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## THE FINANCING OF SAFEGUARDS

The summary record of the discussion in the Board of Governors under the agenda item "The financing of safeguards" in June 1990 is reproduced below.

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### RECORD OF THE 732nd MEETING (held on Friday, 15 June 1990)

#### THE FINANCING OF SAFEGUARDS

94. The CHAIRMAN invited the Board to examine the report by the Chairman of the informal working group on the financing of safeguards, established by the Board in October 1989 in response to a request by the General Conference.

95. Mr. STRULAK (Poland), speaking as Chairman of the informal working group on the financing of safeguards, stressed that it was the active participation of many representatives of Member States in the group's work, and especially their good will and constructive attitude, that had enabled the six principles set out in paragraph 5 of the report to be accepted by consensus, despite considerable differences of opinion. He thanked all the

members of the group for their collaboration and also the Secretariat, which had prepared the necessary documents, and notably the long-term forecasts of the Agency's "Safeguards" programme costs, which, as the Deputy Director General for Safeguards had mentioned, were currently being supplemented and updated. It was to be hoped that those initial results, although modest and necessarily provisional, would provide a useful basis for a more detailed agreement.

96. Such an agreement would undoubtedly present difficulties. It would require a good deal of work, good will and a spirit of compromise to reconcile the different points of view. The first step had been taken, and he was optimistic that a solution could be reached, since the members recognized the importance of the financing of safeguards for the Agency's future and had unanimously reaffirmed their responsibility in that regard.

97. In order to have the best possible chance of succeeding, the working group should concentrate its attention on the question of safeguards financing as defined in its mandate. Needless to say, that should not prevent other organs from considering at the same time related problems such as the cost-effectiveness of safeguards operations, nor should it interfere with such efforts.

98. In conclusion, the Board's support had been most valuable in enabling the working group to continue its constructive dialogue with a view to resolving the question of the financing of safeguards by consensus, as requested in paragraph 8 of the report.

99. Mr. ALER (Sweden), speaking on behalf of Sweden and the Nordic countries, commended Ambassador Strulak on the competence and dedication with which he had guided the informal working group on the financing of safeguards. The group's report was a first step towards an agreement on a long-term equitable arrangement for the financing of safeguards, and it was to be hoped that such constructive collaboration would continue when the time came to consider practical proposals for new arrangements.

100. Regarding the group's work schedule, some agreement should be reached - at least on the main elements and the structure of the new arrangements - by 1991 at the latest, so that the agreement would be available to provide a long-term perspective for formulating the programme and budget for 1993-94.

101. Mr. SINAI (India) paid tribute to Ambassador Strulak, who had guided with a firm hand and considerable competence the work of the group, in which India had also participated. Since the working group had not yet had a chance to discuss the report by its Chairman (GOV/2454), his delegation wished to make a number of points.

102. Firstly, with regard to the six principles which, according to paragraph 5, had been "accepted by consensus", he recalled that the members of the group had reached that agreement in a constructive spirit of co-operation in order to make their work easier. Once the decision had been taken to divide the work into three phases - consideration of principles, formulation of "elements" and, finally, elaboration of a "mechanism" for the new arrangements for safeguards financing - it had become clear that the second and third phases could not be started until the first had been completed. That was why his delegation had expressed its willingness to continue the work on the basis of the six principles, which had been hammered out under extreme time pressure during the group's last meeting on 14 May. Since the two final phases of the group's work were inseparable from the first, it seemed a little premature to state that the six principles had been "accepted by consensus". The agreement in question was a tentative one whose ultimate form depended on the mechanism of safeguards financing that ultimately emerged. In the final analysis, it was not the principles themselves but their application that would determine the acceptability of any new arrangements. Given that the principles could be construed and interpreted in various ways, his delegation wished to stress that nothing could be considered finally agreed until everything had been agreed.

103. In the second place, stress had been laid in the group not only on the importance of the effectiveness and efficiency of safeguards, as indicated in the final sentence of paragraph 7 of the report, but also on the need to bear in mind considerations of economy in the application of safeguards. Along with several others, his delegation had been in favour of including that requirement among the "principles", but in a spirit of compromise had deferred to objections by other delegations, on the understanding that the matter would be mentioned by the Chairman in his report. He therefore felt that some mention of that part of the discussion, which was important for the group's

mandate, should have been made in document GOV/2454, a comment which he wished to be duly noted.

