

# General Conference

**GC(59)/COM.5/OR.1**

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## Fifty-ninth regular session

# Committee of the Whole

## Record of the First Meeting

*Held at Headquarters, Vienna, on Monday, 14 September 2015, at 3.40 p.m.*

**Chair:** Mr BENHOUCINE (Algeria)

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<sup>1</sup> GC(59)/COM.5/1.

**Abbreviations used in this record:**

EU	European Union
JCPOA	Joint Comprehensive Plan of Action
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
TCF	Technical Cooperation Fund
SLC	State-level concept

## – **Election of Vice-Chairs and organization of work** (GC(59)/COM.5/1)

1. The CHAIR, having expressed appreciation for the confidence which the General Conference had placed in him, said that, pursuant to Rule 46 of the Rules of Procedure, following group consultations it had been proposed that Ms Angell-Hansen of Norway and Mr Ilioski of the former Yugoslav Republic of Macedonia serve as Vice-Chairs of the Committee. He took it that the Committee wished to adopt the proposal.

2. It was so agreed.

3. Having drawn attention to document GC(59)/COM.5/1, which listed the agenda items referred to the Committee by the General Conference, he proposed that the Committee consider the agenda items, to the extent possible, in the order in which they were listed. He also proposed that, in line with past practice, he report orally on the Committee's deliberations at a plenary meeting of the Conference. Also, he took it that the Committee wished to continue, to the extent practicable, the practice of clustering the draft resolutions recommended to the Conference by the Committee for adoption.

4. It was so agreed.

## **9. The Agency's Financial Statements for 2014** (GC(59)/3)

5. The CHAIR, noting that no Committee members wished to take the floor, took it that the Committee wished to recommend that the General Conference adopt the draft resolution on page i of document GC(59)/3, which had been considered by the Programme and Budget Committee in May 2015 and by the Board of Governors in June 2015.

6. It was so decided.

## **10. The Agency's Programme and Budget 2016–2017** (GC(59)/2 and GC(59)/2/Mod.1)

7. The CHAIR drew attention to draft resolutions A "Regular Budget Appropriations for 2016", B "Technical Cooperation Fund Allocation for 2016" and C "The Working Capital Fund for 2016" contained in document GC(59)/2.

8. With regard to the draft resolution on the Regular Budget appropriations for 2016, the draft Programme and Budget for 2016–2017 had been issued on 26 January 2015. While the Programme and Budget Committee had not been in a position to make a recommendation on the matter, by the time of the June Board agreement had been reached on the programme and budget. Accordingly,

the Board had recommended to the Conference a Regular Budget for 2016 of €358 900 000, representing a real increase of 1.6%, including a post adjustment of 0.1%, over the 2015 Regular Budget.

9. On 25 August, the Board had agreed to a modification to the Programme and Budget document to take account of the Agency's role in implementing verification and monitoring in Iran under the JCPOA. However, the total amount of the Regular Budget and its appropriation for each major programme for 2016 remained unchanged.

10. With regard to the draft resolution on the TCF allocation for 2016, the Board had agreed on a target for voluntary contributions to the TCF for 2016 of €84 456 000.

11. With regard to the draft resolution on the Working Capital Fund for 2016, the Board had recommended that the level of the Fund be kept at €15 210 000.

12. Noting that no Committee members wished to take the floor, he took it that the Committee wished to recommend that the General Conference approve a total Regular Budget figure for 2016 of €353 967 788 for the operational portion and €8 032 000 for the capital portion on the basis of an exchange rate of \$1.00 to €1.00 and, accordingly, that it adopt draft resolution A "Regular Budget Appropriations for 2016".

13. It was so agreed.

14. The CHAIR took it that the Committee wished to recommend that the General Conference approve a target for voluntary contributions to the Technical Cooperation Fund for 2016 of €84 456 000 and, accordingly, that it adopt draft resolution B "Technical Cooperation Fund Allocation for 2016".

15. It was so agreed.

16. The CHAIR took it that the Committee wished to recommend that the Conference approve a Working Capital Fund level for 2016 of €15 210 000 and, accordingly, that it adopt draft resolution C "The Working Capital Fund for 2016".

17. It was so decided.

## **12. Amendment to Article XIV.A of the Statute**

(GC(59)/9, GC(59)/COM.5/L.3)

18. The CHAIR, having drawn attention to document GC(59)/9, said that document GC(59)/COM.5/L.3 contained the text of the decision adopted by the Conference on the subject in 2014, updated for the current year. The Committee might wish to recommend the updated text as a decision to be adopted by the General Conference at its 59th regular session.

