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Committee of the Whole

Record of the Second Meeting

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Chair: Mr BILODEAU (Canada)

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¹ In view of the COVID-19 pandemic, the Conference decided that delegations so wishing could attend in a virtual manner using the Interprefy IT platform or make their statements by means of a pre-recorded video.

² GC(65)/25

Abbreviations used in this record

COVID-19	coronavirus disease 2019
G-77	Group of Seventy-Seven
PMO	Policy-Making Organs
UN	United Nations

23. Promotion of efficiency and effectiveness of the IAEA decision making process (GC(65)/1/Add.3)

1. The representative of the ISLAMIC REPUBLIC OF IRAN said that promoting the effectiveness and efficiency of the Agency's decision making process in a fair and balanced manner was of considerable importance for Member States.
2. Under Article IV of its Statute, the Agency was based on the principle of the sovereign equality of its Members, necessitating the direct engagement and participation of all Member States in taking decisions on issues fundamental to the work of the Agency, in particular those that affected the sovereign rights of Member States. Some Members, however, still appeared to be more equal than others. Regrettably, and unlike in all other international organizations, the General Conference, while consisting of representatives of all the Agency's Members, did not seem to be the Agency's highest policy-making body.
3. The General Conference represented all Member States, while membership of the Board of Governors was limited. The balance of powers and functions between the two bodies was therefore inappropriate: most of the issues that the General Conference was able to discuss and on which it could make recommendations were subject to prior agreement or recommendation by the Board. The efficiency of the General Conference could be improved by reconsidering the balance between the two bodies.
4. There was also a need to increase the size and reconsider the composition of the Board's membership. The 1999 adoption of an amendment to Article VI of the Statute, as set out in resolution GC(43)/RES/19, had been a positive step, but, owing to various political and regional issues, the amendment appeared unlikely to enter into force. Member States needed to innovate, collaborating closely to find a more workable solution, and should consider setting up a mechanism to include those that had been unfairly deprived of Board membership for years or even decades, in contravention of Article IV of the Statute. In addition, the composition of certain regional groups referred to in the Statute had for some considerable time restricted their members' opportunities for Board membership.
5. The Agency and the regional groups needed to establish a fair, logical and efficient arrangement to ensure that no Member States were unjustly deprived of the equal opportunities they should enjoy. As Iran had previously proposed, an open-ended consultative group of Member States should be set up to discuss proposals and make appropriate recommendations for consideration by the General Conference.
6. The General Conference should consider adopting electronic voting, which was widely used in other forums, including the UN General Assembly, by amending Rule 72 of its Rules of Procedure. Doing so would reduce costs and mean less time spent on procedural matters, freeing up time for substantive issues. The example of the UN General Assembly should be followed.
7. The representative of the UNITED KINGDOM said that his country attached great importance to ensuring the effectiveness and efficiency of the Agency but firmly believed that the Board of Governors functioned effectively as the Agency's highest policy-making body. Establishing an open-ended consultative group to consider the matter would undermine the Board's work and the Agency's effectiveness and efficiency, and he therefore could not agree to that proposal. At the same time, consideration could be given to increasing the number of Board members to reflect the Agency's

growing membership. Recalling that his Government had ratified the amendment to Article VI of the Statute, he encouraged other Member States to follow suit.

8. The representative of CUBA said that the Agency played a role in the strengthening and democratization of the UN system, which remained a priority matter. A structural and operational review of the Agency's bodies should promote an appropriate balance among its various statutory activities.

9. The CHAIR said that he would report to the General Conference that, under item 23 of the agenda, the importance of maintaining and promoting the efficiency and effectiveness of the Agency's decision making processes and strengthening the Agency and its governing bodies had been highlighted.

10. Expansion of the Board's membership, enhancing the role and authority of both the General Conference and the Board of Governors, and the importance of maintaining an appropriate balance between the two bodies had been underlined. The importance of sovereign equality and of the direct engagement and participation of all Member States in the decision making process on issues related to the Agency's work had been emphasized. The relevance and importance of the process currently under way for the timely ratification of the amendment to Article VI of the Statute had been referred to, and some views and suggestions had been expressed in that context. The issue of the use of electronic voting by the General Conference, following the example of the UN General Assembly, had also been raised.

