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## AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE

### Note by the Director General

Pursuant to the decision the Board took last June<sup>1/</sup>, the summary of the Board's discussion on "Amendment of Article VI.A.2 of the Statute" at its meeting held on 15 September is hereby transmitted to the General Conference.

## AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE

24. The CHAIRMAN referred the Board to General Conference resolution GC(XXI)/RES/353, which requested the Board to give further consideration to the matter of the representation of the areas of Africa and of the Middle East and South Asia on the Board and to submit its observations to the General Conference at its twenty-second regular session. He further referred the Board to its previous discussions on that matter at meetings held in February and June 1978, the records of which had already been issued.

25. On 15 June 1978 the Director General had received from the Resident Representatives of Iran, Pakistan and Saudi Arabia identical letters which contained the text of a proposed amendment of Article VI.A.2 of the Statute. Certified copies of that text had been circulated by the Director General to all Member States on 19 June. On 5 July the Resident Representative of Pakistan had sent to the Director General the text of a draft resolution for the General Conference containing the text of the amendment of which certified copies had been circulated, and requested the Director General that it should be circulated in time for the Board's meeting in September.

<sup>1/</sup> See document GC(XXII)/602, para. 1.

Document GOV/1909 reproduced the text of the draft resolution, the addenda thereto listed co-sponsors, and document GOV/INF/350 dealt with communications received in connection with the draft resolution.

26. Finally, he wished to remind the Board that under Rule 99 of the Rules of Procedure of the General Conference, the Conference could not take a decision on any amendment to the Statute until it had considered the observations submitted by the Board of Governors on the amendment.

27. Mr. KHAN (Pakistan) said that the proposed amendment of Article VI.A.2 of the Statute was a very important matter. When the changes had originally been proposed, the aim had been to rectify existing inequities in the representation of Africa and of the Middle East and South Asia on the Board. Since then there had been long debates and many informal consultations on the matter. In February 1977 it had been proposed<sup>\*</sup> that there should be three additional seats on the Board for the region of Africa, and two additional seats for the Middle East and South Asia. A number of countries had supported the proposal. As one of the original co-sponsors, Pakistan felt that the proposal was just and fair and would rectify a situation characterized by serious inequities and imbalances.

28. During the General Conference's discussion of the matter a number of delegations had suggested that the representation on the Board of all regions should be reconsidered, but the General Conference had unanimously decided<sup>\*\*</sup> that only the representation of Africa and of the Middle East and South Asia should be considered.

29. In 1978 there had been further consultation and debates, and every effort had been made to achieve the necessary consensus. The delegation of Pakistan now felt that if it should not be possible to reach a consensus on the solution which it regarded as ideal, namely to add five new seats, the Board should at least take a step in the right direction, towards becoming more responsive to the needs of Member States, by accepting the proposal submitted on 15 June 1978 that two seats should be added to the Board, one for Africa and one for the Middle East and South Asia. That proposal, put forward by Iran, Pakistan and Saudi Arabia<sup>\*\*\*</sup>, was now also co-sponsored by Bangladesh, Kuwait, Qatar and the United Arab Emirates.

<sup>\*</sup>/ See document GOV/1821.

<sup>\*\*</sup>/ GC(XXI)/RES/353, paragraph 1.

<sup>\*\*\*</sup>/ GC(XXII)/602, Annex II.

