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SECOND REGULAR SESSION

ADMINISTRATIVE AND LEGAL COMMITTEE

OFFICIAL RECORD OF THE TENTH MEETING

Held at the Neue Hofburg, Vienna,
on Saturday, 27 September 1958, at 10.45 a.m.

Chairman Mr. RAJAN (India)

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* GC(II)/57.

ELECTION OF THE COMMITTEE'S OFFICERS

Election of the Vice-Chairman

1. Mr. FORSYTH (Australia) nominated Mr. Pardo (Argentina).
2. Mr. LUJAN (Venezuela) supported the nomination.

Mr. Pardo (Argentina) was elected Vice-Chairman by acclamation.

Election of the Rapporteur

3. Mr. PERINAT (Spain) nominated Mr. Zampetti (Italy).
4. Mr. FALQUET (France) supported the nomination.

Mr. Zampetti (Italy) was elected Rapporteur by acclamation.

ORGANIZATION OF THE COMMITTEE'S WORK (GC(II)/COM.2/14)

5. The CHAIRMAN drew attention to the various items of the agenda that the General Conference had referred to the Committee and proposed that it take up item 20 first, and then items 19, 18, 16 and 22.

It was so agreed.

RULES ON THE CONSULTATIVE STATUS OF NON-GOVERNMENTAL ORGANIZATIONS WITH THE AGENCY (GC(II)/43)

6. Mr. FORSYTH (Australia), after briefly reviewing the background of the problem, declared himself in favour of the draft rules (GC(II)/43) on the consultative status of non-governmental organizations which his delegation had already had occasion to support in the Board of Governors. It went without saying that the granting of consultative status could not be regarded as an agreement in the sense of Article XVI of the Statute. It was, on the other hand, desirable that a committee should be given the task of seeing that the rules were observed and that the Director General should submit to the General Conference each year a list of the organizations which had been granted consultative status.

7. Mr. SVAB (Czechoslovakia) felt that the draft rules, which were the fruit of detailed study, constituted an acceptable basis for the establishment of relations between the Agency and the non-governmental organizations which would undoubtedly be of value to both parties. He, therefore, supported the draft resolution.

8. He wished to stress, however, that any decisions as to the granting of consultative status must be based on objective principles and not on political consideration, as had been the case with the Board of Governors' decisions in regard to the World Federation of Scientific Workers^{1/}.

9. Mr. BORISEVICH (Byelorussian Soviet Socialist Republic) supported the draft resolution on the granting of consultative status to non-governmental organizations. He stressed the benefits the Agency could derive from those organizations' participation in its work and the necessity of admitting to consultative status only those organizations which were working for international peace and prosperity.

The draft resolution was adopted.

RELATIONS WITH REGIONAL INTER-GOVERNMENTAL ORGANIZATIONS (GC(II)/41)

10. Mr. BRAZDA (Czechoslovakia) said that he had always favoured the Agency's co-operation with inter-governmental organizations whose activities were related to its own and which were exclusively concerned with the peaceful uses of atomic energy. He regretted that no agreements had been concluded in the first year of the Agency's existence and hoped that that would be put right before the third regular session.

11. Under pressure from certain Governors, the Board had decided to invite EURATOM to send an observer to the present session of the General Conference^{2/}. The Governors who had advocated that step had declared that the purposes which EURATOM served were of an entirely peaceful nature, but they had adduced no evidence to support their contention. They had said that EURATOM'S task was to see that fissionable materials intended for peaceful uses were not employed for military purposes, but had said nothing of EURATOM'S role with regard to materials intended for military use. EURATOM had, in the outcome, been invited to the General Conference, although it was clear from press articles, from statements made in the French National Assembly and also from certain provisions of the treaty by which EURATOM had been established, that its objectives were not exclusively peaceful.

^{1/} GOV/OR.92, paragraph 77.

^{2/} GOV/OR.74, paragraph 40.

