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Item 13 of the provisional agenda
(GC(XXVII)/683)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE

Report by the Board of Governors

1. In response to General Conference resolution GC(XXVI)/403, the Board discussed amendment of Article VI.A.2 of the Statute at its February and June meetings. Also, the Chairman held informal consultations on this matter, reporting to the Board on 10 June.
2. Although no consensus emerged, it is recommended that the General Conference request the Board to continue discussing the matter. The records of the Board's discussions on this matter since the 1982 session of the General Conference are contained in the Annex.

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A N N E X

Summary records of the discussion on the item
"Amendment of Article VI.A.2 of the Statute"
at meetings of the Board of Governors
held in February and June 1983

RECORD OF THE 604TH MEETING (held on 24 February 1983)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE

32. Mr. MIR SHAWKAT ALI (Bangladesh) regretted the fact that no decision had so far been taken with regard to an increase in the number of representatives from developing countries on the Board. His delegation supported the views of other delegations from developing countries in that respect.

33. Mr. SHASH (Egypt) stressed the need to modify the composition of the Board in such a way as to ensure more equitable geographical distribution within it. His delegation called for three additional seats for the area of Africa and two additional seats for the area of the Middle East and South Asia, and asked the Chairman to undertake a new series of consultations on that topic with a view to reaching consensus.

34. Mr. LOPEZ RODRIGUEZ (Spain) said that his delegation wished to reiterate its position and the proposals it had made at the five hundred and ninety-sixth meeting of the Board on 11 June 1982. He requested that the relevant part of document GOV/OR.596 be reproduced in the records of the current session, as follows:

"(1) Under this same agenda item the Governor from Spain stated, at the Board's meetings in February, Spain's position on this subject. I now have the honour to reiterate and spell out that position.

"(2) In the Committee of the Whole, at the twenty-fifth regular session of the General Conference, Spain stated that:

- (a) It had been one of the first States in the West European area to recognize and declare that it was necessary to change the representation of Member States on the Board of Governors;
- (b) At the twenty-fourth regular session of the General Conference, it had joined in the consensus on resolution GC(XXIV)/RES/378 on the understanding that the Board was empowered, when studying the 'Amendment of Article VI.A.2 of the Statute', to take into account all the consequences of any modification of Article VI;

that, in doing so, it would take into consideration all the interests involved; and that it would, therefore, study the amendment in the context of Article VI as a whole;

- (c) In any event, care had to be taken, in trying to render the Board more representative, not to impair its efficiency.

"(3) According to paragraph 103 of document GC(XXV)/OR.237, the delegation of Spain did not object to the adoption of resolution GC(XXV)/RES/389, on the understanding that the Board would take full account of the records of the discussions in the Committee of the Whole and that it would, therefore, study the modification of Article VI as a whole.

"(4) Article VI aims to achieve:

- (a) The presence in the Board of those Member States without which the Board would not be representative of the Agency's membership as a whole as regards advancement in the technology of atomic energy, including the production of source materials;
- (b) A regionally balanced and satisfactory frequency of participation in the Board of those Member States not designated on the basis of their advancement in the technology of atomic energy, including the production of source materials.

"(5) The number of designated Board seats, according to the present version of Article VI.A.1 and established practice relating to designation, does not permit an appropriate solution to the problem posed by the equal state of advancement of some Members from the area of Western Europe.

"(6) The numbers of elective Board seats for the different areas, in accordance with the present version of Article VI.A.2, make the frequency of Board membership of West European States not designated on the basis of Article VI.A.1 one of the lowest.

"(7) The General Conference, by its resolution GC(XXV)/RES/389, asks the Board of Governors to study the amendment of Article VI.A.2.

"(8) Spain, as a Member of the Board, and pursuant to the conditions of its support for the adoption of the above-mentioned resolution, believes that, in fulfilment of the request of the General Conference, it has a duty to contribute to the study by the Board of the amendment of Article VI, and has considered the consequences of several amended versions of that Article.

"(9) Accordingly, the delegation of Spain wishes now to submit for consideration by the Board one of those versions, as follows:

"A. The Board of Governors shall be composed as follows:

1. The outgoing Board of Governors shall designate for membership on the Board those members which, according to information available to and verified by the Agency, had the greatest nuclear power generating capacity at the end of the preceding year in each of the following areas:

- (1) North America;
- (2) Latin America;
- (3) Western Europe;
- (4) Eastern Europe;
- (5) Africa;
- (6) Middle East and South Asia;
- (7) South East Asia, the Pacific and the Far East.

The maximum number of members which may be so designated from each of the aforesaid areas shall be one plus a number calculated by dividing the number of members in the area by a factor, agreed upon by the Board and equal for all areas, which shall not be smaller than four; fractions of a seat equal to or greater than 0.5 shall be counted as one seat and fractions smaller than 0.5 shall be disregarded.

