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## Committee of the Whole

### Record of the Third Meeting

*Held at Headquarters, Vienna, on Tuesday, 27 September 2016, at 3.10 p.m.*

**Chair:** Mr CSERVENY (Hungary)

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<sup>1</sup> GC(60)/COM.5/1.

**Abbreviations used in this record:**

CNS	Convention on Nuclear Safety
COP21	Twenty-first session of the Conference of the Parties to the Framework Convention on Climate Change
FAO	Food and Agriculture Organization of the United Nations
INFCIRC	Information circular
INLEX	International Expert Group on Nuclear Liability
INPRO	International Project on Innovative Nuclear Reactors and Fuel Cycles
INSAG	International Nuclear Safety Group
NEA	Nuclear Energy Agency
NORM	naturally occurring radioactive materials
WHO	World Health Organization

## **16. Strengthening the Agency's activities related to nuclear science, technology and applications (continued)**

(GC(60)/COM.5/ L.9

1. The representative of FRANCE, introducing the draft resolution set out in document GC(60)/COM.5/L.9, said that it had been drafted and sponsored by many Member States, and contained a section on nuclear power applications and another on nuclear knowledge management. In comparison with the preceding year's resolution, the paragraph order had been changed to reflect the Agency's priority programmes and thus facilitate implementation, while other changes primarily concerned issues arising from the Paris Agreement adopted at COP21, the Agency's decommissioning activities and technical amendments designed to ensure that requests for action by the Agency were formulated precisely and in detail.

2. The CHAIR proposed that "avoid" be inserted before "undue influence" in paragraph 17.

3. He took it that the Committee wished to recommend that the Conference adopt the draft decision set out in document GC(60)/COM.5/L.9 as amended.

4. It was so decided.

5. The representative of the RUSSIAN FEDERATION congratulated the drafting team on producing a text that had been conducive to consensus.

## **13. Measures to strengthen international cooperation in nuclear, radiation, transport and waste safety (resumed)**

(GC(60)/COM.5/L.1)

6. The CHAIR reported that the informal working group had not reached consensus on the proposal to insert "maintain and" after "effective tools for Member States to" in paragraph (aa) of the preamble. He enquired whether Members had any objections to retaining the text as originally worded.

7. The representative of the RUSSIAN FEDERATION called on those who objected to the insertion of "maintain and" to give reasons for their objections.

8. The representative of AUSTRALIA, as coordinator of the informal working group, pointed out that "further improve" implied that Member States were being encouraged to achieve higher levels of nuclear safety, while "maintain" could be taken to mean that the current level was sufficient.

9. The representative of the RUSSIAN FEDERATION, noting that the proposed insertion reflected the reality that the Agency's peer review services helped Member States both to maintain a sufficient level of nuclear safety and to improve it, considered that the representative of Australia had not clearly explained any substantive grounds for objection.