12. The decision of the Board of Governors, which had been inspired by political considerations, was contrary to the fundamental objectives of the Agency and might well prove detrimental to the quality of its work. It was all the more regrettable because the countries which had been so strongly in favour of inviting EURATOM had subsequently been no less strongly opposed to inviting the World Federation of Scientific Workers, whose activities were wholly directed towards peace.

13. Referring to the draft resolution (GC(II)/41) before the Committee, he stressed that it was for the General Conference and not the Board of Governors to have the last word in deciding on the invitations to be extended to appropriate inter-governmental organizations. His delegation considered the draft resolution as an emergency measure, and hoped it would not be necessary to resort to it in future; but, in a spirit of conciliation, he would not oppose it.

14. Mr. SAMOKISH (Union of Soviet Socialist Republics) thought that, by virtue of paragraph A of Article XVI of the Statute, the Agency should establish relations with inter-governmental organizations which were concerned exclusively with the peaceful uses of atomic energy. However, EURATOM, which had been invited to send an observer to the present session, did not comply with the conditions stipulated. A perusal of the treaty establishing that organization was enough to show that it was concerned with the military uses as well. The treaty contained no mention of a ban on military uses; and EURATOM'S inspection system could not be extended to cover fissionable materials used for military purposes or stocked in military establishments, as was borne out by the debates in the French National Assembly and articles in the press. Moreover, EURATOM had not accepted the principle of the Agency's supervisory functions and had concluded a co-operation agreement with the United States. The decision of the Board of Governors was therefore contrary to the Statute.

15. To avoid the recurrence of a similar state of affairs, his delegation considered it essential to alter the operative part of the draft resolution presented by the Board of Governors, and proposed that the word "appropriate" be deleted and that the words "which are exclusively engaged in the peaceful uses of atomic energy" be added after the words "inter-governmental organizations".

16. Mr. GOLDSCHMIDT (France) recalled that EURATOM was an association of six countries with the object of promoting the peaceful uses of atomic energy. In joining that organization the six countries had not renounced their freedom of action in the military sphere, any more than the Soviet Union had done in becoming a member of the Agency. The co-operation agreement concluded with the United States showed that EURATOM had undertaken the construction of nuclear power stations whose installed capacity would reach 1 million kW in 1963. The Board's decision was therefore justified, and he hoped that the invitation extended to EURATOM would be renewed every year.

17. Mr. BELOUSOV (Ukrainian Soviet Socialist Republic) thought that the Agency should collaborate with inter-governmental organizations concerned solely with the peaceful uses of atomic energy, such as the Joint Institute of Nuclear Research at Dubna. His delegation was therefore in favour of the draft resolution submitted by the Board of Governors, but considered that it should be worded in a more precise fashion.

18. He was very surprised to note the presence of an observer from EURATOM at the present session, and regretted that the Board of Governors had decided to invite that organization, in violation of the spirit and letter of the Statute. Recent statements by prominent persons had in fact confirmed, if confirmation were needed, that EURATOM was an important pawn on the chessboard of the North Atlantic Treaty Organization. In a message to Congress in June 1958, President Eisenhower had stressed that EURATOM strengthened the power of the Atlantic Alliance. In a recent article in the "Commercial and Financial Chronicle", Senator John Floborg had emphasized the important role which EURATOM played in the 'cold war' and stated that it was essential to the maintenance of the economic and military resources of the alliance. It was therefore inadmissible that that organization should be invited to collaborate with the Agency. His delegation would support the amendment proposed by the Soviet Union.

19. Mr. KARLINER (Poland) thought that, before deciding on the possible value of relations with an inter-governmental organization, it was necessary to ask whether it served peaceful purposes and sought to bring the nations together or whether, on the contrary, it represented a group directed against other countries. His delegation was not in a position to offer an opinion on EURATOM,

but wished to draw the Committee's attention to one aspect of that organization. The Federal Republic of Germany occupied an important place in it. His country feared that that State, by reason of its economic power, would come to play a preponderant role in EURATOM and would use the organization for its own objectives. Having learned from bitter experience, Poland had the right to express its anxiety and distrust of a body whose members included a state which was pursuing a policy based on principles of revision of treaties and on revenge. Under those conditions his delegation could not regard EURATOM as a peaceful organization and it would support the amendment proposed by the Soviet Union.