104. It should also be noted that the cost of safeguards had increased considerably over the years, bringing about an ever greater imbalance in the Agency's budget between safeguards and promotional activities. While all possible steps should, of course, be taken to arrive at a new arrangement for the financing of safeguards acceptable to all Members - and his delegation, along with many others, had displayed considerable flexibility and co-operation in that regard - it was also necessary to try even harder to make savings with respect to safeguards. As he had already stated in the Administrative and Budgetary Committee, his delegation felt it was time to conduct a detailed study of the principles and procedures applied by the Agency in implementing safeguards, the aim being to reduce their cost without, of course, damaging their credibility. Such a study could explore new methods that might offer - at a considerably lower cost than seemed possible at present - the same degree of assurance with respect to non-diversion of material and equipment under safeguards.

105. On a less important point, he said that it might perhaps be more accurate to speak of arrangements related to the "financing of safeguards", as in resolution GC(XXXIII)/RES/513, rather than "cost-sharing arrangements".

106. Mr. SCHEEL (German Democratic Republic), having expressed his gratitude to the informal working group and its Chairman, welcomed the principles laid down by the latter in his report, but was aware that the application of the third principle - the identification of specific criteria and factors for determining the degree of financial participation of Member States - would be the crucial point.

107. In view of the importance of finding a long-term solution to the problem of the financing of safeguards, his delegation approved the action suggested by the Board and would continue to participate actively in the group's work.

108. Mr. TALIANI (Italy) commended the group for the work it had done under the guidance of Ambassador Strulak. He acknowledged having been wrong at first in his somewhat sceptical attitude towards the approach adopted for

the discussion of principles. The document under consideration was important because it marked the first occasion when it had proved possible to arrive at a consensus on six principles relating to points which had not been taken into account previously. The third principle in particular, although open to differing interpretations, introduced a new element. The principles were entirely compatible with the specific proposals made by Italy to the working group, proposals which were familiar to all concerned and could have been usefully attached to the report.

109. He agreed that the moment had come for the working group to act and to formulate a practical arrangement, since time was beginning to run short. The group had done good work, and he hoped that the members of the Board would approve the recommended action. The year to come would be crucial because the group would have to submit acceptable proposals for the financing of safeguards.

110. Mr. KIMURA (Japan) thanked Ambassador Strulak for the efforts he had undertaken to reach an agreement on the principles of safeguards financing and reaffirmed that, for his delegation, the safeguards system was the keystone of the regime established by the Agency to ensure the non-proliferation of nuclear weapons and the peaceful utilization of nuclear energy throughout the world. The Agency's system should receive the support of all Member States, which was why the responsibility for financing safeguards should be shared by all. With regard to the degree of financial participation, the Agency's base-scale of assessment was modelled on that of the United Nations, which took account of the State's ability to pay. His delegation therefore believed that a Member's degree of financial participation in safeguards should also be a pure function of the economic factor.

111. Mr. PABON GARCIA (Venezuela) joined other delegations in commending the Chairman of the working group on his report to the Board, which gave clear evidence of the progress made by the group in formulating an arrangement for the financing of safeguards acceptable to all the Member States.

112. His delegation would continue to participate in the work of the group, which was to be conducted in three phases, as indicated in paragraph 3 of the report, because it was very keen to contribute to its success. The six

principles - which seemed to have been adopted by a majority of the delegations participating in the meeting of 14 May and not by consensus, as stated in paragraph 5 of the report - constituted together with the informal paper submitted by Cuba, a good basis for discussion.

113. With regard to the first three principles, his delegation wished to reaffirm its position. It was fully aware that the safeguards system was of benefit to all countries and therefore deserved the moral and financial support of all Member States, but it felt that the greater portion of the costs should be born by the countries which were most advanced in the utilization of nuclear energy. That meant that those countries which were just beginning to utilize nuclear energy or whose nuclear programmes were no more than marginal should pay only a nominal contribution.

114. The informal paper submitted by Cuba which had formed the main basis for the group's discussion, included among the criteria to be taken into account in elaborating a mechanism, a reasonable relationship between costs foreseen for the performance of safeguards activities on the one hand and the efficiency and effectiveness with which such activities were performed on the other. His delegation felt that the group should attach greater importance to that recommendation. In other words, efforts should be made to cut costs without detriment to the effectiveness of safeguards. In that regard, he wished to draw attention once again to the multi-dimensional study on safeguards requested in 1988.

115. Mr. ORNSTEIN (Argentina) noted with satisfaction the progress made by the informal working group in defining principles to serve as a basis for a solution to the knotty problem of the financing of safeguards which had remained unresolved for over 15 years. He urged the group to enter the next phase of its work with the same sense of purpose.

116. However, his delegation was convinced that the issue at stake was not simply to know which Member States should bear the ever-increasing costs of safeguards and in what proportion, but rather to find a means of maintaining those costs at acceptable levels in the future without damaging the credibility of safeguards.