10. The representative of AUSTRIA considered that Member States requested peer review missions because they intended to take action to improve nuclear safety. He did not object strongly to the insertion of “maintain and”, but was in favour of leaving the text unchanged.
11. The representative of FRANCE wondered whether peer review services were designed to maintain or to improve nuclear safety.
12. The representative of the RUSSIAN FEDERATION said that there were compelling reasons for inserting “maintain”, which signified that the bar must not be lowered, and stressed that the word “and” linked the concepts of maintenance and improvement as two elements of a single process, in line with statements elsewhere in resolutions of the General Conference to the effect that nuclear safety improvement was a continuous process.
13. The representative of SWITZERLAND, noting that international peer review missions were not requested solely for the purposes of maintaining a specific level of nuclear safety in States, called for the wording agreed in informal discussions during the preceding eight weeks to be adopted.
14. The representative of the UNITED KINGDOM, agreeing with the representatives of Austria and Switzerland, said that paragraph (aa) was a statement of Member States’ intent to be committed to nuclear safety and to its improvement, which the word “maintain” did not sufficiently reflect. He recognized the continuous process highlighted by the Russian Federation, but considered that such a process involved improvement rather than standing still and that the proposed insertion of “maintain and” was therefore inappropriate.
15. The representative of LUXEMBOURG said that only the words “to further improve” were appropriate in the context because the purpose of peer review services was to improve nuclear safety, rather than simply maintain it at an existing level.
16. The representative of the UNITED STATES OF AMERICA, agreeing with the representatives of Austria, Luxembourg and the United Kingdom, said that the concept of “maintain” was in conflict with that of “further improve” and that the tools in question were intended to support improvement, as reflected in paragraph (aa).
17. The representative of SINGAPORE called for the agreed wording to be used because the aspirational nature of the paragraph was not sufficiently embodied in the word “maintain”.
18. The representative of SWEDEN said that the concept of improvement was central to review services.
19. The representative of INDIA stressed that both “maintain” and “further improve” accurately reflected the purpose of peer review services and that the insertion of “maintain and” strengthened the draft resolution.
20. The representative of the UNITED STATES OF AMERICA, supported by the representative of INDIA, suggested that insertion of “to maintain effective practices” would capture the idea of preserving levels that had been achieved.
21. The representative of the UNITED KINGDOM said that it was important not to lose the sense of ambition underlying attempts to develop a safety culture consistent with the highest possible standards. He stressed that self-assessment and peer review services should be used to raise standards, a notion that would be lost by inserting “maintain”.
22. The representative of SOUTH AFRICA proposed that “effective tools for Member States” be altered to “effective tools for continued efforts by Member States”.

23. The representative of CUBA was in favour of inserting “maintain and” because States were obliged both to maintain and to improve nuclear safety.

24. The representative of CANADA proposed that “to further improve” be amended by “to evaluate and further improve”, which would reflect the fact that peer reviews took a country’s existing situation into consideration and would maintain the aspirational elements in the text.

25. The representative of the RUSSIAN FEDERATION stressed that a reply by the Secretariat to the question raised by the representative of France would be of the essence to a final decision on the paragraph. The objection to the insertion of “maintain” in the draft resolution was incomprehensible inasmuch as it featured in the CNS itself. Endorsing the amendments proposed by the representatives of the United States of America, South Africa and Canada, he proposed that they all be inserted into the paragraph in furtherance of maintaining nuclear security at the required level and of assessing and improving it, in accordance with the *raison d’être* of peer review services.

26. The DIRECTOR OF THE OFFICE OF SAFETY AND SECURITY COORDINATION said that peer reviews are conducted in order to assess various aspects of nuclear safety so that the requisite improvements could be made.

27. The representative of INDIA said that, while supporting the amendment proposed by the representative of the Russian Federation, he was equally willing to support the amendment proposed by the representative of South Africa. Turning to the amendment proposed by the representative of Canada, he said that evaluation was already implicit in the peer review process and did not merit explicit mention.

28. The representatives of QATAR and BELARUS supported the proposal by the representative of the Russian Federation that the amendments proposed by the representatives of South Africa, Canada and the United States of America be inserted in the paragraph.

29. The CHAIR proposed that informal consultations on the paragraph be pursued.

30. It was so agreed.

31. The representative of SOUTH AFRICA proposed that “Noting the strengthening of regional cooperation, including supporting efforts by the Forum of Nuclear Regulatory Bodies in Africa” be inserted as a new paragraph after preambular paragraph (bb).

32. The CHAIR said that the Committee required time to consider that proposed amendment. Recalling the amendment proposed by the representative of the Russian Federation to insert “concluded under its auspices” after “relevant conventions” in paragraph 21, to which the Committee had agreed at its first meeting, he said that Member States had objected to that amendment during subsequent informal consultations on the ground that the word “relevant” sufficed to qualify conventions that the Secretariat should promote.

33. The representative of the RUSSIAN FEDERATION said that the word “relevant” did not sufficiently reflect the substance of the action that the Member States wished the Secretariat to take and he would readily delete it if the Committee considered that “relevant” would be excessive if used in conjunction with his proposed amendment. Noting that “conventions concluded under its auspices”, used twice in preambular paragraph (II), was universal wording that could be added to any part of the text, he considered that there was no reason for excluding it from paragraph 21.

