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

The summary of the Board's discussion on the item "Amendment of Article VI.A.2 of the Statute" at its 580th, 581st and 584th meetings, held on 17 and 20 September 1981 is hereby made available to the Conference.

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE

580th meeting

The CHAIRMAN recalled that the Board had, during its meetings in June, requested him to hold informal consultations with Governors about the amendment of Article VI.A.2 of the Statute; and to report the results of those consultations during the present series of meetings. The consultations had begun with a letter dated 3 August from the Chairman to all Governors inviting individual comments or observations and indicating that the next stage would consist of consultations between the Chairman and representatives of the eight geographical area groups. Four Governors had replied to that letter, three of them in writing.

In September he had invited the chairmen or co-ordinators of each of the eight area groups to discuss the matter with him. He had informed them of the individual views put forward and had asked them to outline the views of their area groups.

The area of the Middle East and South Asia had stated that the current imbalance in the Board persisted at the expense of that area and that the Board should be expanded by two members, one for the Middle East and South Asia and one for Africa. It had been emphasized that that should be viewed as a compromise proposal as it did not completely reflect the area's interests. In recent discussions of the subject in the Board there had been no serious criticism of such a compromise. The Board should now go forward with it or, at the very least, a positive counter-proposal should be made.

The area of Africa had stated that Africa was under-represented, that Africa was in the course of developing its nuclear programmes, that African countries would play an increasingly important role in the future of the world, that an enlargement of the Board would reflect the international system more equitably, that the United Nations General Assembly had already urged that step upon the Board and that, there having been no change in its composition since 1973, the Board was increasingly out of step with the corresponding bodies in other international organizations.

The area of Latin America believed that an imbalance existed in the membership of the Board. If there were to be a restructuring of the Board, Latin America wished to be involved in it.

The area of North America considered that the present composition of the Board reflected a careful balance of interests in accordance with the Agency's Statute, that the Board was of an effective size and that on balance the composition should be left as it was.

The area of Western Europe had pointed out that the present arrangement was the result of a compromise which had been reached after much discussion. Taking all the circumstances into account, it would be best to leave Article VI.A.2 as it stood.

The area of Eastern Europe believed that further consultations would be necessary since the views expressed by delegations did not show a common position on the problem.

The views of the area of the Far East were divergent, and accordingly that area had no common position.

The area of South East Asia and the Pacific had stated that a case existed in principle for the equitable and reasonable enlargement of the Board and had existed for some time. The area had an open mind as to the practical means of settling the problem and wished to study closely the views of the areas most closely concerned. In general, the area considered that the Board should be approximately one third the size of the total membership of the Agency.

Unfortunately it had not been possible to pursue the consultations to a further stage. While the positions of the various areas in general reflected views that had been expressed in the Board in the past, there had been some comments by individual members that deserved to be explored in more detail with the various area groups. Should the Board decide to charge his successor with a similar task, he would go over the ground very carefully with him in order that he might be in a position to determine how best to pursue the matter further.

Mr. OSMAN (Egypt) said that the amendment of Article VI.A.2 was a matter of top priority for the region of Africa and should receive the most serious consideration from the Board. During the Board's meetings in June, the Chairman had been requested to initiate intensive consultations with a view to working out an acceptable and fair way of correcting the imbalance which continued to exist in the Board in spite of the fact that the General Conference had since 1977 adopted four resolutions (the most recent being GC(XXIV)/RES/378 of 26 September 1980) inviting the Board to give the matter thorough, prompt and fair consideration, and in spite of United Nations General Assembly Resolution 32/49 inviting the Agency to give due consideration to the request of developing countries for an increase in their representation on the Board of Governors in accordance with the principle of equitable geographical distribution.

In February 1977 his and other delegations had suggested that Africa should be entitled to three additional seats on the Board and that the area of the Middle East and South Asia should be entitled to two additional seats. Several reasons justified that suggestion. First, the suggestion was in accordance with the widely recognized principle of equitable geographical representation. Secondly, it was of vital importance for the efficiency of the Board of Governors to correct the imbalance in representation that had prevailed for many years. Thirdly, it was obvious that the African countries were under-represented: there were 25 African States Members of the Agency, and they had only four seats on the Board; that meant representation of about 21% as against 31.2-38.9% for other regional groups; the imbalance would become more unfavourable for Africa (with a total of over 40 countries) whenever a new African Member was accepted into the Agency - and in that connection he expressed the hope that many more African countries would join the Agency in the future. Fourthly, the proposal to increase the number of seats for Africa on the Board to seven instead of the present four was fully compatible with the precedents: since the establishment of the Agency, the Board had been expanded as the number of Member States had increased - from 23 seats when there were 60 Member States, in 1957, to 25 seats when there were 75 Member States, in 1963, and to 34 seats when there were 103 Member States, in 1973. In 1981 the total number of Member States would be 111 after the acceptance of Zimbabwe's application for membership. It was therefore

necessary to adjust the number of seats on the Board accordingly. Fifthly, the proposal did not involve any unreasonable increase in the size of the Board. The proposed Board of 39 compared favourably with governing bodies of 56 members in the International Labour Organisation, 48 in the United Nations Educational, Scientific and Cultural Organization, 42 in the Food and Agriculture Organization of the United Nations and 45 in the United Nations Industrial Development Organization.

