful of the principle that it was the sovereign right of every State to prohibit the movement of radioactive waste into, from or through its territory, considered that the phrase "international obligations which are relevant to the particular mode of transport utilized" applied, inter alia, to the following international instruments: the Convention on International Civil Aviation with its

“Dangerous Goods Annex”; the Restricted Article Regulations (RAR) of the International Air Transport Association (IATA); the International Regulations concerning the Carriage of Dangerous Goods by Rail (RID) set out in Annex 1 to the International Convention concerning the Carriage of Goods by Rail (CIM); the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR); the International Maritime Dangerous Goods Code established by the International Maritime Organization (IMO); the IMO Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High Level Radioactive Wastes in Flasks on board Ships (INF Code); and the relevant Acts of the Universal Postal Union.

148. Moreover, since the IAEA’s Regulations for the Safe Transport of Radioactive Material were intended to be basically independent of the mode of transport used, the Government of Turkey considered that the words “international obligations” also applied to the IAEA Regulations for the Safe Transport of Radioactive Material and to the Code of Practice on the International Transboundary Movement of Radioactive Waste adopted on 21 September 1990 by the IAEA’s General Conference.

149. The PRESIDENT announced that the signature book for the Final Act was not yet ready and suggested that the meeting be suspended and later resumed.

The meeting was suspended at 6.35 p.m. and resumed at 9.10 p.m.

150. The PRESIDENT said that the Chinese, English, French and Russian versions of the Final Act were ready for signature, but the Arabic and Spanish versions would not be ready until Monday.

151. During the signing of the available versions of the Final Act, delegates should feel free - as before - to make statements for inclusion in the summary records.

152. The delegate of THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA said that he had voted in favour of adoption of the Joint Convention but would not be in a position to sign the Final Act, since paragraph 3 of that document referred to “The former

Yugoslav Republic of Macedonia”; the constitutional name of his country was “Republic of Macedonia”.

153. The delegate of GHANA commended the Director General, the President of the Diplomatic Conference and the Chairpersons and other members of the committees for the manner in which the Conference had been planned, organized and directed. All delegates had displayed a spirit of mutual understanding, compromise and co-operation in bringing the Conference to a successful conclusion.

154. His Government, which attached great importance to nuclear energy, was committed to ensuring the safety of radioactive waste generated by nuclear facilities. He therefore looked forward to Ghana’s becoming a party to the Joint Convention, which would help to protect vulnerable States against the dumping of waste materials.

155. His delegation regretted the fact that the Conference had been compelled to resort to voting in adopting certain articles of the Joint Convention. It hoped, however, that despite that fact - and the fact that reservations had been expressed on behalf of some States - all countries of the world would abide by the letter and the spirit of the Joint Convention.

156. The delegate of LUXEMBOURG - speaking on behalf of the European Union, of the associated countries Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland, Romania, Slovakia and Slovenia and of Norway - said that the Joint Convention was at least as important for the protection of people and the environment as the Convention on Nuclear Safety.

157. Expressing appreciation of the fact that the Joint Convention covered not only radioactive waste but also spent fuel at all stages of its management, he said it had been necessary to deal with spent fuel and radioactive waste in a single legal instrument but separately as a number of States considered spent fuel to be a resource and reprocessed it, whereas other States classed it as radioactive waste and did not reprocess it.

158. The principal feature of the Joint Convention was that the Contracting Parties would be required to manage their spent fuel and radioactive waste in accordance with safety

criteria which ensured that - at the different management stages - individuals, society and the environment were adequately protected against radiological hazards.

159. The fact that it also dealt with transboundary movements of spent fuel and radioactive waste was a further important feature of the Joint Convention - and a happy result of intensive and difficult negotiations.

160. Moreover, a fundamental aspect of the Joint Convention was that it provided for periodic review meetings of the Contracting Parties at which national reports on measures taken by each Contracting Party to fulfil its obligations under the Joint Convention would be examined. Those meetings would undoubtedly have a positive impact on nuclear safety worldwide and contribute to the development of a genuine global nuclear safety culture.

