



GC

GC(XXIX)/761  
23 September 1985

GENERAL Distr.  
Original: ENGLISH

International Atomic Energy Agency  
**GENERAL CONFERENCE**

---

Twenty-ninth regular session  
Item 19 of the provisional agenda  
(GC(XXIX)/746)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE

Report by the Board of Governors

1. In response to General Conference resolution GC(XXVIII)/RES/438, the Board discussed the question of amending Article VI.A.2 of the Statute at its February, June and September 1985 meetings in the light of reports made by the Chairman of the Board on informal consultations which he had conducted.
2. The Board agreed that the summary records of its discussions on this matter since the twenty-eighth regular session of the General Conference should be transmitted to the General Conference for consideration at its twenty-ninth regular session; the summary records are reproduced in the Annex.

1063Y

85-4432



A N N E X

Summary record of the discussion on the item  
"Amendment of Article VI.A.2 of the Statute"  
at meeting of the Board of Governors  
held in February, June and September 1985

RECORD OF THE 633rd MEETING (held on 20 February 1985)

(e) AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XXVIII)/RES/438)

111. The CHAIRMAN observed that the question of amending Article VI.A.2 of the Statute was a familiar and long-standing item on the agenda of both the Board and the General Conference. It had been extensively discussed in formal meetings of the policy-making organs and in the course of informal consultations held by several of his predecessors. Since the 1984 session of the General Conference he had been engaged in wide-ranging informal consultations with representatives from all eight of the geographical areas to which Article VI of the Statute referred. Those consultations had covered both the substantive and the procedural aspects of amending Article VI.A.2.

112. While the consultations had taken place in a friendly and constructive atmosphere, there were still fundamental divergences of view on substance, and that in a matter where a broad consensus of Board Members, and indeed of the Agency's membership as a whole, was essential. In his opinion, there were basically three points of view: first, some Members wanted an amendment of part A.2 of Article VI and would like to give that matter priority over consideration of amending other parts of Article VI; second, there were Members who were in favour of a revision of Article VI as a whole; and lastly, a third group of Members did not want any amendment or revision of Article VI, whether in part or as a whole.

113. Opinions also differed on procedural questions, especially regarding a mechanism which might be established for carrying the matter forward. While some Members were in favour of a mechanism such as a working group, there were others who saw practical difficulties in the establishment of such a mechanism, and there were still others who were opposed to the establishment of any new mechanism, preferring to leave the process of consultation in the hands of the Chairman.

114. In those circumstances, he felt it might be advisable for him to continue his consultations, in co-operation with the Vice-Chairmen, and report on their outcome to the Board in June.

115. Mr. BELTRAMINO (Argentina), speaking on behalf of the Group of '77 and reviewing the history of the question of amending Article VI.A.2 of the Statute, recalled that the countries in the areas of Africa and the Middle East and South Asia had in February 1977 suggested that their representation on the Board be increased by three and two respectively. In 1978, the General Conference had adopted resolution GC(XXII)/RES/361 calling upon the Board to consider the matter and to submit its observations to the Conference the following year. The Board had discussed the subject in 1979 without arriving at a solution.

116. In 1979 the General Conference had adopted another resolution, GC(XXIII)/RES/370, requesting the Board to give further consideration to the matter, taking into account, among other things, United Nations General Assembly resolution 32/49, which had invited the Agency to give due consideration to the request of developing countries for an increase in their representation on the Board in accordance with the principle of equitable geographical distribution. The item had therefore been placed on the agenda of the Board's meetings in 1980. As in the past, the countries in the areas in question had again urged that their representation be increased.

117. The Board had submitted its observations to the General Conference at its twenty-fourth session, and the Conference had then adopted another resolution (GC(XXIV)/RES/378) asking the Board to give further consideration to the matter and to submit its observations to the Conference again at its next session. At the meetings of the Board in June 1981, Governors from Africa and Asia had argued in favour of amending Article VI.A.2. At the same time some Governors had defended the existing composition of the Board and had considered it inadvisable to enlarge it.

118. Resolution GC(XXV)/RES/389 had urged the Board to continue its examination of the matter taking into account the records of all previous discussions, including views expressed by some delegations in favour of amending Article VI.A as a whole. However, the resolution had lost much of its force in consequence of the reservations expressed by certain delegations after its adoption.