11. He said he took it that his summing-up was acceptable to the Committee.

12. It was so agreed.

24. Restoration of the sovereign equality of all IAEA members (GC(65)/1/Add.2)

13. The representative of KAZAKHSTAN, speaking also on behalf of Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, along with Palau, said that sovereign equality did not exist in the Agency among its Member States. Despite paying all their dues, making voluntary contributions and signing and ratifying the Statute, more than 20 Member States continued to be unfairly deprived of their sovereign right to be elected to the Board of Governors because they were not part of an informal regional group. Kazakhstan had been trying unsuccessfully to join such a group for 30 years.

14. The African Group automatically and unconditionally accepted any State in the corresponding geographical region, which was normal practice within international organizations but regrettably not followed by other regional groups in the Agency, in violation of its Statute. Although the Statute established the principle of sovereign equality among all Member States, it did not define the composition of the eight regional areas represented on the Board. Consequently, the affiliation of some countries — especially newly accepted ones — was not clearly determined, which increased inequality among Member States.

15. The 1999 amendment to Article VI of the Agency's Statute addressed only the issue of increasing the number of seats on the Board, not the fate of 'homeless' Member States. Moreover, it was still far from entering into force. Pursuant to a key element of the amendment, he urged Member States to draw up a list allocating each Member State to a regional area, for confirmation by the General Conference.

16. It was the legitimate, sovereign right of every Member State to join a group on the basis of its geographical location as a matter of equality, not of politics. The injustice also observed within groups needed to be addressed by the Member States themselves.

17. The assistance of all Member States was sought to resolve the outrageous — and now critical — situation urgently and bring the Agency's current practices into conformity with its Statute. The Secretariat was requested to propose solutions to tackle the issue, restoring the sovereign equality of all Member States and preserving the Agency's credibility and accountability. A draft resolution on the matter would be prepared soon.

18. The representative of KYRGYZSTAN said that the issue of 'homeless' Member States had been on the Conference's agenda for some time but with no progress towards a resolution. Her country still did not belong to a regional group, which resulted in difficulties and inequality within the Agency. Kyrgyzstan called on all Member States to uphold the fundamental principles of the Agency, in particular access to the peaceful uses of nuclear science and technology for every State, to demonstrate transparency and openness, and to respect the sovereign equality of all Member States.

19. It was important to understand that the regional groups pursued different goals and that the geographical distribution of States might not coincide with their political distribution, which could give rise to challenges. Kyrgyzstan therefore called for an inclusive, non-politicized discussion of the issue, taking into account best practice in other organizations of the UN system.

20. As a member of the Agency, Kyrgyzstan wanted to participate fully in the Agency's work through the regional groupings.

21. The representative of ALGERIA, speaking on behalf of the African Group, expressed the firm belief that all Member States should enjoy equal rights, including the right to belong to a regional group. It was, therefore, of deep concern that, many years after the adoption of General Conference resolution GC(39)/RES/21 on the subject, a significant number of States continued to be excluded from a regional group and were consequently prevented from serving on any of the Agency's PMOs, including the Board of Governors.

22. According to its Statute, the Agency was based on the principle of the sovereign equality of all its Members; each Member State should therefore have an equal opportunity to participate fully in all Agency processes. In that context, it was deeply troubling that numerous 'homeless' States were excluded from full participation.

23. The Group expressed its full support for the comments made by the representative of Kazakhstan. The Agency's current practice should be brought into line with its Statute, thereby restoring the sovereign equality of all Member States.

24. The representative of the RUSSIAN FEDERATION, expressing support for the principle of the sovereign equality of States as enshrined in the UN Charter and the Agency's Statute, said that the issue must be resolved as soon as possible. The simplest solution lay in the hands of those States that already belonged to one of the groups listed in Article VI of the Statute. Such States should display political maturity and refrain from using their membership to block other States' accession to those groups for reasons that had nothing to do with the Agency's activities.

25. The representative of SLOVENIA, noting the concerns expressed by the representative of Kazakhstan, said that all Member States should be able to participate in the Agency's decision making bodies. His country, while ready to explore different solutions in relation to Article VI of the Statute, noted the benefit of modifying the Board's composition, in line with the 1999 amendment to that Article. The amendment's entry into force would represent an important step towards greater equality and inclusiveness, and all States that had not yet done so should ratify it.

26. The representative of CHINA, highlighting Kazakhstan's contribution to the non-proliferation of nuclear weapons and the peaceful uses of nuclear energy and its good cooperation with the Agency, said

that the country's exclusion from membership of the Agency's decision making bodies was unreasonable. China fully supported Kazakhstan's request.