30. He wished to explain the philosophy behind that proposal for the benefit of the Board. In the first place it represented a genuine effort by Pakistan and the co-sponsors to find a via media - that was to say, a practical compromise solution to the problem of obtaining more satisfactory representation for the countries of Africa and the Middle East and South Asia. He hoped that the proposal would command the support of the Board and of an overwhelming number of Member States at the General Conference. In that spirit of compromise Pakistan, along with others, had agreed to moderate the original request, without sacrificing the principle behind it, and thus an increase of only one additional seat for each of the two areas concerned was now being proposed in the draft resolution contained in document GOV/1909. What would be the effect of such an increase in terms of regional representation on the Board? The total membership of the Agency at present was 110 and the number of Members on the Board was 34. As the table contained in document GOV/1821 showed, that meant that the proportional representation of the Agency's Member States on the Board was 31% - that being the average value. However, the representation on the Board of Africa, which had  $5\frac{1}{3}$  seats distributed between 25 Member States, was only 21%, while that of the Middle East and South Asia, which had  $3\frac{2}{3}$  seats distributed between 16 Member States, was only 23%. On the basis of the original proposed amendment the representation of Africa would have been increased from 21% to 33% and that of the Middle East and South Asia from 23% to 35%, while the overall average would have been increased from 31% to 36%. The compromise formula now being put forward, involving as it did one extra seat for each of the two regions, would increase the representation of Africa to 25% and that of the Middle East and South Asia to 29% - figures still well below the average of 33% for the Board as a whole. However, if the proposal were accepted, it would be a step in the right direction which would enable the work of the Board to be improved.

31. He wished now to restate the reasons why it was felt so necessary for the representation of the areas concerned to be increased at the present time. In the first place a lot had happened since 1973. There had been a serious energy crisis. The significance of the Agency had increased tremendously for many Member States, and it was desirable to give such Member States a greater feeling of involvement in the Agency's work. It was in fact in the Agency's interest that such countries be brought into the Board and take part in the resolution of such

important issues as the energy crisis and non-proliferation. The region of Africa had a very important contribution to make in the energy and non-proliferation areas, since it was a notable supplier of both oil and nuclear materials. Moreover, rapid strides were being made in the field of nuclear science and technology by the African countries and it would be wrong to deny them an adequate voice in the affairs of the Board. In the Middle East and South Asia several countries now had significant programmes for the peaceful application of nuclear energy, and that area possessed around 50% of the world's oil supplies. Thus it had a crucial role to play in determining world energy policies. Then, of course, there was the vital question of non-proliferation. It was highly desirable that countries in the two regions be closely associated with the non-proliferation policies advocated by the Agency, and to that end it was necessary to give the countries concerned the opportunity to sit on the Board and participate in its deliberations.

32. Acceptance of the draft resolution would mean an increase in the size of the Board from 34 to 36, still only one third of the total number of Member States, which was a smaller proportion than that existing in the governing councils and executive boards of other international organizations. It was by no means an excessive increase, and he hoped that the compromise formula would enable the Board to resolve that critical issue. It would not satisfy all parties, but it was a way to break the deadlock, get the Board moving again and make it somewhat more representative. Those were the motives and considerations behind the proposed amendment to Article VI of the Statute and the associated draft resolution which were being submitted for consideration by the General Conference in document GC(XXII)/602. Finally, he requested that the observations of the Board on the latest proposal by Pakistan and its co-sponsors, which now included the United Arab Emirates, should be communicated to the General Conference the following week.

33. Mr. GHEZAL (Tunisia) said that the areas of Africa and of the Middle East and South Asia were clearly under-represented and as such were the victims of an injustice. Although the original proposal that the area of Africa should have an extra three seats and the area of the Middle East and South Asia two seats had so far failed to find sufficient support, the African group still felt that that proposal was fully justified, as such an increase would have brought about an exact correction of the imbalance that existed. However, the African group, while upholding the original proposal, was prepared to consider a compromise proposal that might lead to a solution acceptable to all.