117. With the resurgence of nuclear activity which seemed to be forecast for the relatively near future, it was clear that the application of current

safeguards methods to appreciably larger quantities of material and numbers of facilities would quickly lead to an impasse from the point of view of the financing of the system by the Member States, whatever arrangements were formulated by the informal working group. His delegation therefore took the liberty of recalling the comments it had made during the meetings of the Agency's governing bodies the year before with regard to the urgent need to rationalize methods by concentrating inspection activity - in the case of full-scope safeguards such as were required by NPT, the Treaty of Tlatelolco or the Treaty of Rarotonga - on material able to be used directly for manufacturing nuclear weapons and on the few installations where such material was produced, processed or stored.

118. In the case of Member States which, although not parties to any of those treaties, voluntarily placed their nuclear material and installations under the safeguards system provided by the Statute of the Agency, the methods and goals associated with the application of such safeguards should also bear a direct, sensible relationship to the importance of the material and installations for the manufacture of nuclear weapons. That also applied to the voluntary submission agreements concluded with the nuclear-weapon Member States.

119. Finally, he wished to commend the Department of Safeguards on its efforts to rationalize the application of safeguards, efforts which his delegation was happy to support in full.

120. Mr. CORTES NAVARRO (Chile) commended the Chairman of the working group for reaching an agreement on six principles to serve as a basis for the consideration of any future arrangement for the financing of safeguards. The main aim of that agreement, as far as his delegation was concerned, was to facilitate the second phase of the work, which would consist in defining the elements to be included under each of those principles. It was very important to include among those elements the level of nuclear development of States and improvements in the effectiveness of safeguards. Chile was convinced that a review of safeguards criteria and procedures would help to improve the effectiveness of the system without damaging its credibility.

121. Mr. KENNEDY (United States of America) joined the previous speakers in commending Ambassador Strulak and the members of the informal

working group for elaborating a set of principles which would be useful for the group's future work.

122. The principles which had been agreed upon by the working group corresponded to the elements which his delegation considered essential for any long-term arrangement for the financing of safeguards: all Member States benefited from the international security provided by safeguards and should, therefore, make a real contribution to their cost; the formula for apportioning safeguards costs should be based on the real capacity of Member States to pay, and not on politically motivated criteria irrelevant to a Member State's economic circumstances. Relief should be provided only for economic reasons, and eligibility for it should be based solely on elements of the United Nations scale of assessments which reflected the objective economic status of Member States, including changes in their status relative to other States; and, finally, the safeguards financing formula should include dynamic factors which would favour a long-term solution of the problem, avoiding the need for the Board to keep reverting to it. His delegation hoped that, thanks to the efforts of the working group, a long-term solution taking account of those elements could be applied in 1993.

123. In document GOV/2182, his Government had submitted a proposal for a comprehensive, long-term solution to the financing of safeguards, a proposal which among other things defined the category of States that should be relieved of major increases in safeguards costs on the basis of criteria defined by the United Nations General Assembly. That proposal provided an equitable mechanism for cushioning any major increases that might result if a Member State was deleted from the relief list. It avoided all inappropriate or politically motivated criteria with no relevance to the question of how much countries should pay, and therefore fulfilled the requirements of the Agency's Statute.

124. His Government was now as ever firmly opposed to any proposal for changing the Agency's safeguards financing system based explicitly or implicitly on the view that safeguards only or chiefly benefited a certain class of States. The safeguards system made an indispensable contribution not only to world-wide nuclear commerce, but also - and what was more important - to international security. It was one of the most important and practical



"confidence-building measures" in the world community. All States benefited from the enhanced confidence resulting from safeguards and all should share, therefore, in lending the system their tangible support.

125. Mr. LAVIÑA (Philippines) expressed his appreciation to Ambassador Strulak for the patience, tact and wisdom with which he had guided the deliberations of the Informal Working Group and thanked all the members who had participated in the elaboration of the principles before the Board. Though he did not agree with all the views which had been expressed, he would limit himself at the present stage to commenting on Principle 1, according to which "All Member States have the right and duty to contribute to the financing of safeguards". During the meetings of the Working Group, his delegation had expressed reservations on that draft principle but, like the Indian delegation, had refrained in the interests of broader deliberations from blocking transmission of the report to the Board.

