
Fifty-ninth regular session

Committee of the Whole

Record of the Eighth Meeting

Held at Headquarters, Vienna, on Friday, 18 September 2015, at 10.35 a.m.

Chair: Mr BENHOUCINE (Algeria)

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¹ GC(59)/25.

Abbreviations used in this record:

CTBT	Comprehensive Nuclear-Test-Ban Treaty
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18. Strengthening the effectiveness and improving the efficiency of Agency safeguards (continued)

(GC(59)/COM.5/L.1/Rev.1)

1. The representative of AUSTRIA introduced the revised draft resolution contained in document GC(59)/COM.5/L.1/Rev.1, stating that no changes had been made since the previous discussion of the item and that the text was the best on which consensus could be achieved.

2. The representative of the RUSSIAN FEDERATION, agreeing that progress had been made since the previous meeting, proposed, in the light of the previous discussion and input from the Department of Safeguards and in the spirit of compromise, a revised version of proposed paragraph 25 bis, reading as follows: “welcomes the existing practice of the Secretariat to thoroughly describe to the Board of Governors the information which served as the basis for corresponding conclusions and findings with regard to indications of a State’s non-compliance with its safeguards obligations.” His delegation hoped that it would be well received by Member States for inclusion in the draft resolution.

The meeting was suspended at 10.45 a.m. and resumed at 10.55 a.m.

3. The representative of AUSTRIA welcomed the efforts by the Russian Federation to reflect States’ concerns in revised paragraph 25 bis. Concerns about the wording did, however, subsist, as did more principled reservations. She wondered whether the text was even necessary and whether the IAEA General Conference was the appropriate forum for such a matter. She also wondered whether it was appropriate for the Committee of the Whole to comment on the Secretariat’s legal obligations in the implementation of safeguards. Agreement on the revised wording would be impossible.

4. The representative of BELARUS said that her delegation had supported the original amendment proposed by the Russian Federation and also supported the revised version, which reflected concerns raised in previous discussions. Inclusion of such a text in the resolution did not pose any problems either to the Agency’s legal practice or traditions in drafting IAEA General Conference resolutions. As the Secretariat had reported, it was already operating in the manner mentioned in paragraph 25 bis, standing ready to discuss information that served as the basis for conclusions on the application of safeguards at meetings of the Board of Governors and to defend it in an open discussion. Her delegation supported the idea of setting that practice down in writing, which would address some States’ concerns about the State-level concept.

5. The representative of the UNITED KINGDOM said that the Committee of the Whole was not the proper forum for discussing the way in which the Secretariat carried out its work; that was a matter for the Secretariat to discuss with the Board of Governors. Her delegation could not, therefore, support the amendment proposed by the Russian Federation.

6. The representative of AUSTRALIA, associating his delegation with the comments made by the representative of Austria and thanking the delegation of the Russian Federation for its good will in seeking an amenable solution, said that his delegation could not accept proposed paragraph 25 bis because it was not for the Committee of the Whole to comment on the carefully balanced language of the Agency’s Statute on the relationship between the Board of Governors and the Secretariat and because the amendment implied micromanagement of safeguards implementation. Furthermore, as the Secretariat already reported to the Board on the information that it used to draw safeguards

conclusions, there was no need to add a superfluous paragraph to an ever-growing resolution. The Board of Governors was the arena for such discussions.

7. The representative of CUBA said that revised paragraph 25 bis was acceptable and did not run counter to Agency practices relating to the provision of information to the Board on the means by which the Secretariat reached conclusions on a State's application of safeguards. It was entirely logical to enshrine that practice in the resolution, which would serve to boost transparency and confidence. The IAEA General Conference was, furthermore, the appropriate forum as the matter concerned all States and not only Members of the Board of Governors.

8. The representative of the BOLIVARIAN REPUBLIC OF VENEZUELA said that his delegation supported the inclusion of the revised wording of paragraph 25 bis, which was a substantial improvement, as it reflected the Secretariat's standard practice, which had already been observed during meetings of the Board of Governors. Furthermore, the Committee of the Whole and the IAEA General Conference were the most appropriate bodies to discuss such matters and they must remain attentive to issues considered at meetings of the Board and the manner in which they were addressed.

9. The representative of the NETHERLANDS, endorsing the statements by the representatives of Austria, the United Kingdom and Australia, said that his delegation could not support the inclusion of paragraph 25 bis. There was no reason for inserting a paragraph on a standard practice. Moreover, the exchange of information between the Secretariat and the Board of Governors should be arranged between those two bodies. The Committee of the Whole was not the place for such discussions.

10. The representative of CANADA, while appreciative of the efforts of the Russian Federation's delegation to accommodate the concerns of some Member States, said that her delegation could not accept the proposed paragraph, as it constituted a change to the Agency's Statute and, if it were to be discussed at all, it should be submitted under Article XVIII of the Statute.