None of the comments made in the past four years cast any doubt on the importance of the principle of equitable representation or on the need to abide by it. The time had come for the Board to respond positively to the resolutions of the General Conference and to put an end to an unfair situation which had been unnecessarily prolonged for many years.

Mr. AGIOBU-KEMMER (Nigeria) said that the time had come to reconsider Article VI of the Statute as a whole. In accordance with Article VI.A.1, a number of Member States were designated for membership of the Board on the strength of their advancement in the technology of atomic energy including the production of source materials. In practice, however, more attention was given to advancement in technology than to advancement in the production of source materials, and no account was taken of changes that might have occurred in the course of time, with the result that it was taken for granted that certain countries permanently remained the most advanced and thus held guaranteed seats on the Board. Moreover, there was clearly an imbalance in the geographical distribution of representation on the Board. It was therefore difficult to understand what was meant by the "delicate balance of interests" which was supposed to exist in the Board in its present composition. The provisions of Article VI might have been reasonable at the time when the Statute was drafted, but there was a need to be more flexible about the provisions and to review them as circumstances changed.

The Statute divided the world into eight regions, of which Africa was the largest; that division was unique in the United Nations system, which generally recognized only five regions. If Africa were sub-divided like some other regions, for instance into North Africa, Southern Africa, Western Africa and Eastern and Central Africa, it would become quite clear that the present distribution of seats was not equitable. It had been pointed out that the present distribution had been agreed after much discussion, but it was never said who had participated in that discussion and who had not.

In 1957 more than one third of the Agency's Member States had been represented on the Board, but as the number of Member States had increased the proportion had declined. In other organizations of the United Nations system, the governing bodies had repeatedly been expanded, with increasing organization membership, so as to maintain a ratio of about one third. The present imbalance in the Board's composition was a grievous injustice to many Member States. The governing body of an international organization should faithfully reflect the aspirations, interests and concerns of its Member States. Most of the other areas were represented on the Board by between 30% and 40% of their members, the area of North America, indeed, being represented by 100% of its members. In contrast, the Middle East and South Asia was represented by only 22.9%, and in the case of Africa the figure was as low as 21.3% and would drop to less than 20% with the acceptance of Zimbabwe as a new Member State. There was thus quite clearly an imbalance, rather than a "delicate balance", in the representation of Member States on the Board which undermined any sense of fairness and justice in the Agency.

Mr. SIAZON (Philippines) pointed out that, although the Chairman had reported no common view among the countries of the Far East, most of the six Member States in that area, including the Philippines, were in favour of an increased representation of Africa and of the Middle East and South Asia on the Board.

Mr. KHAN (Pakistan) agreed with previous speakers that the time had come to enlarge the Board in order to improve its efficiency and effectiveness in the light of the developments of the past ten years. The Board must respond to recent technological advances and changes in the political map and energy situation of the world.

The choices before the Board were limited: it could either do nothing and continue to resist all reasonable proposals for a modest increase, or it could accept modest increases in order to adjust gradually to changing realities; otherwise, major readjustments would eventually be forced upon the Board by circumstances and inaction. Surely it would be best for all concerned to follow a moderate policy and to make the necessary adjustments in time.

The General Conference had in 1978 adopted a resolution<sup>\*/</sup> requesting the Board to consider proposals for a moderate increase in the representation of the areas of Africa and of the Middle East and South Asia which were acceptable to a majority of Member States. But not even the proposals for a modest increase put forward at that time had so far been implemented, and future proposals for the reconstitution of the Board would no doubt be much more far-reaching.

There was nothing sacrosanct or pre-ordained about the "delicate balance" which was so often invoked. The countries that were currently least represented on the Board had so far shown considerable patience and tolerance of an unjust situation; their proposals were not aimed at reducing the representation of other areas but merely at gaining equitable representation for themselves. Ten years before, the number of seats on the Board had been increased from 25 to 34, and a further increase to bring the membership of the Board back to about one third of the Agency's membership was long overdue.

During those ten years there had been a marked increase in the contribution of the countries in the two areas in question to the production of source materials for the nuclear power programmes of the more advanced countries. There had also been notable advances there in technology and in the

peaceful uses of atomic energy which could not be ignored. Moreover, a number of the countries in the two areas were major energy suppliers who were depleting their oil reserves to support the economic stability and growth and the high standard of living of the industrialized countries; that being so, the latter obviously had an obligation to use their resources to improve the safety of nuclear power plants and to develop fast breeders and other advanced reactors. It was not fair that the advanced countries should draw on the supplies of oil, uranium and other materials of the countries in the two areas while denying them equitable representation on the Board. He therefore appealed to the Board not to delay the matter any further and to find an acceptable solution for presentation to the General Conference within the next year.