126. His delegation believed that draft Principle 1 was merely secondary to, if not a corollary of, a main principle which his delegation had put forward during the Working Group's meetings, but which had not been included in the report, namely that "Member States which own, possess, or operate facilities are responsible for the financing of safeguards". Acceptance of that main principle could pave the way for acceptance of the proposed Principle 1. On the other hand, acceptance of the secondary principle that "Member States have the right and duty to contribute to the financing of safeguards" without prior recognition of the main principle would fly in the face of law, logic and ethics.

127. As to the legal aspect of the matter, every right always had a corresponding obligation. The right to own property conferred the right to enjoy and use it, but carried with it a duty and obligation not to use it to the detriment of others. The situation did not change fundamentally when one went from personal to State property: the latter case simply meant applying international rather than national law. If a State owned, possessed or operated a facility, it was responsible for damage caused by that facility. Similarly, it was responsible for the maintenance and safety of that facility and for the safeguards applied to it. Indeed, maintenance, safety and safeguards were attributes of ownership, possession and operation; they were the legal, logical and ethical consequences thereof.

128. That concept of the responsibility of the owner, possessor or operator was eloquently expressed in Article IX.H of the Statute, which he read out. That provision, even if not fully implemented, referred to the notion of possession, stipulating the responsibility which it entailed.

129. The owner or operator of a facility benefited from it. In the case of nuclear facilities, the State had more power or energy. But the State had to pay for the maintenance, surveillance and safeguards required by each facility, so that the utilization thereof did not cause damage to neighbouring States. That was a good illustration of the main principle put forward by his delegation, namely that Member States which owned, possessed or operated facilities had to take on the main responsibility for financing their safeguards.

130. It would be absurd and contrary to legal and ethical principles if the owner or operator of a facility, maintaining that his facility was beneficial to him and that it could also benefit his neighbours and the rest of the international community - yet that it could also be dangerous for everyone if not safeguarded - affirmed that the international community or an international organization had the right and duty to contribute to the financing of safeguards for that facility.

131. If the principle proposed by his delegation were not admitted, then the secondary principle proposed in the report would be very unfair to countries which did not own or operate facilities. It was true that, as Members of the Agency, States were obliged to contribute to its budget. However, those contributions were not directly intended for safeguards; only a part of the funds was allocated to safeguards within the budget. Thus, requiring Member States which had no facilities to subsidize the facilities of other States, on the pretext that those facilities could pose a danger to all, was a very specious argument indeed.

132. Even in the Standing Committee on Nuclear Liability, it had been recognized that if an international fund were to be set up to meet the costs for nuclear damage in the event that funds from insurance companies and governments were insufficient, States which did not own or operate such facilities could not logically be called on to contribute to such an international fund.

133. Returning to proposed principle 1 in the report by the Chairman of the Working Group, he said he could not accept the wording "All Member States have the right and duty ..." for the reasons which he had just given. A right could hardly be a duty at the same time. The two words contradicted each other. Perhaps it would be possible to amend the proposed principle by changing "and" to "or".

134. In any case, he could not accept the proposed Principle 1 without the main principle he had just mentioned. He suggested two solutions: first the principle he had just put forward could become Principle number one, the first principle proposed in the Group's report then becoming Principle 2; or, second, his delegation's main principle could appear in a first sentence, followed by what was at present Principle 1 in the report as a second sentence. Failing that, his delegation would not be in a position to subscribe to the proposed Principle 1 and would energetically oppose it. It could not join a consensus on it, nor could it agree to the action recommended to the Board in paragraph 8 of document GOV/2454.

135. Mr. ZHOU (China) commended Ambassador Strulak and the Working Group on the results thus far achieved. His delegation had noted that the six principles reaffirmed that all Member States had the right and duty to contribute to the financing of safeguards, and that preferential treatment would be granted to certain Member States in the form of an abatement, according to their ability to pay. There was still a long way to go to reach the goal - the formulation of specific safeguards financing principles that would be acceptable to all parties concerned - and his delegation hoped that the Working Group would continue its work and present a viable programme in due course.

136. Mr. WEI (Belgium) thanked Ambassador Strulak for the efforts he had made to achieve the results now before the Board. He too, like the Governor from Italy, regretted that the proposals which had been presented once again in 1990 were not annexed to the report by the Chairman of the Informal Working Group, and he hoped that they could be added to the report to be submitted to the General Conference. His delegation joined the Governor from Japan in considering that financial participation should be determined on the basis of economic criteria, but, as had been mentioned in the introductory

note to the Belgian proposal, the concept should be coherent throughout and should consider all economic aspects. To avoid repeating himself, he referred back to that note and asked for it to be annexed to the report.

137. Although one might consider discussing the effectiveness of safeguards, it was important to remain aware of the fact that any departure from the framework of documents INFCIRC/153 and INFCIRC/66/Rev.2 would lead to very technical problems which other fora, such as the Standing Advisory Group on Safeguards Implementation, were better equipped to deal with.