11. The representative of the RUSSIAN FEDERATION said that the support expressed by a number of States for the inclusion of proposed paragraph 25 bis highlighted the relevance of the issue of cooperation between the Secretariat and the Board of Governors and the role that the policy-making organs played in the enhancement of the safeguards system. The policy-making organs comprised both the Board and the General Conference and they were, according to the Statute, the forums for discussions on and determination of the Agency's safeguards practices, pursuant to States' safeguards agreements and all other obligations assumed by Member States on the basis of recommendations and decisions adopted by the policy-making organs and guidance given by Member States to the Secretariat.

12. The safeguards system could not be enhanced only within the Secretariat, as safeguards were implemented not by the Secretariat but by the Member States. The Russian Federation noted that delegations had not raised questions about whether the matter was consistent with the Statute or whether it should be discussed by the policy-making organs. The matter was worth discussing at meetings of the Board and his delegation was willing to expand its proposal to include a direct instruction to the Board of Governors to consider the issue at its meetings in November 2015. His delegation looked forward to such a discussion and hoped that it would be substantial and lead to a tangible result.

13. He did not understand the objection to the proposed paragraph, especially as the representative of the Department of Safeguards had said that the wording proposed by the Russian Federation reflected current practice. That practice had not been enshrined in any written document, thence the need to include paragraph 25 bis in the draft resolution. Documentation of current practices should not give any cause for concern. It was important that the General Conference and Member States

participate actively in discussing the Agency's operation and in giving direction to it through resolutions. The Agency did, after all, comprise both the Secretariat and the Member States.

14. His delegation wondered whether other States had expressed reservations about paragraph 25 bis simply because it had been proposed by the Russian Federation — which was quite unacceptable. If, however, States were concerned because the amendment had been proposed too late to be given due consideration, his delegation would be more understanding. Nevertheless, its proposal on documenting the Agency's standard practice was important, both to Member States and to the situation at hand, and should not be left simply hanging in the air.

15. The CHAIR, summing up, said that he had no other option than to submit the draft resolution contained in document (GC(59)/COM.5/L.1/Rev.1) to the plenary meeting for consideration. Although there was broad agreement on most of the draft resolution, consensus could not be achieved on one proposed paragraph on which some delegations had voiced concern. The Russian Federation might submit the paragraph to the plenary meeting, if it so wished.

16. The representative of the RUSSIAN FEDERATION said that his delegation would not object if the Chair used the word “consensus” in his report to the plenary meeting because document GC(59)/COM.5/L.1/Rev.1 had been based largely on consensus, though it would, in that case, be grateful if the Chair would add that the Russian Federation had made a number of proposals which had been considered and discussed and which, in its view, remained on the agenda of the IAEA General Conference. He stressed that his delegation did not wish to impede the adoption of the resolution and was grateful that Member States had noted the importance of the issue raised in its proposed amendment. Lack of consensus on that proposal should not undermine the existing practice mentioned by the representative of the Department of Safeguards and in the text.

17. The CHAIR took it that the Committee wished him to report to the plenary meeting that, while there had been broad agreement on most of the draft resolution contained in document GC(59)/COM.5/L.1/Rev.1, no consensus could be reached on paragraph 7 or on the text as a whole. Furthermore, the Russian Federation had proposed a paragraph that the sponsors were not in a position to accept.

18. It was so decided.

The meeting was suspended at 11.25 a.m. and resumed at 11.45 a.m.

15. Nuclear security (resumed) (GC(59)/COM.5/L.4/Rev.3)

19. The representative of the NETHERLANDS drew attention to the revised draft resolution on nuclear security, contained in document GC(59)/COM.5/L.4/Rev.3, which incorporated suggestions made during informal consultations, and hoped that it would lead to consensus within the Committee. The changes concerned paragraphs (c), (v), (z), 13, 27 and 30 of the current draft.

20. The representative of SWITZERLAND commended the flexibility shown in informal discussions on the draft resolution and expressed full satisfaction with the revised text.