34. The representative of CANADA called for the original wording of the paragraph to be retained, fearing that inclusion of wording from preambular paragraph (II) might weaken its ability to enhance

the Agency's role in promoting accession to international nuclear safety conventions concluded under its auspices and in coordination with the NEA.

35. The representative of the UNITED KINGDOM, agreeing with the representative of Canada, considered that the amendment proposed by the representative of the Russian Federation would conflict with current practice, as the Agency already promoted conventions that had not necessarily been concluded under its auspices.

36. The representative of the RUSSIAN FEDERATION, noting that paragraph 31, too, referred to instruments concluded under the auspices of the Agency and NEA, stressed the need to draft text that referred only to conventions concluded under the Agency's auspices. He wondered whether the Agency promoted conventions that had not been concluded under its auspices.

37. The DIRECTOR OF THE OFFICE OF SAFETY AND SECURITY COORDINATION said that, under its legislative assistance programme, the Agency promoted only conventions that had been concluded under its auspices.

38. The representative of the RUSSIAN FEDERATION, referring to the wording of subparagraph (b) of paragraph (II), requested the Secretariat to clarify the connection between the Agency and the Brussels Supplementary Convention.

39. The DIRECTOR OF THE OFFICE OF SAFETY AND SECURITY COORDINATION said that although the Agency's outreach activities under its legislative assistance programme involved the civil liability regimes of both the Paris Convention, concluded under the auspices of the NEA, and the Vienna Convention, concluded under the Agency's auspices, the Agency only promoted conventions that had been concluded under the Agency's auspices, namely the Vienna Convention and the Convention on Supplementary Compensation for Nuclear Damage.

40. The representative of the RUSSIAN FEDERATION said that, while the Agency did not promote the Paris Convention itself, it did promote the liability regime of that Convention, which bridged the two liability regimes. The scope of paragraph 21 covered both conventions and civil liability, whereas paragraph 31 referred to conventions relating exclusively to liability. There was therefore no need for paragraph 21, as it merely reaffirmed the points made in paragraph 31. Pointing to the highlighting effect of "concluded under its auspices", which would not detract from the text, he said that he could not understand the objections to his proposal.

41. The CHAIR said that, further to informal consultations, it was proposed that paragraph 29 be amended to read: "... and encourages the INSAG Chairperson to continue to communicate with Member States on a regular basis about major outcomes and recommendations of INSAG to the Director General"; that paragraph 33 be amended to read: "Requests that INLEX, via the Secretariat, and in light of the practice established by INSAG, inform Member States on a regular basis about the work of INLEX and its recommendations to the Director General"; and that paragraph 34 be amended to read: "Requests that INLEX, via the Secretariat, share the existing recommendations made by INLEX regarding insurance or other financial security for at least Categories 1 and 2 sources ...".

42. He took it that the Committee agreed to the proposed amendments to paragraphs 29, 33 and 34.

43. It was so agreed.

44. The CHAIR invited the Committee to resume its discussion of paragraph 43, to which amendments had been proposed at the first meeting.

45. The representative of the UNITED KINGDOM said that, although Member States were not obliged to implement the recommendations of peer review services, the paragraph embodied the

Agency's aspirations and highlighted the importance of such services. In the interests of consensus, he could agree to replace "to implement" by "to consider implementing", as had been suggested.

46. The representative of SOUTH AFRICA, too, supported that suggestion, stressing that, although peer reviews were conducted in order to encourage Member States to take action, Member States remained free to decide whether they wished to take action as recommended.

47. The representative of the UNITED STATES OF AMERICA, supported by the representatives of FRANCE, GERMANY, the NETHERLANDS, SWEDEN, SWITZERLAND and the UNITED KINGDOM, agreed that Member States' implementation of recommended action was voluntary and proposed that the phrase be amended to "and favourably consider implementing".

48. The representative of JAPAN stressed that Member States were encouraged, but not obliged, to implement the activities recommended by peer review services. Peer reviews were useful mechanisms for strengthening nuclear safety, and he supported the amendment suggested by the representative of the United States of America.

49. The representative of BELARUS said that she could agree to change the words "to implement" to "to consider implementing" but that she was not in favour of amending the text to include the word "favourably".