Mr. AMBIA (Malaysia) associated himself with previous speakers in supporting the principle of equitable geographical representation and expressed the hope that a solution would be found quickly so that a climate of confidence and trust might continue to prevail in the Agency.

Mr. BIRIDO (Sudan) agreed with previous speakers that the Board should be expanded to take into account the increases in the membership of the Agency since the approval of the Statute. Since other organizations had increased membership in their governing bodies, and since Article VI of the Agency's Statute had also been amended in the past, there was no reason why it should be impossible to introduce a further necessary amendment in the present instance, so as to achieve adequate representation for Africa.

Mr. PULIT (Argentina) said that he shared the concerns expressed by previous speakers and their desire to change an unjust situation. The problem of Article VI should be given careful consideration in the light of the spirit in which the Statute had been drafted and of the developments which had occurred in nuclear activities since then.

Mr. DALAL (India) said that he feared the difficulties raised by the industrial countries in discussing the problem might lead to regrettable delays in the solution of other issues of importance to the Agency. He stressed the need for an early solution.



Mr. KENNEDY (United States of America) considered that there were several factors which should be taken into account in determining the size and composition of the Board. One was the size to which it could grow while remaining effective in giving direction to the Agency. The Board was already one of the largest executive bodies in the United Nations system in relation to the membership of the organization itself. The Agency had a well-deserved reputation for effectiveness and efficiency, but it could properly discharge its increasing responsibilities only if the Board remained of manageable size.

The number of countries in an area was certainly a factor in determining an area's representation on the Board. However, other factors must also be taken into account, as provided for in the Statute, such as level of technological advancement and of financial and material support for and participation in the activities of the Agency, including its promotional programmes. His Government considered that the present composition of the Board reflected a proper balance between those factors.

As no consensus had emerged concerning an enlargement of the Board, the best course would be to provide the General Conference with the record of the Board's deliberations, as had been agreed during the Board's meetings in June.

581st meeting

Mr. do NASCIMENTO e SILVA (Brazil) thanked the Chairman for the report he had made at the previous meeting, which had helped to clarify the situation. In his delegation's view there was no doubt about the existence of an imbalance in the representation of Member States on the Board. The fact that a certain number of developing countries had been willing to join the Agency in the recent past was to be welcomed: it showed that they trusted it to fulfil its first objective, that of seeking to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world. A further important factor which must inevitably affect the composition of the Board - one which in his view had not been taken sufficiently into account in the past - was the production of source materials. Three different proposals had been put forward at the previous meeting with a view to rectifying the imbalance in membership, and since many Member States were interested and involved in those proposals, he suggested that further discussion be postponed until the following morning so that a document could be drafted which would facilitate the Board's work.

Mr. BARREDA DELGADO (Peru) endorsed what the representative of Argentina had said at the previous meeting about the need for an in-depth examination of the question under consideration. Also, he supported the proposal of the representative of Brazil that further discussion of the amendment of Article VI.A.2 be postponed. In his view, if the problem was to be resolved in an equitable fashion it would be necessary to find a far-reaching solution. Thus, the discussion should relate not merely to Article VI.A.2 but to the whole of Article VI.A.

Mr. HAMIYÉ (Lebanon) said that it was clearly necessary to amend Article VI.A.2 in order to increase the number of members from Africa and the Middle East and South Asia on the Board, since those areas were obviously under-represented. The imbalance needed to be rectified soon.

Mr. AGIOBU-KEMMER (Nigeria) also supported the Brazilian proposal. He felt bound to point out, at the same time, that certain of the arguments of those who were against an increase in the membership of the Board were fallacious. For example, it was not true that the Board would become less effective if its membership were widened, that its reputation as an effective body would be jeopardized, or that an increase would render it unmanageable. Nor was it appropriate to maintain that the financial contributions and the contributions in kind made by Member States should be a criterion for membership of the Board in addition to the criterion relating to the number of countries in a particular group. It appeared that some were considering the question in terms of a balance of rich and poor countries. He believed that attitude to be totally wrong. In any case, it was wrong to suppose that an increase in the number of poorer countries on the Board would make it less effective. It should be noted, finally, that there were organizations in the United Nations system with larger executive bodies - the Agency's Board was not one of the largest.

The CHAIRMAN took it that the Board wished to postpone further discussion of the amendment of Article VI.A.2.

It was so agreed.

584th meeting

The CHAIRMAN suggested that, as in the past, the Board might agree to transmit the records of its discussion and its comments on this subject to the General Conference.

It was so decided.

