

General Conference

GC(56)/COM.5/OR.3

Issued: November 2012

General Distribution

Original: English

Fifty-sixth regular session

Committee of the Whole

Record of the Third Meeting

Held at the Austria Center, Vienna, on Tuesday, 18 September 2012, at 3.20 p.m.

Chairman: Mr SHUKRI (Saudi Arabia)

Contents

Item of the agenda ¹	Paragraphs
17 Strengthening the effectiveness and improving the efficiency of the safeguards system and application of the Model Additional Protocol <i>(continued)</i>	1–90

¹ GC(56)/19.

Abbreviations used in this record:

Trilateral Initiative

Trilateral Initiative launched by the Minister of the Russian Federation for Atomic Energy, the Secretary of Energy of the United States and the Agency's Director General on 17 September 1996 to consider practical measures for the application of IAEA verification to fissile material originating from nuclear weapons

17. Strengthening the effectiveness and improving the efficiency of the safeguards system and application of the Model Additional Protocol (continued) (GC(56)/COM.5/L.3)

1. The representative of EGYPT proposed a new version of the title of the draft resolution contained in document GC(56)/COM.5/L.3: “Strengthening the effectiveness and improving the efficiency of the Agency’s nuclear verification activities”.
2. The proposed title would bring the draft resolution into line with the terminology used in the Board of Governors and allow for issues besides the application of the Model Additional Protocol to be covered.
3. The proposal was not aimed at expanding the Agency’s verification activities.
4. The representative of CUBA said that his delegation, which would have preferred the Committee’s deliberations to be based on resolution GC(54)/RES/11, nevertheless supported the title change proposed by the delegation of Egypt.
5. The representative of BRAZIL said that his delegation also supported the proposal made by the delegation of Egypt, on the understanding that the proposed title did not imply expansion of the scope of the Agency’s verification activities beyond that of the existing ones.
6. The representative of the UNITED KINGDOM said that he saw some merit in the proposal made by the delegation of Egypt. If the aim of the proposal was just to simplify the title, however, his delegation would prefer a change to “Strengthening the effectiveness and improving the efficiency of the safeguards system”.
7. The representative of the SYRIAN ARAB REPUBLIC said that his delegation would also have preferred the Committee’s deliberations to be based on resolution GC(54)/RES/11. If they were to be based on the draft resolution contained in document GC(56)/COM.5/L.3, however, his delegation would prefer that the title — the same as that of resolution GC(54)/RES/11 — remain unchanged.
8. The representative of the UNITED STATES OF AMERICA said that his delegation could not support the proposal for a title change as no compelling reason had been given for it.
9. The word “safeguards” was used repeatedly in the Agency’s Statute, whereas the words “verify”, “verification” and “verifying” were each used only once — in Article IX, entitled “Supplying of materials” (“The Agency shall also verify the quantities of materials delivered” and “4. Control laboratories for the analysis and verification of materials received”), and in Article XII, entitled “Agency safeguards” (“The staff of inspectors shall also have the responsibility of obtaining and verifying the accounting referred to ...”).
10. Notwithstanding what the representative of Egypt had said about the aim of the proposal, the United States delegation considered that the proposed title might well open the door to the inclusion in the draft resolution of references to issues not referred to in earlier General Conference resolutions on “Strengthening the effectiveness and improving the efficiency of the safeguards system and application of the Model Additional Protocol”.