138. Mr. AL-MATOOQ (Iraq) welcomed the efforts made by the Informal Working Group on the Financing of Safeguards, as reflected in document GOV/2454, which gave an idea of the various views expressed during the Group's deliberations.

139. His delegation nevertheless held the view that the financing of safeguards should be based on the level of nuclear development in each country. Although it considered the current arrangement to be appropriate, it felt that the method of assessing each country's contribution should be modified.

140. His delegation wanted a certain number of principles to be included in any new arrangement in the interests of greater transparency. Any increase over the present contributions should be modest and in keeping with countries' ability to pay. Large countries with advanced nuclear capabilities should pay a contribution proportional to their nuclear development and to their means, whereas the share of developing countries should be proportional to their own nuclear development. It would be unfair to ask a country with one or two facilities to pay the same as a country with ten. Countries with no nuclear facilities should contribute according to their ability to pay.

141. Mr. LOOSCH (Federal Republic of Germany) thanked Ambassador Strulak and the members of the Informal Working Group on the Financing of Safeguards for the progress they had made, which was reflected in document GOV/2454. In particular, he was happy to see that a consensus had been obtained (with the exception of one delegation which had not accepted the first principle listed in the document) but wanted to leave the detailed examination and balancing of the various points to the Working Group; otherwise he would be obliged to contradict many ideas which had been put forward, and that would take too long.

142. The second phase would be crucial as the Group would have to translate the principles into concrete rules. The evil spirits tended to put in an appearance only when details, not generalities, were being discussed. For example, how should one define "certain Member States" in Principle 2 or "certain safeguards activities" in Principle 6? It was up to the Working Group to provide an answer.

143. With regard to the report as a whole, he felt, like the Governor from India, that the expression "financing of safeguards" should be used consistently rather than "cost-sharing arrangements" to denote the same concept.

144. His delegation fully supported the action recommended in paragraph 8 of document GOV/2454, and expressed the hope that the Working Group would soon succeed in putting forward an equitable formulation acceptable to all Members and sufficiently flexible to be applicable over a long period.

145. Mr. KULICHENKOV (Union of Soviet Socialist Republics) reaffirmed his delegation's position of principle on the matter of the financing of safeguards. Under the Statute, the application of safeguards was the Agency's most important function - and that was logical, because only a reliable and effective safeguards system could ensure that international links in the nuclear field would not inspire a fear of nuclear weapons proliferation and that countries could collaborate successfully in the peaceful applications of nuclear energy. Guarantees of the effectiveness of that system were therefore in the interests of all Member States, large and small, nuclear and non-nuclear, industrialized and developing. That was why his delegation ascribed particular importance to the basic principle that all States should participate in the financing of safeguards - though of course, only within their means.

146. His delegation considered it essential to find an equitable solution for all Member States. It should be a long-term solution, so as to avoid returning to that matter again and again, to the detriment of the Agency's other activities.

147. On the whole, his delegation was satisfied with the progress made in the Group chaired by Ambassador Strulak and considered it extremely important that that work should continue.

148. Mr. HASHIMI (Pakistan), joining others in thanking Ambassador Strulak, stressed that the cardinal principle should be the ability of countries to pay; and it was up to the countries that had nuclear facilities and programmes that needed safeguarding to pay for them.

149. The Agency's safeguards expenses were increasing regularly and considerably, with a consequent loss of balance in the budget. Safeguards costs should be part of facility costs and should be paid for by the direct beneficiaries. It was worth noting that most of the inspection effort was being spent on reprocessing plants and mixed-oxide fuel plants which were in advanced countries.

150. His delegation felt that the preferential treatment accorded to some Member States in 1976 should be maintained. It had gone along with the six principles solely to enable the Group's work to continue, and associated itself with the statements made by the Governors from India and the Philippines. Thus, Pakistan reserved its position, waiting for definite proposals concerning the implementation of the accepted principles.

151. The CHAIRMAN, noting that satisfaction had been expressed with the progress achieved in the Informal Working Group on the Financing of Safeguards, said he assumed that the Board wished to thank Ambassador Strulak for his report and to take note of it, that the Board looked forward to the continuation of a constructive dialogue on the financing of safeguards and that it wished to submit to the General Conference, in accordance with operative paragraph 2 of resolution GC(XXXIII)/RES/513, the progress report amended in the light of comments made during the Board's discussion, together with the summary record of its debate on that item of the agenda and the documents requested by the Governors from Belgium and Italy.

152. It was so decided.