119. At the meetings of the Board in February 1982, the Governors from Africa had reiterated their demand for three more seats. The suggestion of the Group of 77 that the Chairman hold consultations with the different regional groups had enjoyed the support of Governors. When the Board had met in June 1982, the Chairman had circulated a document containing the conclusions emerging from his consultations, namely:

- (1) That the present composition of the Board was based not only on geographical representation but also on a very delicate technical and political balance;
- (2) That some delegations and groups considered it essential to modify the Board's composition. One school of thought held that an increase in the representation of one area should be accompanied by an increase in the representation of other areas. In the opinion of many delegations, such a step might not only upset the necessary balance but might also make the Board too unwieldy to act effectively as the Agency's executive body;
- (3) That there was no consensus on a formula which would reflect a new geographical, technical and political balance, there being important differences of opinion between regional groups and even within the same groups;
- (4) That even those delegations which would have liked to change the existing situation were willing to live with it in the absence of an acceptable alternative;
- (5) That the difficulties and frustrations experienced over a considerable period of time were leading to undesirable tensions, so that new efforts should be made in an appropriate manner if the consultations were to be continued. There were, however, differences of opinion about what was appropriate or acceptable; and
- (6) That some delegations believed it might be possible, without modifying the basic political balance, to arrive at an arrangement which would enable the Board's composition to be altered so as to reflect technical or geographical changes, especially the relative importance of the areas.

120. Together with that document the Chairman had circulated a draft report for the General Conference containing, pursuant to resolution GC(XXV)/RES/389, the conclusions reached as a result of the Board's meetings in February and June, namely that there was no consensus and that discussion should continue. The report had been approved by the Board and submitted to the Conference at its twenty-sixth session. The Conference had thereupon adopted yet another resolution (GC(XXVI)/RES/403), essentially repeating the request to the Board to continue its consideration of the question and to report to the Conference at its twenty-seventh session.

121. At the meetings of the Board in February 1983, where several Governors had advocated urgent amendment of Article VI.A.2, it had been agreed that the Chairman should hold further talks with the various delegations. The Latin American group had expressed willingness to consider any increase in the size of the Board provided the relative strength of their representation was not adversely affected. Finally, the Chairman had been requested to hold further consultations and to report on them in June.

122. In his report the Chairman had informed the Board that there had been no change in the situation, and had submitted a draft of the Board's report to the General Conference, stating the lack of consensus and suggesting that the Board should continue its consideration of the matter. That report had been approved by the Board.

123. At the twenty-seventh session of the General Conference, in 1983, African and Asian delegations had once again pleaded for amendment of Article VI.A.2, and others had also reiterated their known positions. There had been general agreement that the Board should continue to study the matter and resolution GC(XXVII)/RES/420, requesting the Board to submit its observations and recommendations to the Conference at its twenty-eighth session, had accordingly been adopted.

124. When the Board had met in February 1984, the differences not having narrowed, the Chairman had suggested postponing consideration of the item until June. In June, then, the Chairman had pointed out that there were divergences of opinion on the most basic aspects of the question.

125. In September of that year, reporting on his consultations, the Chairman had once again referred to the existence of three distinct stands and three

basically different views on procedure; one view in favour of a limited mandate to study the amendment of Article VI.A.2, another advocating a mandate for amending Article VI.A as a whole and a third view opposed to any mandate for amendment of Article VI.A.

126. Therefore, the Board had again informed the General Conference of the lack of a consensus and the latter had adopted resolution GC(XXVIII)/RES/438, requesting the Board to consider the proposed amendments and submit its observations on them to the Conference at its twenty-ninth session.

127. It would be clear from the foregoing narrative how long and laborious the process had been. A large number of Member States felt that the matter deserved due consideration and a speedy solution. The Group of 77 were aware of the political and technical complexities of the problem and were studying the question in detail. The Board should urge all Member States to intensify their efforts with a view to arriving at an acceptable formula by the time it met in June.

128. Mr. KENNEDY (United States of America), expressed his support for the Chairman's proposal to continue informal consultations. However, he wished to reiterate that, while the United States recognized the desire of some regions to increase their representation on the Board, it was imperative that the delicate balance which had enabled that body to operate effectively should be maintained. The present size of the Board was optimum for the accomplishment of its objectives, and any increase would be unwise and inadvisable. Lastly, the solution adopted must ensure that the Board continue to function efficiently and in the interests of all regions.