27. The representative of AZERBAIJAN said that, by virtue of the principle of sovereign equality, every Member State had the right to be elected to the Board of Governors and to belong to one of the regional groups listed in Article VI of the Agency's Statute. The effective functioning of the Agency required Member States' full and equitable participation in its decision making processes; ensuring that all Member States enjoyed the rights and benefits of membership would strengthen their commitment to fulfilling their statutory obligations in good faith.

28. As a reliable partner of the Agency, Kazakhstan had made significant contributions to activities in the areas of nuclear non-proliferation and the peaceful uses of nuclear energy. Although it had actively cooperated with the Agency and fulfilled all its obligations, Kazakhstan was still unable to take full advantage of its rights or be elected to the PMOs. That situation must be rectified.

29. The representative of PAKISTAN expressed the firm belief that the early entry into force of the amendment to Article VI of the Statute would go a long way to addressing the issue. In view of the increased number of Member States, Board membership expansion was long overdue. Pakistan had ratified the amendment and called on others to do so promptly.

30. The representative of SOUTH AFRICA said that Agency reform and the entry into force of the amendment to Article VI of the Statute should be a priority for all Member States. Expanding the Board of Governors and reforming its composition, so as to make it more representative, were essential and long overdue. Those that had not yet ratified the amendment should do so as a matter of urgency.

31. The issue of ensuring that all Member States belonged to a regional group and could serve on important Agency bodies, including the Board, and take up leadership positions had remained unresolved since the 1990s. South Africa therefore supported the call made by the Central Asian States, Palau and other 'homeless' States for the current composition of regional groups to be reconsidered urgently. It was unacceptable that a substantial number of Member States were excluded from the most important aspects of the Agency's work owing to an arbitrary designation of regions, thereby undermining the Agency's efforts.

32. In line with the principle of sovereign equality, all States had the inherent right to stand for election to important leadership positions in all international organizations; Member States should no longer accept that the Agency was an exception. South Africa stood ready to support any efforts to resolve the matter.

33. The representative of TURKEY, recalling her delegation's strong support for the item's inclusion on the agenda of the General Conference, said that the entry into force of the amendment to Article VI of the Statute, which her country had accepted in 2006, would have positive implications for the situation.

34. The representative of CANADA said that her country had ratified the amendment to Article VI and encouraged others to do likewise, so as to enable Member States currently unable to take full advantage of the benefits of Agency membership to do so.

35. The representative of HUNGARY said that his country recognized the importance of the issue of 'homeless' States, which had long been the subject of discussions. The full and equitable participation of Member States in the work of the Agency, including through the regional groups listed in its Statute, was of the utmost importance. A common understanding should be sought to pave the way to a resolution, which was long overdue.

36. The CHAIR, summing up, said that some members had emphasized the issue of the sovereign equality of all Member States and, in particular, the sovereign right to be elected to serve on the Board of Governors, which they had been unable to exercise as they were not part of one of the informal regional groups. They had emphasized that the Statute did not define the composition of the eight regional areas mentioned therein, nor did it define membership affiliation for new Member States of the Agency. They had stated that a key element of the amendment to Article VI of the Statute, which was still far from entering into force, was the adoption of a list of all Member States of the Agency, whereby each Member State was allocated to one of the areas. They had affirmed the sovereign right of every Member State to join one of the eight areas on the basis of its geographical location.

37. Some members had called on existing group members to frame solutions to the issue, and some members had requested the Secretariat's assistance in that regard, stating their intention to introduce a draft resolution on the matter in the near future.

38. He asked whether his summing-up, which would constitute his report to the General Conference on the item, was acceptable.

39. The representative of SWEDEN suggested that the summing-up make reference to the call by several Member States to ratify the amendment to Article VI.

40. The CHAIR took it that the Committee agreed to the suggested addition.

41. It was so decided.

42. The CHAIR took it that his summing-up, as amended, was acceptable.

43. It was so decided.

25. Amendment to Article VI of the Statute (GC(65)/9 and 12; GC(65)/COM.5/L.15)

44. The CHAIR, having drawn attention to document GC(65)/12, said that document GC(65)/COM.5/L.15 contained the text of decision GC(63)/DEC/13, 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 sixty-fifth regular session.