34. Mr. ALMINAYES (Kuwait) supported the proposed amendment of Article VI.A.2 of the Statute and the draft resolution submitted by Pakistan.
35. Mr. BABA (Malaysia), reiterating his support for more equitable representation of the areas of Africa and of the Middle East and South Asia on the Board, expressed the hope that the spirit of compromise shown by the co-sponsors of the draft amendment would be reciprocated by other parties, enabling the matter to be resolved swiftly and fairly to the satisfaction of all concerned.
36. Mr. SINGH (India) said that the principle of equitable geographical representation was enshrined in the Statute and had his country's full support. He stressed that the areas of Africa and of the Middle East and South Asia had failed to gain equitable representation when the Statute had last been amended, and that that situation had been exacerbated by the acceptance of new Members of the Agency from those areas. It was time that the disparity was rectified. With atomic energy now becoming a vital element in the economies of developing countries, fairer representation on the Board would enable the aspirations of those countries to be better reflected in the Board's deliberations.
37. Mr. SAMII (Iran) said that his country, a co-sponsor of the proposal for amendment of Article VI.A.2 of the Statute, supported an increase in the number of seats on the Board from 34 to 36, one seat being for the benefit of Africa and the other for the benefit of the area of the Middle East and South Asia.
38. Mr. JIMETA (Nigeria) said that, having listened to the Governors from Pakistan and Tunisia, he could only express general support for their submissions. He did so as a co-sponsor of the original proposal for an additional three seats for the area of Africa and two seats for the area of the Middle East and South Asia, and his delegation felt that that was still the most equitable remedy for the imbalance that existed. Such a solution would, in its view, enhance the Statute of the Agency and improve its decision-making machinery. His delegation considered that the proposal presented to the previous year's session of the General Conference had been fully justified, for the following reasons. There were twenty-five Member States from Africa in the Agency and there were potentially many more, as there were more than forty countries in the region; yet the under-representation was already such that roughly six Member States had to fight for each elective seat

on the Board. The situation was not much different for the area of the Middle East and South Asia. Thus, to accept anything less than the additional number of seats originally proposed would simply serve to maintain the imbalance which had been detected and which had been generally admitted. The problem was that the Board was not willing to rectify the situation. He hoped that that attitude would change. Nigeria would continue to seek a more equitable solution, not just for the sake of the African region, which was the one most discriminated against, but also for the purpose of giving the Agency a more democratic face.

39. Mr. BUHOARA (Romania), reiterating his country's position, said that it supported the legitimate desire of the developing countries in the two regions concerned for more equitable representation on the Agency's Board.

40. Mr. LINDSAY (Ghana), endorsing the proposed amendment to Article VI.A.2 of the Statute, observed that his Government shared with others the twofold aim of securing equitable representation on the Board for the two geographical areas concerned and of removing the existing imbalance in the Board's membership. He hoped that the spirit of compromise which had hitherto been evident would continue to prevail and allow a consensus to be reached on the important issue under discussion.

41. Mr. LEE (Republic of Korea) expressed his approval of the draft resolution; in the past his Government had consistently supported efforts to make the representation of Member States on the Board more representative.

42. Mr. SAMANIEGO (Ecuador) said his delegation favoured a rectification of the imbalance in the representation of the two geographical areas concerned and, as in the past, would support any compromise formula which called for only a moderate increase in the Board's membership and which commanded a consensus.

43. Mr. PRIETO CALDERÓN (Mexico) observed that his Government sympathized with the desire of the representatives of the two regions to secure better representation on the Board and was favourably disposed towards a moderate increase in the Board's membership, as was proposed in the draft resolution under discussion. However, if another proposal calling for a greater number of new members were submitted, his Government would have to reconsider its stand.

44. Mr. SILVA ARANDA (Peru) said the subject of increasing the Board's membership must be considered with the greatest care and that all arguments for and against the proposal should be reported to the General Conference so that it could take a right and fair decision.
45. Mr. KOREF (Panama) supported the just aspiration of the countries from the two regions, as reflected in the draft resolution contained in document GOV/1909, which provided for a moderate increase in the Board's membership.
46. Mr. OSMAN (Egypt) said that his country adhered to the original proposal, of which it had been a co-sponsor, calling for three more members from Africa and two more from the Middle East and South Asia for reasons which had been reiterated before the General Conference and the Board. However, it still had an open mind with regard to any solution which commanded the support of all the African States.
47. Mr. de CARVALHO (Brazil) expressed his approval of the draft resolution submitted by Pakistan in document GOV/1909, since his country was in favour of a more equitable representation of all geographical areas. However, an excessive increase in the Board's membership would be detrimental to efficiency and should be avoided.
48. Mr. LOOSCH (Federal Republic of Germany) observed that the reasons which his Government had put forward in the past for opposing enlargement of the Board's membership by five were also applicable to the proposal now under discussion. Furthermore, he had the impression that the other Members of the European Community shared his country's opinion in the matter.
49. Mr. GOLDSCHMIDT (France) and Mr. ALBONETTI (Italy) said that they shared the view of the Governor from the Federal Republic of Germany.
50. Mr. CARTER (Canada) considered that no adequate justification for increasing the Board's membership had been presented by the Governors from the countries in the regions concerned. The views which Canada had expressed on the subject in the past remained unchanged, and he was unable to approve the draft resolution submitted by Pakistan.