2. The General Conference shall elect to membership on the Board of Governors a number of members from among those not designated under sub-paragraph A.1. The number of members to be so elected for each of the areas mentioned in sub-paragraph A.1 shall be calculated by dividing by a factor, agreed upon by the Board and equal for all areas, the difference between the number of members in that area and the number of members in that area designated under sub-paragraph A.1. The agreed factor shall not be smaller than four. Fractions of seats for different areas may be added together by agreement among the members from those areas to constitute one seat to which a member from those areas shall be elected.

"B. [Unchanged]

"C. Members of the Board shall hold office from the end of the regular annual session of the General Conference that follows their designation by the Board or during which they have been elected by the General Conference until the end of the following regular annual session of the General Conference.

"D. [Deleted]

"E. Each member of the Board of Governors shall have one vote. Decisions shall be taken by a two-thirds majority of the members present and voting. Two thirds of the members of the Board shall constitute a quorum.

"F, G, H, I and J. [Unchanged]"

"(10) According to this version, the number of members qualified for designation would probably be twenty in 1983 and twenty-three in 1987.

The number of elective seats would probably be twenty-three both in 1983 and in 1987 if the agreed factor referred to under Article VI.A.1 proves to be four.

"(11) Spain remains prepared, as always, to discuss the amendment of Article VI with all Member States.

"(12) I ask you, Mr. Chairman, that my statement be included verbatim in the records of the Board and that these records be transmitted in their entirety to the General Conference at its twenty-sixth regular session."

35. Mr. MAPARA (Zambia) was sorry to see that the initial issue, which had been simply one of correcting an imbalance in the composition of the Board, had become the thorny problem of amending Article VI as a whole. The position of the Zambian delegation was that it was necessary to modify Article VI.A.2 of the Statute in order to put an end to the universally recognized under-representation of Africa and of the Middle East and South Asia in the Board by giving three additional seats to the area of Africa and two additional seats to the area of the Middle East and South Asia. That measure would in no way affect the representation of other areas on the Board and would have no financial implications.

36. Mr. TAYLHARDAT (Venezuela), speaking as co-ordinator of the Latin-American group, said he wished to reiterate the group's position on the matter under discussion. The Latin-American group was prepared to examine any proposal aimed at modifying Article VI.A.2 of the Statute which did not alter the present representation of Latin America - in other words, which would not reduce the proportion it held of the total number of seats on the Board.

37. Mr. KAHN (Pakistan) believed that it was important to improve the representation of Member States on the Board in the interests of more equitable geographical distribution for all areas. He agreed with the Governor from Zambia that the areas of Africa and of the Middle East and South Asia were under-represented; they were in fact the least represented on the Board since their 42 Member States held only nine seats, whereas the other 69 Member States held 25 seats. It was high time for that imbalance to be corrected. The representation of other areas would in no way be affected since the two areas concerned would continue to be under-represented on the Board, even if given additional seats.

38. The delegation of Pakistan urged the Chairman to undertake consultations with a view to seeking a solution to the problem. It looked forward to the results of those consultations and to the report to be made at the next session of the Board, in June 1983.

39. Mr. SAHBOUN (Libyan Arab Jamahiriya) stated that amendment of Article VI.A.2 of the Statute was very important for the smooth operation of the Agency. It was time for the Board to examine the question in a positive fashion, and it should make specific recommendations at the next session of the General Conference. Article VI.A.2, which had last been amended in 1973, did not meet present needs; the geographical distribution of seats was not equitable and the area of Africa, from which a number of countries had joined the Agency since 1973, was significantly under-represented. The Libyan delegation requested that Africa be given further seats on the Board in order to remedy an injustice and to achieve equitable geographical distribution.

40. Mr. KIRK (United States of America) said that the United States delegation remained opposed to an enlargement of the Board as that would render it an unwieldy policy-making organ. When all factors already examined on other occasions were considered, the present composition of the Board represented a good balance. Nevertheless, his delegation was not opposed to the Chairman's conducting consultations with Board Members on the question.

41. Mr. NEAMU (Romania) recalled that his country supported the efforts of developing countries to obtain more equitable representation on the Board of Governors, since they would then be able to participate in the Agency's activities in a more sustained fashion.
42. Mr. HENDERSON (United Kingdom) said that his delegation's position on that question was the same as that of the United States delegation.
43. Mr. BINTOU'a-TSHIABOLA (Zaire) pointed out that Zaire had been the originator of an amendment to Article VI in 1964. Since then the situation had changed and it was time to meet the demands of third-world countries in general and of African countries in particular. He supported the delegations of Egypt, Zambia and Libya with regard to the need to amend Article VI.A.2 so as to enable Africa to make a more effective contribution to the Board's deliberations.
44. The CHAIRMAN said he believed that it was the general feeling that, as proposed by Egypt, he should undertake informal consultations with Board Members with a view to ascertaining whether there had been any changes in position with regard to possible amendment of Article VI.A.2 and that he should report to the Board at its meetings in June.
45. It was so decided.