129. The CHAIRMAN took it to be the wish of the Board that there should be an intensification of effort on the part of Member States in all the geographical areas and that he, in co-operation with the Vice-Chairmen, should continue with informal consultations, both individually and collectively, and report to it again in June, when the Board could also decide on its report to the General Conference pursuant to resolution GC(XXVIII)/RES/438.

130. It was so decided.

RECORD OF THE 640th MEETING (held on 14 June 1985)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XXVIII)/RES/438)

44. The CHAIRMAN recalled that in February he had reported to the Board on consultations following the twenty-eighth session of the General Conference.

45. It had been decided in February that the Chairman, in co-operation with the Vice-Chairmen, should continue holding informal consultations, both individually and collectively, and that he should report to the Board again in June.

46. Accordingly, there had again been extensive informal consultations, although for the moment, at any rate, the basic differences of opinion which he had reported to the Board in February persisted. They related both to substantive and to procedural aspects of the matter. In the circumstances, it did not seem possible to make a definite recommendation to the General Conference at present. He therefore suggested that he continue to hold informal consultations with interested parties and report back to the Board in September.

47. Mr. BADDU (Morocco) suggested that the question of amending Article VI.A.2 and that of revising Article VI as a whole be considered together.

48. The CHAIRMAN pointed out that the two questions were different in nature, since item 18 of the agenda was being considered in response to a General Conference resolution while the question of revising Article VI as a whole had been included in the Board's agenda at the request of a Member State. However, the Governor from Morocco could comment on those items together if he so wished.

49. Mr. BADDU (Morocco) considered that the proposals concerning the amendment of Article VI.A.2 and the revision of Article VI as a whole had been discussed long enough for a final decision to be possible. The former, which had been put forward by the African group, went back to 1977 and had been debated repeatedly by the General Conference and the Board since that date. On each occasion the General Conference had adopted a resolution - of which there were six so far - and all of them had stressed the urgency of making such an amendment in order to ensure just and equitable representation for the African continent.

50. The proposal to revise Article VI as a whole was not without interest, and Morocco had no objection to the review of that Article as a whole provided what had already been achieved by a series of decisions concerning Article VI.A.2 was not affected.

51. The CHAIRMAN took it that the Board wished him to continue to hold informal consultations with interested parties and to report to it in September, when it could decide on the nature of the report to be submitted to the General Conference.

52. It was so agreed.

## PROVISIONAL RECORD OF THE 643rd MEETING (held on 20 September 1985)

## AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XKVIII)/RES/438)

The CHAIRMAN said that the question of amending Article VI.A.2 of the Statute had been extensively discussed since the General Conference's session in September 1984, when the Conference had adopted resolution GC(XKVIII)/RES/438, by which the Board had been requested to consider and submit its observations and recommendations on proposed amendments for approval by the General Conference at its twenty-ninth regular session.

Governors would recall that he had been requested in June to continue to hold informal consultations on the matter with interested parties and to report to the Board at its meetings in September. Since June, he had conducted further consultations but had unfortunately found that differences of view on both substance and procedure still existed.

With regard to substance, some delegations wished to preserve the present balance within the Board and felt that an enlargement of the Board would impair its efficiency; they were consequently opposed to any amendment of Article VI. Some other delegations advocated an amendment of Article VI.A.2 which would increase the representation of Africa and of the Middle East and South Asia on the Board. Some delegations from other areas could accept an amendment to that end provided that the relative representation of their areas was not thereby reduced. Lastly, some delegations - while recognizing the claims of Africa and of the Middle East and South Asia - felt that advancement in the technology of atomic energy must be borne in mind and that, accordingly, there were other areas which were also under-represented.

With regard to procedure, some delegations continued to favour the establishment of a mechanism for carrying the matter forward, whereas others would prefer to leave the process of consultation in the hands of the Chairman.

In the light of the situation he had just described, he had circulated for the Board's consideration a short draft report by which it could transmit to the General Conference the summary records of its discussions on the item

"Amendment of Article VI.A.2 of the Statute" since the 1984 session of the Conference.

Inviting Governors to speak under the item on "Amendment of Article VI.A.2 of the Statute", he said that those who wished to speak on the question of revising Article VI of the Statute as a whole would have an opportunity to do so under the next item of the agenda. There would, however, be no objection to Governors referring to Article VI as a whole during the discussion of the present item if they so wished.