161. All those who had participated in the work of the Open-ended Group of Legal and Technical Experts undoubtedly agreed that without the unremitting energy and the skill of the Group's Chairman the draft Joint Convention might well have been less comprehensive and the negotiations on it would not have been completed within less than two years. The readiness of the Group's Chairman to assume the presidency of the Diplomatic Conference had therefore been very welcome, and Professor Baer deserved the gratitude of all for what he had done in guiding both the work of producing the draft Joint Convention and the examination of that draft and adoption of a final text. It was no exaggeration to say that the Joint Convention bore his personal stamp.

162. It was to be hoped that States would be as diligent in ratifying or accepting the Joint Convention as they had been in the case of the Convention on Nuclear Safety.

163. The delegate of JAPAN, commending the President and the other officers of the Diplomatic Conference for their efforts and the Secretariat for its support, said that the Joint Convention represented a major step towards higher standards in the management of spent fuel and radioactive waste worldwide.

164. Japan, which intended to become a Contracting Party, was pleased that intensive discussions in the Diplomatic Conference had led to the conclusion that the Joint

Convention could apply to reprocessing, and it would report on reprocessing activities at future review meetings.

165. His delegation hoped that the Joint Convention would enter into force soon.

166. The delegate of MOROCCO, having endorsed the statement just made by the delegate of Luxembourg, said that he intended to sign the Final Act and that Morocco would - he hoped - be in a position to sign the Joint Convention during the forthcoming session of the IAEA's General Conference, at which time its plenipotentiary would no doubt make a declaration reflecting concerns expressed by himself during the past week.

167. There was room for improvement in all international legal instruments, including the Joint Convention, but the latter deserved to be seriously considered by all States with a view to accession. That was in large part due to the technical, diplomatic and organizational skills displayed by Professor Baer in guiding the Open-ended Group and the Diplomatic Conference in their work.

168. The delegate of PAKISTAN commended Professor Baer on the manner in which he had presided over the Diplomatic Conference.

169. At the same time, referring to paragraph 12 of the Final Act, he requested that Pakistan be added to the list of States which had "made statements which will be reflected in the summary records of the Conference".

170. The delegate of BRAZIL, speaking on behalf of the Latin American Group, commended the President and other officers of the Diplomatic Conference on the skill and the political and legal acumen displayed during the past few days.

171. The Latin American Group, which had taken a very active part in the Diplomatic Conference, was conscious of the importance of what had been achieved and of the debt owed to the Conference's President.

172. The delegate of the REPUBLIC OF KOREA congratulated the President on the successful conclusion of the Diplomatic Conference and expressed his delegation's thanks to the other officers of the Conference and to the Secretariat.

173. In his delegation's view, the Joint Convention was a timely instrument which would result in an international regime ensuring the safe management of spent fuel and radioactive waste within an appropriate legal framework and would promote the peaceful utilization of nuclear energy by enhancing nuclear safety culture worldwide.

174. His delegation looked forward to the early entry into force of the Joint Convention, and his Government would do all it could to help achieve that goal.

175. The Republic of Korea hoped to co-operate closely with other IAEA Member States in promoting the safe management of radioactive waste and spent fuel both in the Far East and throughout the world.

176. The delegate of CANADA, expressing his country's gratification at the adoption of the Convention, said that, as the Convention provided for meetings of the Contracting Parties, there would be ample scope for its further development to accommodate changing circumstances.

177. He acclaimed the vital role played by the President and the hard work done by the Secretariat in bringing the Conference to a successful conclusion.

178. The delegate of UKRAINE expressed satisfaction that many years of work had culminated in a document crucial to world efforts to consolidate the safe utilization of nuclear energy, building on the 1994 Convention on Nuclear Safety, which had been the first step towards international regulation of safety in the nuclear industry and which enjoyed wide support.

