



GC

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FORTY-SIXTH (2002) REGULAR SESSION

GENERAL COMMITTEE

RECORD OF THE SECOND MEETING

Held at the Austria Center Vienna
on Thursday, 19 September 2002, at 9.20 a.m.

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[*] GC(46)/19.

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ATTENDANCE AT THE MEETING

Chairman

Mr. RAJASA (Indonesia), President of the General Conference

Members

Mr. BENDJABALLAH (Algeria), Vice-President of the General Conference

Mr. TOUQ (Jordan), Vice-President of the General Conference

Mr. Sang-mo YEON, representing Mr. Young-bok CHAE (Republic of Korea),
Vice-President of the General Conference

Mr. KOP, representing Mr. RAMAKER (Netherlands), Vice-President of the General
Conference

Mr. CHISTYAKOV, representing Mr. RUMYANTSEV (Russian Federation),
Vice-President of the General Conference

Mr. ARAMRATTANA, representing Mr. PROMPOJ (Thailand), Vice-President of the
General Conference

Mr. NOBLE, representing Mr. BRILL (United States of America), Vice-President of the
General Conference

Ms. ASATURIAN, representing Mr. TABIBIAN (Armenia), Additional Member

Ms. HALL (Canada), Additional Member

Mr. MOLNÁRI, representing Mr. RÓNAKY (Hungary), Additional Member

Mr. NAQVI, representing Mr. BUTT (Pakistan), Additional Member

Mr. ANDREWS, representing Mr. O'SHEA (United Kingdom of Great Britain and
Northern Ireland), Additional Member

Speaker invited by the Committee

Ms. GAFNI (Israel)

Secretariat

Mr. WALLER, Deputy Director General, Department of Management

Mr. ANING, Secretary of the Committee

Mr. EIDET, Director, Division of Budget and Finance

Mr. RAUTENBACH, Director, Office of Legal Affairs

Mr. TONHAUSER, Office of Legal Affairs

ADOPTION OF THE AGENDA FOR THE MEETING
(GC(46)/GEN/2)

1. The CHAIRMAN asked whether the Committee wished to adopt the proposed agenda contained in document GC(46)/GEN/2.

2. It was so decided.

RESTORATION OF VOTING RIGHTS (resumed)
(GC(46)/INF/7 and 10)

3. The CHAIRMAN said that, under Article XIX.A of the Statute, a Member State which was in arrears with the payment of its financial contributions to the Agency had no vote in the Agency if the amount of its arrears equalled or exceeded the amount of the contributions due from it for the preceding two years. The General Conference could nevertheless permit such a member to vote if it was satisfied that the failure to pay was due to conditions beyond the control of the member. It was on that basis that Mali and Georgia had applied to have their votes restored.

4. He asked whether the Committee wished to recommend that Mali's voting rights be restored.

5. It was so decided.

6. Mr. NOBLE (United States of America) said that, whereas Mali had implemented a plan to pay its arrears, Georgia had yet to do so. His country therefore felt it would be better to wait until Georgia had made arrangements to pay its arrears before restoring its voting rights.

7. The CHAIRMAN took it that the Committee did not wish to recommend that Georgia's voting rights be restored.

8. It was so decided.

EXAMINATION OF DELEGATES' CREDENTIALS
(GC(46)/23 and 24)

9. The CHAIRMAN, after drawing the Committee's attention to the relevant rules of the Rules of Procedure and recalling that credentials designated the delegate of a Member State to a given session of the General Conference, that they were submitted to the Director General and that they were issued by the Head of State or Government or by the Minister of Foreign Affairs of the Member State concerned, said that the Director General had received credentials in due form as required by Rule 27 of the Rules of Procedure from 95 delegates and that the Secretariat had also received communications in respect of 24 delegates that did not constitute formal credentials meeting the requirements of that Rule. All the delegates to the current session of the General Conference fell within one of those categories.

10. In addition, the Committee had before it document GC(46)/23, containing reservations submitted by the Ambassador of Sudan on behalf of Arab delegations participating in the session concerning the credentials of the Israeli delegation, and document GC(46)/24, in which Israel had set out its position with regard to those reservations.

11. Mr. TOUQ (Jordan) said that, although his country had not signed the statement contained in the Attachment to document GC(46)/23, that did not mean that it did not have reservations about Israel's credentials. However, Jordan would not block consensus on the issue.

12. Mr. NAQVI (Pakistan) asked why copies of some original credentials received by the Secretariat did not constitute formal credentials under Rule 27 of the Rules of Procedures.

13. Mr. TONHAUSER (Office of Legal Affairs) said that it was established Agency practice to distinguish between original credentials and copies.

14. Ms. GAFNI (Israel) said that the sole purpose of examining delegates' credentials was to ensure they had been properly issued and presented in a timely manner and that procedure should not be used to advance political interests.