19. Noting that no Committee members wished to take the floor, he took it that the Committee wished to recommend that the Conference adopt the draft decision set out in document GC(59)/COM.5/L.3.)

20. It was so decided.

### **13. Scale of assessment of Member States' contributions towards the Regular Budget** (GC(59)/13/Rev.1)

21. The CHAIR, noting that no Committee members wished to take the floor, took it that the Committee wished to recommend that the General Conference adopt the draft resolution on page 3 of document GC(59)/13/Rev.1.

22. It was so decided.

### **18. Strengthening the effectiveness and improving the efficiency of Agency safeguards** (GC(59)/18, GC(59)/COM.5/L.1)

23. The representative of AUSTRIA, introducing the draft resolution set out in document GC(59)/COM.5/L.1, said that the sponsors had chosen the very conservative approach of reproducing and factually updating the previous year's resolution. The updates had been discussed in the informal consultations and had been brought to the knowledge of Member States. She expected that the draft resolution would draw broad support and be recommended for adoption.

24. The representative of the ISLAMIC REPUBLIC OF IRAN, referring to paragraph (i), said that under a comprehensive safeguards agreement, the Agency could only verify whether a State's declaration was correct and could verify whether it was complete only after the State had signed and ratified an additional protocol. His delegation could agree to the paragraph after the necessary change had been made.

25. The representative of PAKISTAN, recalling that there had been no consensus on the resolution at the previous session, that his delegation had called for a vote because of serious reservations on paragraph 7 and that the anomaly had not been addressed in the informal meetings, considered that paragraph 7 should be deleted because it was inconsistent with the Agency's Statute, which did not give precedence to any particular safeguards agreement, while the proposed paragraph sought to accord universality to a certain type of safeguards agreement and to a legal obligation that flowed from a treaty to which his country was not a party. He drew attention to a proposal made a few days earlier by the representative of India to delete paragraph 7 and to amend paragraph 6 by inserting "and further requests all such Member States who are obligated to bring into force comprehensive safeguards agreements to do so as soon as possible". As that proposed wording clearly referred only to States under an obligation to enter into comprehensive safeguards agreements, it would be a good basis for discussion on paragraphs 6 and 7.

26. The representative of INDIA, noting that there had not been any consensus on the wording of paragraph 7 for many years and stressing that he had abstained on the vote called by Pakistan at the previous session, said that paragraph 7 should be deleted because it called on all Member States to accede to all kinds of comprehensive safeguards agreements, which was inconsistent with each Member State's legal undertakings to the Agency and with the *chapeau* of the operative paragraphs inasmuch as comprehensive safeguards agreements did not fall within the scope of the undertakings of non-NPT Member States.

27. Furthermore, the sovereign decision of a State to enter into a treaty or agreement must be reflected clearly in resolutions and must not be diluted. Just as the conclusion of an additional protocol was voluntary, as highlighted in paragraph 13, so too was the conclusion of a comprehensive safeguards agreement under the NPT. His delegation supported the insertion in paragraph 6 of the text read out by the previous speaker because it addressed the concerns of the Member States that had insisted on the inclusion of paragraph 7.

28. The representative of the ISLAMIC REPUBLIC OF IRAN proposed that “based on objective, authenticated and verifiable information” be added at the end of paragraph 8.

29. The representative of the RUSSIAN FEDERATION wondered whether, in the light of the new State-level concept approach to the application of safeguards, the Secretariat believed that the reference in paragraph 22 to integrated safeguards was still relevant and whether integrated safeguards were still being applied in the same way as before the introduction of the State-level concept in 2014.

30. The DIRECTOR OF THE DIVISION OF CONCEPTS AND PLANNING, DEPARTMENT OF SAFEGUARDS, said that the Agency was still implementing State-level approaches in the context of integrated safeguards for 53 States. Some State-level approaches that had been updated for States with broader conclusions were still considered to be integrated safeguards. Many pre-2014 measures comprising integrated safeguards approaches were still being applied as part of updated State-level approaches.

31. The representative of the RUSSIAN FEDERATION asked whether that meant that the State-level concept was not being implemented and that there was no State-level approach to safeguards, but rather only integrated safeguards approaches developed for individual Member States on the basis of pre-2014 measures.