RECORD OF THE 611TH MEETING (held on 10 June 1983)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XXVI)/RES/403)

31. The CHAIRMAN recalled that the Board had discussed the question of the amendment of Article VI.A.2 of the Statute in February. At that time it had been agreed that he should undertake informal consultations with Governors to ascertain whether there had been any changes in views regarding the possibility of amending that Article, and that he should report to the Board in June.

32. Since February he had had informal consultations on the matter with most Board Members. In doing so he had covered all of the eight geographical areas to which Article VI referred. The consultations had taken place in an atmosphere which was very conducive to frank exchanges of views, and that had made his task easier than it might otherwise have been.

33. The impression he had gained from those consultations was to all intents and purposes the same as the one that he had gained in the previous year, when, as one of the two Vice-Chairmen, he had assisted his predecessor, Mr. Ukawa, with similar consultations. Essentially, his impression was that, while individual countries and groups of countries had considerable sympathy for the views of other countries and groups, there was still a fundamental divergence of views - between geographical area groups and sometimes even within geographical area groups - so that for the time being no single formula for amending Article VI.A.2 of the Statute could command the necessary support in the Board.

34. He was profoundly aware that the matter had been before the Board and the General Conference for several years, and for that reason alone it seemed to him that Member States regarded it as a most delicate matter with important implications, one which therefore deserved considerable thought about all the issues involved; in fact, it appeared to him that Member States believed that any course of action must command the widest measure of agreement, reflecting the general feeling of the Agency's membership.

35. Also, he was only too conscious of the fact that there had been very little movement on the matter in recent years. He therefore suggested that, when a report was made to the General Conference in response to resolution GC(XXVI)/RES/403 adopted the previous year, it should be recommended that the Board be requested to continue its discussion of the matter. That recommendation was contained in the draft of a possible brief report to the General Conference that he had circulated to Board Members for their consideration.

36. He did not regard the position as frozen indefinitely and accordingly wished to hold further informal consultations on the matter before the Board next met, in October, when he would report if there appeared to have been new developments.

37. Mr. SHASH (Egypt) said that he appreciated the Chairman's efforts and looked forward to further consultations organized by him.

38. In February 1977 Egypt had co-sponsored a proposal for the amendment of Article VI.A.2 of the Statute in order to correct the imbalance in the Board's composition caused by the under-representation of the two areas of Africa and the Middle East and South Asia. Since then the Board and the General Conference had continued to discuss the matter and the General Conference had adopted six resolutions in which it had repeatedly expressed the desire to see the matter given thorough, prompt and fair consideration.

39. Meanwhile, in resolution 32/49, the United Nations General Assembly had invited 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.

40. It was gratifying that no doubt had been cast, in any of the comments made over the previous six years, on the importance of the principle of equitable representation. It had also emerged that there was general and widespread recognition of the fact that the two areas in question were not as well represented on the Board as other areas.

41. In order to correct that under-representation, the Egyptian and other delegations had suggested that Africa receive three additional seats and that the Middle East and South Asia receive two. The reasons advanced in justification of that proposal were as follows. First, the proposal was in accordance with the widely recognized principle of equitable geographical representation. Secondly, it was of vital importance for the efficiency of the Board to correct the imbalance in representation that had prevailed for many years. Thirdly, it was obvious that the African countries were under-represented: whereas there were 26 African Member States of the Agency, those States had only four seats on the Board, or about 21 per cent of their membership, as opposed to between 31.2 and 32.9 per cent for other regional groups; that imbalance would become even more marked when other African States - out of a possible total of more than 40 - joined the Agency, and it was to be noted that Zimbabwe and Namibia had joined recently. Fourthly, the proposal that the number of seats for Africa on the Board be seven instead of the present number of four was fully in conformity with precedent. Since the inception of the Agency the Board had been expanding: in 1957, out of 60 Members of the Agency, 23 had been represented on the Board; in 1963, out of 75, 25 had been represented; and in 1973, out of 103, 34 Members had been represented. The total number of Agency Member States had now reached 111, and the number of seats on the Board thus needed to be adjusted accordingly. Fifthly, the proposal did not involve any unreasonable increase in the size of the Board since a Board of 39 Members compared favourably with the governing bodies of ILO with 56, UNESCO with 48, FAO with 42 and UNIDO with 45.