179. In developing new nuclear legislation, Ukraine had drawn heavily on the principles forming the basis of the Joint Convention, which was a logical extension of the international standards elaborated by the IAEA and should play a key role in guiding Member States' nuclear activities in the 21st century. In particular, States acceding to the Convention would be binding themselves to maintain strict safety levels in all activities to do with spent fuel and radioactive waste management.

180. The delegate of TURKEY commended the President on the wisdom, skill and patience with which he had guided the Conference through many controversial issues. Turkey considered the Joint Convention to be an incentive agreement that would pave the way for more specific measures being adopted - by means of a further convention - in the sphere of the safe transport of radioactive materials.

181. She also thanked the Secretariat, and in particular the Division of Radiation and Waste Safety and the Legal Division, for all the hard work done in connection with the Conference.

182. The delegate of the CZECH REPUBLIC, speaking also on behalf of the Central and Eastern Europe Group, thanked the President and the Secretariat for their efforts and expressed the hope that the Joint Convention would enter into force soon.

183. The delegate of MEXICO expressed appreciation of the President's skilful guidance of the Conference's deliberations and thanked Mr. Johnson, Director of the Legal Division, and his colleagues in the Secretariat for their support.

184. The negotiations had been difficult and the adopted text was not ideal, but it would help to enhance safety worldwide. The next step was compliance, backed up by faithful reporting.

185. Mexico considered that, for a nuclear safety regime to be truly effective, it needed to cover the whole nuclear fuel cycle, and it hoped that the Director General would soon take steps to initiate further safety-related conventions.

186. The delegate of INDIA paid tribute to the President and the Secretariat for their efforts in bringing the Conference to a successful conclusion. Also, he commended the fair and judicious manner in which the President had guided the Open-ended Group of Legal and Technical Experts through many difficult days.

187. As he had indicated in earlier interventions,

- India was of the view that radioactive waste resulting from military or defence programmes should have been within the scope of the Convention;

- India had been opposed to the inclusion of spent fuel in the Convention, but, in a spirit of co-operation, had agreed to include spent fuel management within its scope, on the understanding that, as brought out in Article 3.1, spent fuel held in a reprocessing facility for the purpose of reprocessing was not covered; and
- India did not consider spent fuel to be a waste, as it was a valuable resource for India, and for that reason would not accept any obligation to report on spent fuel under Article 32 of the Convention.

188. The delegate of SOUTH AFRICA congratulated the President on the excellent job he had done during the Open-ended Group's meetings and during the Conference.

189. Noting that the 2004 Olympic Games were to take place in Athens, he congratulated the delegate of Greece and suggested that Athens would be a good venue for a meeting of the Contracting Parties.

190. The delegate of THAILAND, congratulating the President and all others concerned on the successful outcome of the Conference, expressed confidence that the Convention would make the world a safer place in the 21st century.

191. The PRESIDENT, acknowledging the kind words addressed to him, thanked all the delegates, the officers of the Conference and the informal working group chairmen for the great spirit of co-operation displayed by them in dealing with such complex political and technical matters. He also paid tribute to the Director General, the Division of Radiation and Waste Safety, the Legal Division - and particularly Mr. Tonhauser of the Legal Division, whose support had been invaluable - and the Secretariat staff who had worked behind the scenes.

192. The Conference had taken a step - albeit a limited one - towards improved nuclear safety. The Convention - the first instrument of its kind - was of great political importance, and he did not believe that in the long run there would be many governments caring so little about nuclear safety as to refuse to sign and ratify the Convention. To any

States hesitant about signing the Convention he would merely say that their present political difficulties with the Convention would ultimately vanish - but not the radioactive waste accumulating by the minute from industrial, medical and other applications of nuclear energy. It was therefore up to all States to see that the Convention was implemented universally without delay.

The meeting rose at 10.5 p.m.