51. Mr. HERZIG (United Kingdom) said that any proposal to amend the Statute needed very careful examination and that, in discussing the balance of representation on the Board, consideration should be given not only to geographical distribution but also to interest and experience in the peaceful uses of nuclear energy. An even more important factor was the Board's ability to conduct its business in an efficient manner. Past experience showed that, because of its fairly small size, the Board had been able to deal successfully with its varied and complex tasks. His Government considered that it would not be in the Agency's best interests to enlarge the Board.

52. Mr. NOROZOV (Union of Soviet Socialist Republics) said that prolonged discussion in the Board of the subject of enlarging its membership did not show a clear consensus in favour of amending Article VI of the Statute, nor any justification for a hasty decision by the Board to review the Statute.

53. Mr. NORD (Norway), associating himself with the observations of the Governor from the United Kingdom, emphasized that enlargement of the Board's membership was not merely a matter of arithmetic but involved many other factors which must be taken into consideration.

54. Mr. DIQUEF (Senegal) said that the views expressed by the Governors from some developed countries filled him with profound disappointment. Although the earlier proposal calling for five additional members from the two regions would have been fairer, his Government was willing to reach a compromise and prepared to approve the draft resolution submitted by Pakistan. In international affairs there was often talk about justice, fair play and so on, but when it came to specific issues those principles were too frequently forgotten. An organization could scarcely claim universality if large areas of the world were under-represented in it. It was difficult to understand how an increase in the membership from 34 to 36 could have a bad effect on the Board's mode of functioning. The Board would, on the contrary, function better if the aspirations of an increasing number of developing countries were taken better into account. It was most regrettable that even the compromise formula embodied in the draft resolution submitted by Pakistan did not seem to enjoy a consensus.

55. Mr. SMITH (United States of America) observed that after participating for over a year in formal and informal discussions on the subject his Government was still not convinced of the need to amend Article VI.A.2 of the Statute. Although the number of countries in an area was an important factor in determining its representation on the Board, other factors must be taken into account in deciding equitable representation, e.g. technological advancement, financial and material support for and participation in the Agency's activities, and contributions to its technical assistance programme. The present composition of the Board adequately satisfied those requirements. Besides, the Agency's Board was one of the largest executive bodies in the United Nations system in relation to the total membership of the organization and might well have reached the maximum size compatible with effectiveness, especially in view of the growing scope and importance of the Agency's responsibilities. The United States therefore strongly opposed the proposed amendment.

56. Mr. BARABAS (Czechoslovakia) was in favour of retaining the present size of the Board for the sake of effectiveness, but wished it to be understood that that stand in no way reflected opposition to the interests of the geographical areas concerned.

57. The CHAIRMAN observed that there appeared to be no consensus in favour of the draft resolution calling for an amendment to Article VI.A.2 of the Statute (GOV/1909), which had been submitted by Pakistan with Bangladesh, Iran, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates as co-sponsors. That being so, he suggested that the records of the discussion at the present meeting on the amendment of Article VI.A.2 of the Statute be submitted, together with the records of earlier discussions, to the General Conference at its session starting on 18 September 1978.

58. It was so agreed.