20. Mr. ERRERA (Belgium) regretted that the majority of the speakers who had preceded him had not taken the trouble to study the constitutional instrument of EURATOM. If they had done so they would not have made so many mistakes. As the French delegate had already remarked, the Soviet Union had not stopped producing nuclear weapons. It was thus conceivable that a state which was a member of an organization concerned entirely with the peaceful uses of atomic energy could, outside that organization, pursue its own nuclear activities.

21. The provisions of Chapter VII of the EURATOM Treaty on safeguards were similar to those of Article XII of the Statute of the Agency. Indeed, EURATOM's control was stricter than that proposed by the Agency.

22. It would appear from paragraph A.5 of Article III and paragraph B of Article XII of the Statute that the Agency exercised a control whose sole aim was to insure that materials, services, equipment and information made available by the Agency or at its request or under its supervision or control were used exclusively for peaceful purposes. However, the control was only partial, because it referred merely to materials obtained through the Agency. If a Member State possessed a power reactor constructed with the Agency's aid and another reactor built without its assistance, the Agency had to see that the first was used entirely for peaceful purposes but it had no control over the second.

23. On the other hand, the EURATOM control system was more complete, as it was designed to ensure that fissionable materials were not used for purposes other than those stated by the users. The materials could be used for peaceful purposes or for defence, but all the materials for peaceful purposes were under EURATOM's supervision, which was therefore of a general nature.

24. EURATOM did not deal directly with military defence activities, but if military materials - i.e., materials outside its supervision - were withdrawn from apparatus or military stocks, it was EURATOM's job as a supervising body to ensure that they were really used for peaceful purposes.

25. The Czechoslovak representative might note that the research and training programme, set up under the EURATOM Treaty at a cost of \$43 million annually for the first five years, contained no provisions relating to military uses. He (Mr. Errera), having been the Chairman of the Working Party which prepared that part of the Treaty, could assure the Czechoslovak representative that the Treaty was thus worded and thus conceived by the six delegations who helped to prepare it.

26. Mr. von RHAMM (Federal Republic of Germany) agreed with the statements of the French and Belgian representatives. He strongly dissented from the Polish representative's remarks about German rearmament. They were purely gratuitous accusations, of a propaganda nature, which had nothing to do with the matters before the Committee. Under the Paris agreements Germany had undertaken not to construct nuclear apparatus.

27. Mr. SIDDIQI (Pakistan) said that he would like some clarification of the amendment proposed by the Soviet delegation. Inter-governmental organizations which only sent observers to the General Conference should not be more strictly treated than States Members of the Agency. If regional inter-governmental organizations were not to be invited on the grounds that all their members were not dealing exclusively with the peaceful uses of atomic energy, the logical conclusion would be for Member States using atomic energy for military purposes to be excluded from the Agency.

28. Mr. SAMOKISH (Union of Soviet Socialist Republics) said that the representatives of France, Belgium and the Federal Republic of Germany had not denied the military nature of some of EURATOM's activities. Under its Statute the Agency could establish relations only with organizations using atomic energy for peaceful purposes, hence the presence of observers from EURATOM at the General Conference would be contrary to the Statute. That was why his delegation had submitted an oral amendment^{3/} to the draft resolution of the

^{3/} See above, paragraph 15.

Board of Governors, making it clear which organizations could be invited to send observers to the third regular session of the General Conference.

29. The statement by the representative of Pakistan was not completely clear and the latter would have to state explicitly whether he wanted to amend the Agency's Statute.

30. Mr. HAHN (Republic of Korea) recalled that the question whether EURATOM should be invited to send observers to the second regular session of the General Conference had been discussed at a meeting of the Board of Governors.^{4/} His delegation had approved the suggestion, since EURATOM had been set up to promote the scientific and technical development of the peaceful uses of atomic energy, as had been made clear at the outset by the representative of France, a member State of EURATOM. One of its tasks was to increase Western European electric power production to meet the requirements of that region. His delegation had not altered its opinion and therefore opposed the Soviet amendment.