11. The representative of INDIA said that the Committee would need to have a clear understanding of the rationale behind the proposal before it could discuss it properly.
12. The representative of EGYPT said that it was not his delegation's intention to politicize a technical resolution by introducing State-specific language into the text. State-specific issues should be dealt with in other resolutions, in the Board of Governors and the United Nations Security Council.
13. His delegation had a problem with the words "the safeguards system" in the title as it stood at present because the Agency had more than one safeguards system.
14. As regards the phrase "the Agency's nuclear verification activities" in the title proposed by him, the draft text under consideration contained both the word "verification" (... to provide for verification by the Agency of the correctness and completeness of a State's declarations") and the word "verifying" ("... in verifying nuclear material from dismantled nuclear weapons").
15. He failed to understand why some delegations were reluctant to accept his delegation's proposal.
16. The representative of the ISLAMIC REPUBLIC OF IRAN, expressing support for the proposal made by the delegation of Egypt, said that the proposed title was more inclusive.
17. The CHAIRMAN said that, in his view, if the Committee were to examine the draft resolution in detail, a suitable title would emerge from the discussion.
18. The representative of SOUTH AFRICA, disagreeing, said that the Committee should first decide upon the title.
19. The sponsors of the draft resolution should state clearly what its purpose was in order to facilitate the discussion.
20. The representative of LIBYA said that perhaps there was a need for two draft resolutions, one relating to the safeguards system and one relating to the Model Additional Protocol.
21. The representative of JAPAN said that his delegation was not convinced of the need to change the title, which had been in use for many years.
22. The representative of SPAIN, pointing out that his country was one of the sponsors of the draft resolution, said that the safeguards system referred to in the title was based on Article III.A.5 of the Statute, which authorized the Agency to establish and administer safeguards. The main purpose of that system was to ensure that there was no diversion of declared nuclear material from peaceful nuclear activities.
23. The representative of EGYPT said that he was perplexed by some delegations' reluctance to accept the word "verification" as numerous Board documents contained that word — for example document GOV/INF/1999/8, entitled "IAEA verification of weapon-origin fissile material in the Russian Federation and the United States of America", in which the words "verification" and "safeguards" were used several times and appeared to be interchangeable. The Secretariat appeared not to make a distinction between "safeguards" and "verification".
24. In 1999, when that document had been before the Board, the Governor from the United States of America had said that "his country regarded the submission of weapon-origin fissile material to Agency verification as an important part of its effort to meet its nuclear disarmament obligations under

Article VI of the NPT.”² He had also said that “The activities of the Agency in that connection were an important part of its statutory mandate to further the establishment of safeguarded worldwide disarmament, and his delegation looked forward to being able to submit a verification agreement to the Board for its approval soon.”³

25. The Agency’s nuclear verification activities were broader than what the title of the draft resolution before the Committee suggested. That was why he had proposed a title that encompassed all of those activities. He had no intention of politicizing the issue or of raising country-specific matters.

26. The LEGAL OFFICER FOR THE COMMITTEE OF THE WHOLE, responding to a request for clarification made by the representative of EGYPT, said that the Agency’s authority to apply safeguards derived from Article III.A.5 of the Statute.

27. The Agency was authorized to implement safeguards in connection with assistance being provided by it to States, at the request of parties to bilateral or multilateral arrangements like the Trilateral Initiative and, at the request of a State, to “any of that State’s activities in the field of atomic energy”.

28. As a matter of usage, some people had become accustomed to thinking of Agency safeguards as safeguards applied pursuant to comprehensive safeguards agreements as described in document INFCIRC/153 (“The structure and content of agreements between the Agency and States required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons”). However, all of the Agency’s verification authority derived from Article III.A.5 of the Statute, which referred to safeguards.

29. The representative of SWEDEN suggested that the title of the draft resolution be amended to read “Strengthening the effectiveness and improving the efficiency of the safeguards system and other nuclear verification activities”.

30. The representative of EGYPT said that he would prefer a title without the expression “the safeguards system” and suggested “Strengthening the effectiveness and improving the efficiency of the Agency’s safeguards and other [nuclear] verification activities”. His delegation would be flexible with regard to the choice between “nuclear verification activities” and “verification activities”. That wording, without the word “nuclear”, would be the same as that of one of the six strategic objectives outlined in the Agency’s Medium Term Strategy 2012–2017.

31. The representative of the UNITED STATES OF AMERICA said that his delegation could not go along with the phrase “and other [nuclear] verification activities”.