Mr. GOMAA (Egypt) said that the Board should implement the various General Conference resolutions adopted on the matter under discussion in order to rectify the present under-representation of Africa and of the Middle East and South Asia on the Board. His delegation proposed the creation of three additional seats for Africa and two for the Middle East and South Asia. It was indeed regrettable that for almost eight years the Board and General Conference had been tossing such an urgent and important issue back and forth to each other without any concrete results having been achieved.

His delegation had earlier suggested that the Board should establish a working group on the basis of equitable representation to study the question and to propose an appropriate solution in line with the relevant General Conference resolutions. It was, however, prepared to support any alternative procedure which might resolve the issue. Member States would be well aware of the current imbalance affecting the two regions concerned, and it was to be hoped that that awareness and a certain goodwill would help the Board to achieve a speedy resolution of the matter.

Regarding the proposal submitted by Spain for the amendment of Article VI of the Statute as a whole, Egypt considered that that issue required further consideration and reflection. It was more urgent to rectify the imbalance affecting the two regions most seriously under-represented on the Board at present, namely Africa and the Middle East and South Asia. It was high time that the Board took action on that particular issue; the Spanish proposal could be considered after a decision had been taken on the amendment of Article VI.A.2 in accordance with General Conference resolution GC(XXVIII)/RES/438.

Mr. BRADY ROCHE (Chile) said that his delegation appreciated the skillful way in which the Chairman had handled consultations on the difficult issue under discussion, a solution to which had evaded the Board for at least eight years.

Unfortunately, no solution was in sight on the present occasion either. While expressing sympathy with the aspirations of all regional groups, his delegation wished to reiterate its position that any study of or proposal on the topic should not affect the current level of representation of the Latin American group on the Board.

With regard to the proposal by Spain for the amendment of Article VI as a whole, he could not but observe that one effect of that formula would be to reduce the present relative representation of the Latin American group on the Board. Subject to further consultations, as a result of which the proposal might be rendered more acceptable, his delegation would have difficulty in supporting it. On the other hand, the proposal was interesting in that one of its basic aims was to secure equitable geographical representation.

Ms. SUDIRDJO (Indonesia) was in favour of redressing the current imbalance in the representation of the various geographical areas on the Board by increasing the number of seats for certain under-represented areas - without, however, creating a new imbalance. It was regrettable that eight years of discussions had not brought the problem any closer to solution.

The question had been complicated yet further by the proposal in document GOV/2217 to amend Article VI as a whole. While recognizing that the Board should consider that new item, Indonesia believed that efforts to find a solution to the problem of amending Article VI.A.2 ought to receive priority.

The Spanish proposal in Annex 1 of document GOV/2217 and the explanatory note in Annex 2 required careful examination. At the present stage she wished merely to point out that, although the proposal would benefit certain geographical areas, the representation of the areas of South East Asia and the Pacific and of the Far East would remain unchanged despite the increased membership of the Board.

Mr. BELTRAMINO (Argentina) recalled that, as Chairman of the Group of 77, he had in February 1985 recapitulated at some length the discussions of the topic under consideration since the time it had first been brought before the Board, in February 1977. The conclusions to be drawn remained valid - namely, that the Group of 77 attached great importance to the subject and that the various regions represented in the Group would continue to analyse the problem in detail with a view to achieving an agreed solution, if possible in the near future. The regional groups and individual States should intensify their efforts with a view to arriving at a solution acceptable to all.

As to the question of revising Article VI as a whole, it was being studied by the various regional groups within the Group of 77, but the Group as a whole did not yet have a joint position.

Speaking in his capacity as Governor from Argentina, he said that his Government had analysed the proposal contained in document GOV/2217 with considerable interest and had concluded that it provided an appropriate basis for a solution of the problem of revising Article VI. So far, it had been impossible to balance representation within the Board in such a way that legitimate national and regional aspirations were satisfied. It was to be hoped that the proposal in document GOV/2217 would provide a new stimulus.

Mr. MAHMOUD (Iraq) said that the current composition of the Board was not well balanced from either a political or a technical point of view. Since Article VI had last been amended, a large number of Member States had taken an interest in the peaceful uses of nuclear energy, and as a result developing countries were under-represented on the Board. Some delegations were opposed to the enlargement of the Board of Governors on the grounds that it might affect its efficiency. However, certain specialized agencies of the United Nations had much larger governing bodies than the Agency's Board. Iraq believed strongly that amendment of Article VI.A.2 was very important for the proper functioning of the Agency, and he supported the statement made in that connection by the Governor from Egypt.