31. Mr. KONSTANTINOV (Bulgaria) approved in principle the Board of Governors' draft resolution. However, only regional inter-governmental organizations dealing exclusively with the peaceful uses of atomic energy were eligible to enter into relationship with the Agency. EURATOM was not such an organization and therefore the invitation to it was contrary to the Agency's Statute.

32. With regard to the explanations by the Belgian representative, the text of the EURATOM Treaty was well known and clearly indicated that that body did not deal exclusively with the peaceful uses of atomic energy. Since the provisions of the Statute should be scrupulously applied, he supported the amendment proposed by the Soviet delegation.

33. Mr. BRAZDA (Czechoslovakia) pointed out to the Belgian representative that the Czechoslovak delegation had not only studied the text of the EURATOM Treaty but had quoted passages therefrom to the Board of Governors and had even given the detailed programme of EURATOM.

^{4/} GOV/OR.74, paragraphs 1 to 41.

34. It was surprising that the proposed Soviet amendment was not approved by all the Members of the Committee, since it was completely in line with the Statute. The delegations opposing the amendment showed by their opposition that, contrary to the Statute, inter-governmental organizations dealing with non-peaceful uses of atomic energy could also be invited to send observers to the Conference.

35. Mr. TANNES (Netherlands) proposed an adjournment of the discussion under rule 63 of the Rules of Procedure, since the text of the amendment had not been distributed to delegations and the latter had not had time to study it carefully.

36. Mr. GOLDSCHMIDT (France) said that the wording of the draft resolution, more particularly the words "appropriate inter-governmental organizations", could not be amended without an amendment to paragraph A of Article XVI of the Statute which talked of "organizations the work of which is related to that of the Agency". Hence if the Soviet delegation maintained its proposed amendment, the latter would first have to be submitted to the Board of Governors and then be approved by a two-thirds majority of the General Conference before taking effect.

37. The CHAIRMAN recalled that, under rule 59 of the Rules of Procedure, "in addition to the proposer of the motion, two delegates may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote".

38. Mr. LERLERA (Belgium) observed that the Netherlands representative's motion for the adjournment of the debate was based on rule 63 of the Rules of Procedure. It was for the Chairman to decide whether rule 63 was applicable.

39. Mr. ZAMYATIN (Union of Soviet Socialist Republics) quoted the last sentence of rule 63: "The presiding officer may, however, permit the discussion and consideration of amendments, or motions as to procedure, even though these amendments or motions have not been distributed or have been distributed the same day". The Chairman could therefore authorize the continuation of the debate, since the text of the Soviet amendment had been handed to the Secretariat. However, if States members of EURATOM needed time to consider whether the purposes of their organization were peaceful or military, he was quite disposed to allow them the time they required.

40. In reply to the French representative, he recalled that the Agency had been established to deal exclusively with the peaceful uses of atomic energy; it could not therefore establish relations with organizations whose activities were not wholly peaceful.

41. In reply to the Korean representative, he pointed out that the members of EURATOM were in a better position than the Board of Governors to know whether the activities of that organization were peaceful or military. Further, members of EURATOM themselves had stated that their organization dealt with the uses of atomic energy for military purposes as well. The General Conference should therefore recognize that that inter-governmental organization was not "appropriate". Moreover, if the activities of EURATOM were wholly peaceful, it was difficult to understand why certain Members of the Committee hesitated to accept the amendment proposed by his delegation.

42. Mr. TAMMES (Netherlands) regarded the Soviet amendment as more important than the amendments or motions as to procedure mentioned in the last sentence of rule 63 of the Rules of Procedure. In the French representative's view, the amendment actually implied a change in the Statute. He therefore insisted on his proposal.

43. The CHAIRMAN then asked the Committee if it wished to adjourn consideration of the Soviet amendment until the text of it had been distributed.

It was so decided.

The meeting rose at 12.25 p.m.