32. The representative of the UNITED KINGDOM said that he understood the problem that some delegations had with the expression “the safeguards system”. In his view, however, there was only one Agency safeguards system, but it consisted of many different parts.

33. Perhaps the title could be shortened to “Strengthening Agency safeguards”.

34. The representatives of JAPAN and CANADA said they would like the title of the draft resolution to remain unchanged.

35. The representative of BRAZIL said that his delegation would prefer the wording just suggested by the representative of Egypt, although it could accept the wording subsequently suggested by the representative of the United Kingdom.

² See GOV/OR.980, para. 65.

³ See GOV/OR.980, para. 69.

36. Perhaps the Committee could put the question of the title of the draft resolution to one side for the time being and start considering the preambular and operative paragraphs in detail.

37. The representative of INDIA said that his delegation would like wording that contained the phrase “ ... the efficiency of the implementation of Agency safeguards”.

38. The representative of the ISLAMIC REPUBLIC OF IRAN expressed support for the wording just suggested by the representative of Egypt.

39. The LEGAL OFFICER FOR THE COMMITTEE OF THE WHOLE, responding to a further request for clarification made by the representative of EGYPT, said that the Agency did not apply the same kind of safeguards in all situations. It applied safeguards on the basis of agreements, of which there were currently three kinds. Firstly, there were comprehensive safeguards agreements based on document INFCIRC/153, which were highly standardized. Secondly, there were item-specific safeguards agreements based on document INFCIRC/66/Rev.2 and its predecessor documents; such agreements had been highly individual in the earlier days of the Agency, becoming more standardized — although not as standardized as the agreements based on document INFCIRC/153 — over the years. Thirdly, there were voluntary offer agreements with the nuclear-weapon States, which were based on document INFCIRC/153 but were not as broad in scope as the comprehensive safeguards agreements based on that document.

40. The representative of EGYPT asked whether, if the Agency was requested to verify the implementation of an agreement between two or more States, it did so through its standardized ‘safeguards system’ or by applying safeguards of some other kind. Verification within the framework of the Trilateral Initiative involved what kind of safeguards?

41. The LEGAL OFFICER FOR THE COMMITTEE OF THE WHOLE said that the kind of safeguards applied by the Agency pursuant to an agreement between two or more States depended on the terms of the agreement concluded between the Agency and those States.

42. The representative of GHANA suggested the title “Strengthening the effectiveness and improving the efficiency of the implementation of safeguards agreements”.

43. The representative of INDIA expressed support for that suggestion.

44. The representative of EGYPT wondered whether the title suggested by the representative of Ghana would cover all of the verification activities that the Agency had carried out during the past 20 years or so. Would it, for example, cover the Agency’s verification activities in South Africa and in the United States of America and the Russian Federation?

45. His delegation was seeking a title that would cover all of the Agency’s activities in the area of verification, even if the wording did not seem very appropriate to some.

46. The LEGAL OFFICER FOR THE COMMITTEE OF THE WHOLE, responding to a further request for clarification made by the representative of EGYPT, said that there were different kinds of agreements concluded by the Agency that required the application of Agency safeguards — comprehensive safeguards agreements, voluntary offer agreements, and project and supply agreements. Project and supply agreements, although requiring the application of Agency safeguards, tended not to be thought of as safeguards agreements.

47. At times, the expression “verification” was used in order to distinguish between what had become known as “INFCIRC/153 safeguards” and other Agency safeguards activities.

48. The representative of AUSTRIA said that, although her delegation was flexible as regards the title, it considered the phrase “the implementation of safeguards agreements” in the formulation

suggested by the representative of Ghana to be too restrictive, as it did not cover activities such as the conceptualization and further development of Agency safeguards.

49. Also, the phrase “the implementation of safeguards agreements” left open the question of whether additional protocols were considered to be safeguards agreements.

50. The representative of GHANA said that he considered additional protocols to be safeguards agreements.

51. The representative of EGYPT said that the clarifications given by the Legal Officer for the Committee of the Whole indicated that the formulation suggested by the representative of Ghana did not cover all of the relevant Agency activities. He was seeking a formulation which would take account of any inconsistencies in how various entities within the Agency and elsewhere regarded those activities.