21. The representative of the UNITED KINGDOM, praising the constructive approach taken to what was a sensitive and difficult subject, expressed satisfaction with the compromise reached. With regard to the reference in the text to the further progress urgently needed in nuclear disarmament, she supported that aim in all respects, including the rapid entry into force of the CTBT and further work on a fissile material cut-off treaty.
22. The representative of NEW ZEALAND emphasized the importance of including a well drafted reference to the broader context of nuclear security in the draft resolution, as in the case of paragraph (c), and requested that her country be added to the list of sponsors.
23. The representative of the RUSSIAN FEDERATION, referring to paragraph (c), said that he had voiced concern about attempts to involve the Agency in matters outside its mandate. A draft resolution on nuclear security should not mention disarmament, and he was categorically opposed to any ultimatum or conditions addressed to any party on the subject. In departing from the wording of the equivalent paragraph of the previous year's resolution — paragraph (o), which referred to United Nations General Assembly resolution 67/44 on “Measures to prevent terrorists from acquiring weapons of mass destruction” — the drafters of the text had upset the balance struck at the 58th session of the General Conference and had rendered paragraph (c) unacceptable, though he could agree to retain it if “and stressing that further progress is urgently needed in nuclear disarmament, consistent with relevant international nuclear disarmament and non-proliferation obligations and commitments” were deleted.
24. The representative of EGYPT said that discussion of paragraph (c) should not be reopened as it was part of a package of amendments agreed during informal consultations. A compromise had been reached, representing the best balance that could be achieved within the allotted time.
25. The representative of SPAIN, commending the flexibility shown in the informal consultations, expressed satisfaction with the current version of the draft resolution.
26. The representative of AUSTRIA urged the Committee to agree to the revised draft resolution contained in document GC(59)/COM.5/L.4/Rev.3, as it was important to maintain consensus on the issue within the General Conference. He shared both the widespread view that urgent progress in disarmament was essential to promoting nuclear security and the concern expressed regarding the humanitarian consequences of any use of nuclear weapons. Paragraph (c) as it currently stood appropriately reflected the underlying issues.
27. The representative of CHILE said that, even as a sponsor of the draft resolution, his country shared the comprehensive view of nuclear security expressed by others; he therefore supported the comments made by the representative of Austria. The current draft of paragraph (c) was an acceptable compromise that covered the main concerns raised in the original Swiss proposal, and he hoped that it would lead to consensus within the Committee.
28. The representative of the BOLIVARIAN REPUBLIC OF VENEZUELA said that the current draft resolution was acceptable to his delegation. While not completely satisfactory, it was a step in the right direction with regard to the concerns raised in the Swiss proposal.
29. The representative of THAILAND supported the revised draft resolution, which had been improved and which included important elements to guide the Agency in its nuclear security work, while setting the issue within the broader context of the international community's efforts to strengthen peace and security worldwide. While she would have preferred the humanitarian consequences of using nuclear weapons to be mentioned, she nevertheless encouraged the Committee to approve the draft resolution by consensus.

30. The representative of INDONESIA, noting that the new version of paragraph (c) had been carefully drafted to take account of all views, endorsed the comments by the representative of Thailand and expressed support for the draft resolution as contained in document GC(59)/COM.5/L.4/Rev.3.

31. The representative of PAKISTAN wholeheartedly supported the draft resolution: as currently drafted, it represented a careful but solid compromise that would help the Agency in its work and contribute to the strengthening of nuclear security.

32. The representative of SOUTH AFRICA welcomed the new version of the draft resolution, in particular paragraph (c) thereof.

33. The representative of INDIA said that, while he would have preferred a more undiluted focus on nuclear security, he would accept the current version of the draft resolution in the interests of maintaining consensus.

34. The representative of the RUSSIAN FEDERATION, observing that his country's support for nuclear disarmament had been stated repeatedly in various forums, reiterated his position that references to disarmament had no place in a resolution on nuclear security, as the two things were not interdependent. His views on the wording of paragraph (c) remained unchanged, but he was willing to work towards consensus on that basis.

35. The representative of MEXICO supported the draft text, which was the result of constructive efforts. Disarmament and nuclear security were clearly linked, and it was therefore relevant to mention disarmament in paragraph (c). He hoped that the draft resolution could be approved by consensus.

36. The representative of BRAZIL supported the draft resolution as contained in document GC(59)/COM.5/L.4/Rev.3.

37. The CHAIR, summing up, said that there seemed to be consensus on the draft resolution with the exception of paragraph (c), to which the Russian Federation had strong objections. He appealed to that delegation to join the consensus on paragraph (c) so that the draft resolution might be recommended to the General Conference for adoption.

38. The representative of the RUSSIAN FEDERATION reiterated that paragraph (c), as drafted, was not acceptable to his delegation. There was therefore no consensus on the draft resolution, and the Chair might not recommend that it be adopted by the General Conference. He requested confirmation from the Secretariat that this understanding was correct.

39. The representative of BRAZIL suggested that a similar approach be taken to that used for the General Conference's resolution on safeguards, which had not been the subject of consensus in the Committee of the Whole for some years: the Chair could report that there had been broad agreement but no consensus, and the sponsors of the draft resolution might submit it directly to the plenary meeting if they so desired.

40. The SECRETARY OF THE COMMITTEE OF THE WHOLE confirmed that the Chair could not report to the General Conference the recommendation of a draft resolution on which there had been no consensus.

41. The CHAIR said he took it that the Committee wished him to report to the plenary meeting that, although there had been broad agreement on most of the draft resolution contained in document GC(59)/COM.5/L.4/Rev.3, there was one paragraph on which one delegation had expressed serious concerns and which had prevented consensus from being reached.

42. It was so decided.

43. The representative of ARMENIA said that his delegation had reservations concerning one paragraph of the draft resolution contained in document GC(59)/COM.5/L.4/Rev.3. Further information would be given in the plenary meeting as and when appropriate.

44. The CHAIR regretted that it had proven impossible to achieve consensus on the draft resolution, despite broad agreement within the Committee.

The meeting rose at 12.40 p.m.