45. Noting that no Committee members wished to take the floor, he took it that the Committee agreed to recommend to the General Conference that it adopt the draft decision contained in document GC(65)/COM.5/L.15.

46. It was so decided.

26. Personnel

(a) Staffing of the Agency's Secretariat (GC(65)/18; GC(65)/COM.5/L.10)

47. The representative of the PHILIPPINES, introducing the draft resolution contained in document GC(65)/COM.5/L.10, said that the text was based on part A of resolution GC(63)/RES/14, with technical and factual updates to reflect the Secretariat's implementation efforts, inter alia. Informal consultations had shown that the draft enjoyed broad support, and she hoped that the Committee would be able to reach consensus on the text. She encouraged other Member States that attached importance to the principle of equitable geographical representation in the staffing of the Agency's Secretariat to consider sponsoring the draft resolution.

48. The representative of the RUSSIAN FEDERATION welcomed the reports submitted, which provided food for thought and made it possible to follow trends in the Secretariat's work on personnel management. He recalled that, pursuant to Article VII.D of the Statute, the paramount consideration in the recruitment of Agency staff should be the highest standards of efficiency, technical competence and integrity. The principle of equitable geographical representation was also important, as recognized across the UN system; other factors could be taken into account only if those two key considerations were met.

49. The CHAIR said he took it that the Committee agreed to recommend to the General Conference that it adopt the draft resolution contained in document GC(65)/COM.5/L.10.

50. It was so decided.

(b) Women in the Secretariat (GC(65)/19; GC(65)/COM.5/L.11)

51. The representative of the PHILIPPINES, introducing the draft resolution contained in document GC(65)/COM.5/L.11 on behalf of the G-77 and China, said that the text was based on part B of resolution GC(63)/RES/14, with technical and factual updates reflecting the Secretariat's implementation efforts and current statistics. She encouraged other Member States that attached importance to the principle of meeting gender equality in the staffing of the Agency's Secretariat to consider sponsoring the draft resolution.

52. The CHAIR said he took it that the Committee agreed to recommend to the General Conference that it adopt the draft resolution contained in document GC(65)/COM.5/L.11.

53. It was so decided.

27. Elections to the Agency's Staff Pension Committee

54. The CHAIR recalled that the General Conference was represented on the Agency's Staff Pension Committee by two members and two alternates. As a result of the departure of one of the Committee's serving members and one of the alternates, two new alternate members must be elected by the General Conference, in accordance with the Pension Committee's Rules of Procedure. Following consultations, it had been proposed that Ms Lynn Hartery of Canada and Mr Gustavo Adolfo Sancho Viquez of Costa Rica be elected as alternate members.

55. He said he took it that the Committee wished to recommend to the General Conference that Ms Lynn Hartery and Mr Gustavo Adolfo Sancho Viquez be elected as alternate members of the Agency's Staff Pension Committee.

56. It was so decided.

– Closing of the Committee of the Whole

57. The representative of EGYPT, speaking on behalf of the G-77 and China, thanked the Chair for his efforts in chairing the Committee of the Whole and welcomed the constructive spirit that had prevailed throughout the Committee's discussions. He expressed the Group's appreciation to those who had coordinated work on the various draft resolutions submitted and to the Secretariat for its support.

58. The Group welcomed Member States' positive responses to its letter of July 2021, in which it had expressed the strong view that, owing to the continuing challenges the COVID-19 pandemic posed to many countries, in particular developing countries, the Committee should limit its discussions to technical updates and should pursue a unified approach, with all resolutions placed on an equal footing.

59. The strong sense of solidarity and understanding among all Member States and the Vienna spirit of consensus had been crucial for achieving the desired result. That agreement should not, however, set a precedent for future sessions of the General Conference; the Group looked forward to engaging in substantive discussions on all agenda items in 2022, barring any unforeseen circumstances.

60. The CHAIR expressed the hope that it would be possible to return to substantive discussion of all draft resolutions in 2022 so that the General Conference could give the Secretariat the guidance it needed to ensure that the Agency continued to deliver effectively on its mandate.

61. The representative of the RUSSIAN FEDERATION thanked the Chair for his effective and efficient leadership of the Committee.

62. The CHAIR, noting that the Committee's work was complete, expressed appreciation to all those who had facilitated its deliberations, in particular his Vice-Chair, and applauded the cooperative spirit shown.

The meeting rose at 11.05 a.m.