52. For the General Conference to be convinced, as stated in paragraph (b) of the draft text, that the Agency’s safeguards were “a fundamental component of the nuclear non-proliferation regime”, some context should be provided. He therefore suggested the insertion of the following two paragraphs before paragraph (b):

“Recognizing the policies of the United Nations, furthering the establishment of safeguarded worldwide disarmament and any international agreements entered into pursuant to such policies, as well as the importance of such policies in enhancing international peace and security,”; and

“Bearing in mind that the Agency’s objective is to seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world, without using it in such a way as to further any military purpose,”.

The first suggested paragraph drew on Article III.B.1 of the Statute and the second one on Article II.

53. The representative of CUBA suggested that the word “Recalling” in paragraph (a) be replaced by “Reaffirming”.

54. The representative of the ISLAMIC REPUBLIC OF IRAN proposed that paragraph (b) be amended to read: “... the nuclear non-proliferation regime and nuclear disarmament, ...”.

55. The representative of CUBA suggested the wording “... nuclear non-proliferation and nuclear disarmament, ...”.

56. The representative of the UNITED KINGDOM, calling for the retention of the phrase “a fundamental component of the nuclear non-proliferation regime”, said that the Agency’s safeguards were not a fundamental component of nuclear non-proliferation and nuclear disarmament in general.

57. The representative of SOUTH AFRICA suggested that the phrase “enlarge the contribution” in the second additional paragraph suggested by the representative of Egypt be replaced by “enhance the contribution”.

58. The representative of the SYRIAN ARAB REPUBLIC expressed support for the two additional paragraphs and for the amendment to paragraph (b) proposed by the representative of the Islamic Republic of Iran.

59. The representative of FRANCE said that his delegation was not in favour of the inclusion of the two additional paragraphs suggested by the representative of Egypt or of the addition of the phrase “and nuclear disarmament” in paragraph (b) suggested by the representative of the Islamic Republic of Iran.

60. The representative of INDIA said that his delegation also was not in favour of the inclusion of those two paragraphs. However, if representatives wished to reflect the sentiments expressed in them, perhaps one could add a new paragraph (a) reading “Recognizing that the Agency is authorized to ...” and continuing with direct quotations from Article III.A.5 of the Statute.
61. The representative of EGYPT said that simply quoting from the Statute would not fully meet his objective.
62. The first additional paragraph suggested by him referred to “the policies of the United Nations”, which should be referred to since the Agency was technically independent of the United Nations, not being a specialized agency.
63. The representative of the ISLAMIC REPUBLIC OF IRAN suggested the addition of the words “and independent” in paragraph (c), so that it would read “... the Agency’s essential and independent role”.
64. He suggested the addition, after paragraph (c), of a paragraph reading “Stressing the indispensable need to avoid any undue pressure or interference in the Agency’s activities, especially its verification process, which could jeopardize the efficiency and credibility of the Agency,”.
65. The representative of CUBA, supported by the representative of the SYRIAN ARAB REPUBLIC, suggested the deletion of the word “undue” in the additional paragraph suggested by the representative of the Islamic Republic of Iran, since any pressure on interference in the Agency’s activities was unacceptable.
66. The representative of CANADA, supported by the representatives of PORTUGAL and AUSTRALIA, opposed the inclusion of the suggested additional paragraph on the grounds that the paragraph implied that the Secretariat was susceptible to pressure and interference and thus called into question its professional integrity.
67. The representative of the ISLAMIC REPUBLIC OF IRAN said that the suggested additional paragraph was meant to refer to the potential for pressure or interference in the Agency’s activities.
68. The representative of the BOLIVARIAN REPUBLIC OF VENEZUELA, expressing support for the suggested additional paragraph, said that it made a valid point.
69. The representative of GHANA asked whether changing the word “Stressing” to “Recognizing” would allay the concerns of some delegations with regard to the suggested additional paragraph.
70. The representatives of the ISLAMIC REPUBLIC OF IRAN and CUBA said that they could also go along with that idea.
71. The representative of CANADA suggested an alternative to the additional paragraph suggested by the representative of the Islamic Republic of Iran: “Recognizing the indispensable need to avoid interference in the Agency’s activities, especially its verification process, including by withholding requested information and access which could jeopardize the effectiveness of Agency activities,”.
72. The representative of the ISLAMIC REPUBLIC OF IRAN said that the paragraph suggested by the representative of Canada should be considered as a further paragraph, not as an alternative to the additional paragraph that he had suggested.
73. The representative of CANADA reiterated that the additional paragraph suggested by him was intended as an alternative to that suggested by the representative of the Islamic Republic of Iran.
74. The representative of CUBA, expressing surprise at the suggestion made by the representative of Canada, suggested the addition of the following paragraph: “Recognizing the indispensable need to