50. The representative of INDIA, supported by the representative of BELARUS, suggested instead that "as needed" be added after "to implement recommended actions".

51. The representative of the RUSSIAN FEDERATION said that "on a voluntary basis", which featured earlier in the paragraph, applied to all of the activities mentioned subsequently. As primary responsibility for nuclear safety lay with States, he supported the wording proposed by the representative of India as a good compromise for consensus among Member States.

52. The representative of NORWAY expressed concern that the amendment to the paragraph to include "as needed" would imply that some of the activities recommended by the Agency's actions were not needed.

53. The representative of INDIA said that his suggestion had been intended to stress that primary responsibility for nuclear safety lay with States and to emphasize States' ownership of activities implemented on the basis of peer reviews.

54. The representative of GERMANY, supported by the representatives of SWEDEN and the UNITED KINGDOM, said that he had hoped that the paragraph could be approved as originally tabled. In the interests of consensus, however, he suggested deleting "as appropriate", while leaving the text otherwise unaltered.

55. The representative of the RUSSIAN FEDERATION, recalling that there had been strong opposition on the previous day to the deletion of "as appropriate", said that, even if those words were deleted, "as needed" should be inserted.

56. The representative of INDIA said that hosting peer reviews and implementing recommended actions were separate issues. The words "as appropriate" referred to the fact that Member States were entitled to decide which peer reviews were most appropriate. The expression "as needed" emphasized the prerogative of States to decide whether to take action as recommended as a result of such reviews.

57. The representative of BRAZIL said that he could not agree to delete "as appropriate" and urged the Committee to approve the paragraph as originally tabled.

58. The representative of SOUTH AFRICA said that, as paragraph 43 should not imply that Member States were obliged to host peer review services, the words “as appropriate” should be retained.

59. The representative of CUBA was in favour of the wording proposed by the representative of India and considered that “on a voluntary basis” referred to States’ hosting Agency peer review missions, while “as needed” should be included in the text in order to make it clear that States enjoyed the sovereign right to decide which recommended action they wished to take.

60. The representative of AUSTRALIA said that deletion of “as appropriate” would not fundamentally alter the inherent ambiguity of the paragraph, inasmuch as “on a voluntary basis” could be interpreted as applying either to the hosting of peer review services alone or to the implementation of recommended activities. Acknowledgement of that ambiguity would be conducive to reaching a consensus.

61. The representative of the UNITED KINGDOM, supported by the representative of SWITZERLAND, said that both paragraphs 43 and (aa) were statements of intent and ambition. He would be prepared to support the proposal by the representative of the Russian Federation to place “as appropriate” after “recommended actions” on condition that the words “maintain and” were not inserted in paragraph (aa) and that the Committee did not amend that paragraph.

62. The CHAIR proposed that paragraph 43 be worded as follows: “Encourages Member States, on a voluntary basis, to regularly host Agency peer review services, including follow-up missions, as they deem appropriate, to give due consideration to the implementation of recommended actions and to make publicly available and in a timely manner the results of such self-assessments and peer review services”.

63. The representative of the RUSSIAN FEDERATION said that the Chair’s suggestion should be considered; he was of the view, however, that any attempt to link paragraph 43 to paragraph (aa) would not be conducive to consensus on the draft resolution.

64. The CHAIR suggested that the Committee return to the matter later. He read out the new version of paragraph 44 that had been produced following discussions at the Committee’s first meeting and subsequent informal consultations: “Requests that the Secretariat provides for and promotes the active interaction of the Peer Review and Advisory Services Committee with Member States and, in consultation and coordination with Member States, assesses the overall structure, effectiveness and efficiency of services within the purview of the Committee; and continues to report to the Board of Governors on the outcomes of this coordinated activity, as appropriate”.

65. The representative of the RUSSIAN FEDERATION proposed that the words “the outcomes of this coordinated activity” in the last sentence of the paragraph be replaced by “the outcomes of this common effort”.

66. It was so agreed.

67. The representative of BELARUS, supported by the representatives of the RUSSIAN FEDERATION and CANADA, proposed that “as appropriate”, at the end of the paragraph, be deleted.