15. The CHAIRMAN suggested that the Committee submit to the General Conference a report stating that it had met to examine the credentials of delegates in accordance with Rule 28 of the Rules of Procedure, and containing a list of Member States whose delegates had, in the Committee's opinion, submitted credentials satisfying the requirements of Rule 27 of the Rules of Procedure, and another list indicating the Member States for whose delegates the Director General had received communications that did not comply with that Rule. In line with past practice, the report could indicate that the Committee considered that delegates in the latter category should nevertheless be allowed to participate in the work of the Conference on the understanding that credentials in due form would be submitted for each of them as soon as possible, preferably before the end of the session. The report should further state that the Committee had had before it a statement submitted by the Ambassador of Sudan - for the Dean of the Arab Diplomatic Corps in Vienna - on behalf of Arab States participating in the session concerning their reservations about the credentials of the delegation of Israel, as well as a document setting out the position of Israel with regard to those reservations. Finally, the report could recommend that the General Conference adopt, with the reservations and position mentioned, the following draft resolution:

"EXAMINATION OF DELEGATES' CREDENTIALS

"The General Conference

"Accepts the report by the General Committee on its examination of the credentials of delegates to the Conference's forty-sixth regular session, which is set forth in document GC(46)/25."

16. Mr. TOUQ (Jordan) said that the Chairman's proposed report might give the impression that all Arab States had signed the statement in question, whereas two had not. The text should therefore indicate which States had signed.
17. Mr. NOBLE (United States of America) noted that Rule 27 of the Rules of Procedure made no provision regarding the location where credentials had been signed. Therefore, that factor could have no bearing on the validity of credentials.
18. Mr. RAUTENBACH (Director, Office of Legal Affairs) confirmed that Rule 27 of the Rules of Procedure only stipulated that credentials had to be issued by the Head of State or Government or by the Minister for Foreign Affairs; it did not stipulate where credentials should be signed. Nor did international law impose any requirements in that regard. Therefore, the place of signature had no bearing on the validity of the credentials. Likewise, the acceptance of credentials did not imply that the accepting authority was adopting a position with respect to the status of the place of signature either under international or national law.
19. The CHAIRMAN said that the Secretariat had taken note of Jordan's request.
20. He asked whether he could take it that the General Committee wished a report on the lines he had described to be prepared and submitted to the General Conference.
21. It was so decided.

RESTORATION OF VOTING RIGHTS (resumed)
(GC(46)/INF/3 and 11)

22. Mr. RAUTENBACH (Director, Office of Legal Affairs) said that, in a letter dated 17 September 2002, following the General Conference's decision on 16 September not to restore Iraq's voting rights, the Iraqi Permanent Mission had requested that Iraq be allowed to pay its financial obligations towards the Agency in Iraqi dinars, especially in view of the fact that the Agency could use those amounts to cover the costs arising from the resumption of its regular activities in Iraq in accordance with the safeguards regime in force since 1999. The letter asked that the request be submitted to the General Conference for discussion during the current session so that a positive decision could be made thereon.
23. The General Conference had no power to take such a decision for the following reasons. Although various types of financial rules were mentioned in the Statute as requiring General Conference approval (e.g. in Articles V.E.8, XIV.G and XIV.F), there was no mention of any general function regarding financial regulations. Since such regulations were plainly necessary, it followed that, to the extent that that particular function had not been assigned specifically to the General Conference, the Board had the power to adopt such regulations pursuant to Article VI.F or Article VII.B of the Statute. Under either interpretation, the General Conference had no authority in that area.
24. Of the Financial Regulations adopted by the Board, Regulations 5.02, 5.06 and 13.02 were relevant to the request made by Iraq. Regulation 5.02 stated that each assessment should

be established with a component in United States dollars and a component in euros, and that those components should be in direct proportion to the respective shares of the Regular Budget expenditures linked to the two currencies as approved by the General Conference. Regulation 5.06 stated that assessed contributions should be paid in United States dollars and euros in the ratio determined pursuant to Regulation 5.02. Regulation 13.02 stated that the Board could amend the Regulations or suspend any of the Regulations, subject to the provisions of the Statute. From the foregoing it was evident that only the Board had the power to amend or suspend the relevant Financial Regulations so as to permit a Member State to pay its assessed contributions in local currency.

25. A number of practical considerations also arose in relation to Iraq's request. As was mentioned in paragraph 13 of Attachment 2 to document GC(46)/INF/6, an arrangement already existed for payment of contributions to the Agency in local currency through the offices of the United Nations Development Programme, credit being given to the Agency when payment had been received in accordance with the Agency's Financial Regulations. Furthermore, Financial Rule 105.02 provided that, if a Member State was experiencing difficulties in paying its assessed contributions in the ratio or the currencies required pursuant to Regulations 5.02 and 5.06, or its advances to the Working Capital Fund in the currency required pursuant to Regulation 5.03, the Director of Budget and Finance of the Agency should assist the Member State concerned in meeting its obligations for payment in the currencies required, any currency exchange costs being borne by the Member State concerned. Whether those two possibilities could apply to Iraq depended on whether they were prohibited by relevant Security Council resolutions, a question to be decided by the Sanctions Committee. If Iraq approached the Agency in connection with either of those possibilities, the Agency would take up the matter with the Sanctions Committee.

The meeting rose at 9.55 a.m.