avoid any pressure or interference in the Agency's activities, especially its verification process, including by questioning Member States' commitment to safeguards obligations without presenting credible or validated information.”.

75. The representative of the PHILIPPINES suggested the following alternative: “Recognizing the indispensable need of maintaining the independence of the Secretariat, especially in the verification work, in order to ensure the efficiency and credibility of the Agency,”. In her view, such a more positive formulation would meet the concerns of a wide range of delegations.

76. The representative of EGYPT expressed support for the paragraph suggested by the representative of the Philippines.

77. The representative of the RUSSIAN FEDERATION said that the Secretariat was required to act in accordance with the decisions of the policy-making organs of the Agency. His delegation therefore had problems with the phrase “the independence of the Secretariat” in the paragraph suggested by the representative of the Philippines.

78. The representative of BELARUS expressed support for the comment made by the representative of the Russian Federation.

79. The representative of SINGAPORE suggested that the word “independence” be changed to “impartiality” and the words “indispensable need” be changed to “importance” in the paragraph suggested by the representative of the Philippines.

80. The representative of the PHILIPPINES expressed support for the suggestion made by the representative of Singapore.

81. The representative of BENIN said that, in her view, the Committee should use wording that mentioned only the Agency, which included the Agency's Member States as well as the Secretariat.

82. The representative of LEBANON, expressing support for the remark made by the representative of Benin, said that the Secretariat was impartial and discharged its duties in a praiseworthy manner. However, potential problems due to a lack of goodwill on the part of some Member States should be highlighted.

83. The point being made in the additional paragraph suggested by the representative of Canada was already covered in various paragraphs of the draft resolution.

84. He favoured the additional paragraph suggested by the representative of the Islamic Republic of Iran, the point being made in which was not accurately conveyed by any of the alternatives suggested.

85. The CHAIRMAN proposed that the four paragraphs suggested for insertion after paragraph (c) be included in a revised version of document GC(56)/COM.5/L.3 in square brackets.

86. The representative of ARGENTINA, referring to paragraph (d), said that, in view of the links between that paragraph and various other ones, her delegation would reserve its position pending the outcome of subsequent discussions.

87. The representative of the ISLAMIC REPUBLIC OF IRAN suggested the addition, after paragraph (e), of a paragraph reading “Reaffirming that the IAEA is the sole competent authority for verification of compliance with the obligations under the respective safeguards agreements of Member States,”.

88. The representative of INDIA, supported by the representative of the SYRIAN ARAB REPUBLIC, suggested that, in view of the diverging positions on a number of issues under agenda

item 17, the Committee take up other agenda items at its next meeting so as to allow time for delegations to receive instructions from their governments.

89. The representative of the ISLAMIC REPUBLIC OF IRAN proposed that the Committee prolong the current meeting in order to complete its initial review of the draft resolution contained in document GC(56)/COM.5/L.3.

90. The CHAIRMAN said that there would be a full evening meeting during which, he hoped, the Committee could complete its initial review of the draft resolution.

The meeting rose at 6.05 p.m.