68. It was so agreed.

69. The CHAIR read out the new version of preambular paragraph (aa), produced by the representative of Australia and reflecting the Committee’s comments: “(aa) Recognizing the importance of self-assessment and the Agency’s peer review services as effective tools for



continued efforts by Member States to evaluate, maintain effective practices and further improve their respective nuclear safety.”

70. The representatives of the RUSSIAN FEDERATION, the UNITED STATES OF AMERICA, SOUTH AFRICA, FRANCE, INDIA, CUBA, NAMIBIA and JAPAN were in favour of the amended version.

71. The representative of the UNITED KINGDOM said that the new version did not reflect his country’s position but he would agree to it in order to achieve consensus.

72. The CHAIR took it that the Committee agreed to paragraph (aa).

73. It was so agreed.

74. The representative of the RUSSIAN FEDERATION proposed that “their relevant construction and commissioning experiences” in paragraph 52 be replaced by “their safety-relevant construction and commissioning experiences”.

75. It was so agreed.

76. The CHAIR read out the correct version of paragraph 61: “Encourages Member States to develop as necessary and to implement severe accident management guidelines in line with operational experience feedback as well as the lessons learned from the Fukushima Daiichi Nuclear Power Station accident, and requests the Secretariat to support their efforts through training workshops and the development of safety standards and related documents.”

77. He took it that the Committee wished to approve that version.

78. It was so agreed.

79. The representative of the RUSSIAN FEDERATION, referring to paragraph 75 of the draft resolution, said that the Agency had recently produced a technical document on that very subject in collaboration with WHO and FAO.

80. The representative of NORWAY said that he was uncertain whether producing the technical document fully met the request to develop a harmonized framework.

81. The CHAIR said that, according to the Secretariat, the current version of the paragraph was still acceptable. However, a different version might be produced for the forthcoming session of the General Conference.

82. The representative of the UNITED STATES OF AMERICA said that he had proposed amendments to paragraph 93 to avoid any suggestion of equivalence between safety standards and INPRO products and to take account of the existence of mechanisms for ensuring safety standards. The paragraph would read: “Encourages the Agency, as it reviews its guidance documents on the safe management of radioactive waste with a view to ensuring proper planning for waste arising during the lifetime of nuclear facilities and the nuclear fuel cycle, to continue to take into account, where applicable, of available tools of the Agency such as the criteria and indicators developed by INPRO.”

83. The representative of the RUSSIAN FEDERATION was in favour of those amendments.

84. The CHAIR took it that the Committee agreed to the proposed amendment.

85. It was so agreed.

86. The representative of the RUSSIAN FEDERATION proposed that “safety-relevant” be inserted before “experiences and practices” in paragraph 100, pointing out that, as the paragraph dealt with

NORM, that adjective would be better placed immediately before or after paragraph 69, which referred to NORM.

87. The CHAIR took it that the Committee agreed to those suggestions.

88. It was so agreed.

89. The representative of the UNITED STATES OF AMERICA proposed that “calls for the report to be made available in all official languages” in paragraph 122 be replaced by “calls for the report’s draft supplementary guidance to be made available in all official languages”.

90. The representative of the RUSSIAN FEDERATION said that the proposed amendment implied that the report itself would not be made available in all official languages and pointed out that no consensus had been reached on the draft supplementary guidance at the June 2016 Open-ended Meeting. He supported its distribution as an INFCIRC, but not as an officially approved document.

91. The CHAIR said that the Secretariat had intimated that the INFCIRC format would be inappropriate and that it would decide on an appropriate format in due course.

92. The representative of the UNITED STATES OF AMERICA proposed “calls for the report and its draft supplementary guidance to be made available in all official languages” as an alternative amendment.

93. The CHAIR questioned whether it was necessary to issue the draft supplementary guidance distributed in all official languages.

94. The representative of the UNITED STATES OF AMERICA proposed that the comma after the word “Sources” in paragraph 122 be deleted and be replaced by “containing draft supplementary guidance on the management of disused radioactive sources”, the remainder of the paragraph remaining unchanged.

95. The CHAIR took it that the Committee agreed to those changes.

96. It was so agreed.

**The meeting rose at 6.10 p.m.**