32. The DIRECTOR OF THE DIVISION OF CONCEPTS AND PLANNING, DEPARTMENT OF SAFEGUARDS, replied that the State-level approach had been developed initially for States with broader conclusions under integrated safeguards, for States that had requested it or for States that did not previously have integrated safeguards but currently had the broader conclusion. The Secretariat was proceeding in line with what it had previously indicated to the Board of Governors.

33. The representative of the RUSSIAN FEDERATION, wondering whether two parallel approaches — classic integrated safeguards and integrated safeguards adapted to the State-level concept approach — were being applied to States with integrated safeguards, wished to know how they could be distinguished from each other if both were integrated.

34. The DIRECTOR OF THE DIVISION OF CONCEPTS AND PLANNING, DEPARTMENT OF SAFEGUARDS, replied that the documents and methods used to develop the approaches had evolved, all approaches specify the safeguards measures to be applied. Whereas the Agency took a facility-by-facility approach based on models and included some overarching considerations at the State level before 2014, it currently considered the State as a whole and, based on acquisition path analysis for States with comprehensive safeguards agreements, gave priority to technical objectives and articulated the extent to which the Agency focused thereon.

35. The representative of the RUSSIAN FEDERATION was pleased to hear that there was a difference between the pre-2014 integrated safeguards approach and the State-level concept approach. It would be helpful to know how some mechanisms were being implemented, or not, by the Secretariat, for, despite previous resolutions calling on the Secretariat to engage in open dialogue with Member States on all aspects of its reform of the application of safeguards, it had not yet done so.

36. He assumed that paragraph 22 would remain relevant until the pre-2014 integrated safeguards approach in place for 53 countries had been adapted to include the new State-level concept approach and would lapse thereafter.

37. The DIRECTOR OF THE DIVISION OF CONCEPTS AND PLANNING, DEPARTMENT OF SAFEGUARDS, said that the Secretariat was documenting its approaches differently by setting technical objectives and performance targets for those objectives. Once a broader conclusion had been reached for a given State on the basis of State-specific factors — the broader conclusion itself and assurances that there were no undeclared nuclear material and activity in the State — some performance targets could be relaxed. The current approach was not different from the targets that had been set earlier for some types of nuclear material. Any deviation from those performance targets, especially with regard to verification of nuclear material, would be made in a considered manner in order to continue to draw soundly based conclusions on the non-diversion of declared nuclear material in States. Activities designed to look for undeclared nuclear material and activities based on acquisition path analysis were being carried out in a more considered way than before.

38. The representative of the RUSSIAN FEDERATION thanked the Secretariat for the information, which should have been contained in the Director General's report to the Board of Governors in accordance with paragraph 26 of the previous year's resolution on safeguards, which had regrettably not been implemented. He was relying on the Secretariat to change that situation. Paragraphs 22 and 28 of the draft resolution together implied that two parallel mechanisms were being applied to the same group of 53 States, as the Agency was encouraged to continue to implement integrated safeguards in paragraph 22, while paragraph 28 showed that it was updating State-level approaches — all for the same States.

39. The representative of SWITZERLAND proposed the insertion of new paragraph 24 bis: "Encourages the Secretariat to develop and implement State-level approaches (SLAs), based on the scope of each individual State's safeguards agreements, with the objective to further optimize safeguards implementation in a concrete, measurable and substantial manner and to ensure optimal cost-effectiveness and economical use of inspection resources as well as to improve the efficiency of safeguards implementation in the States, thus strengthening the credibility of the IAEA safeguards system."

40. His delegation wished to see concrete, measurable and substantial evidence of the cost-saving effect of implementing the State-level concept. He noted that optimization efforts should benefit not only the Secretariat, but also the Member States, since fewer on-site inspections often resulted in more administrative work.

41. The representative of the RUSSIAN FEDERATION, noting that paragraphs 23 and 24 had been the outcome of a difficult compromise in 2014, regretted that small, yet significant, changes had been made to the wording. He requested the sponsors to give the reason for replacing "welcomes" by "recalls", thus consigning the discussions of 2014 to the past and belittling the significance of the hard-won compromise.

42. He proposed inserting paragraph 24 bis which would read: "Encourages the Agency, within the framework of existing safeguards agreements, to continue to concentrate its verification efforts on sensitive stages of the nuclear fuel cycle and on nuclear material from which nuclear weapons or other nuclear explosive devices could readily be made."

43. He further proposed inserting paragraph 24 ter which would read: "Directs the Secretariat to thoroughly describe to the Board of Governors for its decision, and be prepared to defend in an open discussion in the Board, the information which served as the basis for its assessment and conclusions

with regard to identifications of undeclared activities in States having no additional protocol in force, if the Secretariat finds that the State has not provided necessary cooperation.”