Mr. ESCALANTE (Ecuador) said that his country was not opposed to the amendment of Article VI.A.2 if a formula acceptable to all areas was found. He thanked the Chairman for holding consultations, a task which had not been easy owing to the complex circumstances surrounding a problem that had been under discussion for many years. Consequently, Ecuador urged Member States to intensify their efforts to reach a solution; that would require political will from each Member State. The process of consultations with a view to the amendment of Article VI.A.2 should thus be continued. Finally, he supported the statement on behalf of the Group of 77 made by the Governor from Argentina.

Mr. ROSALES (Cuba) said that it did not appear that any of the proposals submitted so far for the amendment of Article VI.A.2 would be accepted as a realistic basis for negotiation by Board Members. Although his delegation was aware of the reasons advanced by certain countries for the consideration of those proposals, it was necessary to bear in mind the clearly expressed interests of other countries in that connection; otherwise it would be very difficult to achieve the desired consensus.

Cuba considered the only realistic solution to be one which maintained a certain political equilibrium within the Board and benefited all geographical regions in one way or another without the present representation (in percentage terms) of the various areas being affected.

His Government was prepared to give serious consideration to any proposals submitted with a view to finding a solution, but it would be very difficult to accept one which did not take into account the interests of the Latin American group. Cuba would also be prepared to participate actively in any working group or committee of the Board entrusted with the search for a compromise solution. Such a working group or committee should be open to participation by all Member States in view of the importance of the topic.

Turning to the proposal in document GOV/2217, he said it appeared that more and more Member States wished to change the present structure of the Board, taking as a basis for their proposals various ideas and arguments with which other Member States did not always agree.

Cuba believed that any solution to that problem would of necessity have to take into account, as far as possible, the interests and viewpoints of the various geographical areas as specified by the Statute, and he did not believe that such a solution could alter significantly the current representation of areas on the Board. Certain areas would benefit significantly from the Spanish proposal, whereas Latin America would see its current relative representation reduced from about 17% to about 16%. Cuba would thus find it very difficult to support that proposal, and he felt that the majority of Latin American States would take the same view. The amendment of Article VI.A.2 of the Statute should command particular attention and priority, and any approach to the problem of amending Article VI as a whole would have to take that into account.

Mr. UMAR (Nigeria), while appreciating the efforts that had been made by the Chairman to solve the problem of amending Article VI.A.2, said that no solution seemed to be in sight despite the fact that for some eight years African representatives on the Board and at the General Conference had been appealing for careful study of the matter because of the under-representation of the two areas concerned. It appeared, however, that certain Member States were only paying lip service to the idea of under-representation and that there was no political will to solve the problem. A solution would enable the Agency better to meet its objectives as specified in Article II of the Statute. However, it appeared that each time a proposal was submitted, there was always at least one regional group which disagreed with it. A proposal should be found which was acceptable to all groups.

Turning to the proposal in document GOV/2217, he said that Nigeria considered it to be a step in the right direction. It was an appropriate proposal for the Board to study, and he hoped that Governors would make every effort to achieve an equitable solution to the problem once and for all. In the absence of a satisfactory solution to the problem of amending Article VI.A.2, the Spanish proposal thus represented an interesting formula; political will would, however, be needed, if it were to be discussed.

Mr. LOOSCH (Federal Republic of Germany) thanked the Chairman for his untiring efforts to achieve progress in his consultations, even if no concrete results had been achieved. His Government did not believe that there were any advantages in increasing the size of the Board; an enlargement would in fact have disadvantages in terms of efficiency. Although it was true that some other governing bodies in the United Nations system were larger, it was the Board of the Agency that was under discussion.

Any proposal put forward in that connection would bring advantages to some States but was likely to give rise to a new imbalance. Thus, his delegation could not accept either the proposal to amend Article VI.A.2 or that to revise Article VI as a whole. If necessary, the matter could continue to be a subject of consultations held by the Chairman.

The CHAIRMAN took it that the Board wished to transmit to the General Conference the draft report which he had distributed for its consideration, together with the summary records of its discussions under the item "Amendment of Article VI.A.2 of the Statute" since the 1984 session of the General Conference.

It was so decided.