42. He regretted the fact that the consultations held by the Chairman recently had shown no change in position, and his delegation believed that the matter deserved urgent solution. It might be useful if a working group were established by the Board to examine the situation and to suggest appropriate measures which could help the Board to fulfil its responsibilities as defined and requested by the General Conference.

43. Mr. ORNSTEIN (Argentina), speaking on behalf of the countries of the Latin American area, said that those countries could approve an amendment of Article VI.A.2 along the lines suggested by certain other Governors if it did not modify the relative strength of the Latin American countries on the Board.

44. Mr. BINTOU'a-TSHIABOLA (Zaire) recalled that in 1964 Zaire had submitted a draft amendment of Article VI which was to result several years later in the most recent remodelling of that Article. That had been possible only because certain medium-sized European countries had realized that the amendment was in their own interests, and he hoped that a similar comprehension would come about again on the present occasion.

45. The lack of consensus on the question was regrettable, but his delegation had not lost hope of seeing the interests of all parties concerned converging in the end towards a satisfactory solution. The right of the two areas concerned to additional seats, which had been strongly emphasized by Zaire, appeared to have been recognized by everyone and he hoped that it was not beyond the Board's capacity for compromise to reach a solution acceptable to all.

46. Mr. KHAN (Pakistan) said that the principle of adequate representation of Agency Member States on the Board had been fully recognized and supported, as could be seen from the resolutions on the subject in the Agency and the United Nations. Specifically, it had been recognized that the two areas of Africa and the Middle East and South Asia were the areas least represented on the Board: they comprised 42 Members together and had 9 seats on the Board as compared with the other 69 Agency Member States which held 25 seats.

47. So far the Board and the General Conference had consistently concentrated their attention on Article VI.A.2 and no formal amendment of Article VI as a whole or of other parts of that Article had been discussed. Two formal proposals had been considered, however. The first related to three additional seats for Africa and two for the Middle East and South Asia, which would bring the representation of those areas closer to the average level of other areas, although without bringing them right up to that level. However, in order to facilitate compromise and to take into account the wishes of other delegations, a compromise proposal aimed at giving each of the two areas one additional seat had been sponsored. At the twenty-second regular session of the General Conference a majority had approved that compromise solution, while a smaller but significant minority had opposed it.

48. Thus, although a consensus had appeared possible, the position was still one of stalemate. Pakistan still believed that the best course was to aim for the compromise solution of one additional seat for each area, although it had to be emphasized that that solution did represent a substantial compromise. Further delay would only increase the sense of deprivation, unfairness and inadequate representation of the two areas concerned, which together made up 38% of the total membership of the Agency. He believed that consultations on that matter needed to be intensified so that they would result in a consensus. He therefore welcomed the Chairman's efforts to find a solution and hoped that the problem that had been facing the Board for six years would finally be laid to rest before the end of the Chairman's term of office.

49. Mr. GROZA (Romania) said that Romania fully supported the efforts of developing countries to gain more equitable representation on the Board. A positive solution of that problem would do much to enhance their participation in the Agency's affairs.

50. Mr. VAN BARNEVELD KOOY (Netherlands) said that the Agency's policy-making organs had considered the question of amendment of Article VI.A.2 thoroughly; that had been evident from document GOV/INF/412. The lack of perceptible progress was not due to any failure of good will or reluctance to make an effort, but rather to the absence of an acceptable solution. The Netherlands recognized that the representation of some areas - including the Western European area - constituted a problem for the Board which should be carefully considered.

51. It was necessary to take into account, first of all, the dual principle laid down by the Statute for representation on the Board, namely advancement in technology on the one hand and equitable geographical representation on the other. Furthermore, the size of the Board should remain within acceptable limits. Many other aspects of the problem put forward during discussions deserved equally full consideration, and his delegation was prepared to continue consultations - which it intended to approach with an open mind - in order to find a solution based on a broad measure of consensus. Finally, he approved the draft report submitted by the Chairman.

52. Mr. KENNEDY (United States of America) said that his Government understood the desire of some countries for increased representation on the Board. Nevertheless, it shared the feeling of many others that a larger, more cumbersome Board would weaken, not strengthen, the Agency. The present size and balance of the Board should not be altered, because they properly reflected the balance established by the Statute for membership on the dual basis of advancement in nuclear technology and geographical distribution. He agreed, however, that the Chairman should continue his consultations and report again to the Board in October.

53. The CHAIRMAN said he assumed that the Board accepted what he had said at the start of its discussion of the present agenda item and that it wished to transmit to the General Conference the report which had been circulated to Board Members in draft.

54. It was so agreed.