44. Both proposals addressed issues of principle that arose in the context of the State-level concept and the Agency’s reforms of the implementation of safeguards. The Russian Federation had expected open-ended consultations in 2014 and 2015 with a view to reaching agreement on the points highlighted in the proposed new paragraphs, which reflected the content of the Director General’s report on the conceptualization and development of safeguards implementation at the State level (GOV/2014/41).

45. Reiterating his country’s disappointment at the Secretariat’s failure to submit a report to the Board of Governors pursuant to paragraph 26 of resolution GC(58)/RES/14, he proposed that “and requests the Director General to produce, after consulting with Member States, a written report to the Board of Governors before the 60th General Conference in 2016 providing further clarifications, in particular with regard to the list of State-specific factors to make it objective and exhaustive, as well as with regard to the application of the acquisition path analysis” be inserted after “in the context of the SLC”.

46. Turning to paragraph 27, he regretted that the open-ended dialogue with States on safeguards in 2014 and 2015 had focused on routine matters, with virtually no discussion of the State-level concept and core reform-related issues. He therefore proposed that “and requests the Secretariat to intensify this dialogue and to focus it on core principle issues related to the conceptualization, development and application of the State-level concept” be added to paragraph 27.

47. The CHAIR invited the representative of Austria to comment on the proposed amendments to the draft resolution.

48. The representative of AUSTRIA said that the sponsors had been informed of most of the proposed amendments during prior consultations. Most sponsors seemed unable to support the amendments proposed by the representatives of Pakistan and India. The Swiss proposal had been amended in the light of the consultations but she was uncertain about the sponsors’ current position. The proposal by the representative of the Russian Federation regarding the word “recalls” in paragraphs 23 and 24 would be open to negotiation. The other proposals, already discussed at the previous session of the General Conference, would be considered again at the current session. Further consultations would be held on the proposals by the representative of the Islamic Republic of Iran.

49. The CHAIR proposed that Committee members continue the informal discussions and finalize the draft resolution at a subsequent meeting.

## **14. Measures to strengthen international cooperation in nuclear, radiation, transport and waste safety**

(GC(59)/6 and 14; GC(59)/INF/4, 5 and 9; GC(59)/COM.5/L.2)

50. The representative of AUSTRALIA, introducing the draft resolution contained in document GC(59)/COM.5/L.2, thanked the representative of New Zealand for coordinating work on the Transport Safety section. The draft resolution was the outcome of intensive discussions in July and August 2015, involving 20 to 40 Member States. The final text had achieved the requisite balance between a range of interests and should provide a solid basis for consensus. An additional 10 Member States had recently joined the 28 original sponsors.



51. The representative of MEXICO proposed that “and health workers” be inserted at the end of paragraph (z).
52. The representative of the ISLAMIC REPUBLIC OF IRAN requested that “A/RES/67/112 of 18 December 2012” in paragraph (dd) be replaced by A/RES/69/84 of 16 December 2014.
53. The representative of AUSTRALIA agreed to the proposal to amend paragraph (dd).
54. The representative of ARGENTINA agreed to the proposed amendment. He strongly supported the draft resolution, but regretted that it had not been clustered with the draft resolution on nuclear security. Argentina had consistently emphasized that nuclear security was part and parcel of nuclear safety and that no nuclear activity could be safe unless it was secure. Inconsistencies and discrepancies had emerged when nuclear security had been handled separately by the General Conference. A similar issue had arisen in the past when transport safety had been addressed in a separate resolution. Following the International Conference on the Safe and Secure Transport of Radioactive Material in 2011, Member States had decided to integrate transport into the general resolution on nuclear safety. He hoped that a similar decision would be taken on the resolution on nuclear security before the 60th session of the General Conference.
55. The representative of the RUSSIAN FEDERATION said that his country wished to join the sponsors of the draft resolution. He proposed that “from cradle to grave” in paragraph 103 be replaced by “through all stages of the lifecycle”.
56. The representative of AUSTRALIA had no objection to the proposed amendment.
57. The representative of INDIA said that his country wished to join the sponsors of the draft resolution.
58. The CHAIR took it that the Committee wished to recommend that the General Conference adopt the draft resolution contained in document GC(59)/COM.5/L.2.
59. It was so decided.

**The meeting rose at 5.45 p.m.**