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Item 18 of the provisional agenda  
(GC(XXXIV)/914)

## REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE

The summary records of the discussions in the Board of Governors relating to this item since the thirty-third (1989) regular session of the General Conference are set out below.

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### RECORD OF THE 718th MEETING (held on 2 October 1989)

[The CHAIRMAN said that ... ]

47. Resolution GC(XXXIII)/RES/523 requested the Board to re-establish, with no financial implications, an open-ended informal working group to examine different proposals on the revision of Article VI of the Statute as a whole. Following the practice of the previous three years, the chairman of the group would be nominated from among the Board's members after appropriate consultations. Some Governors had noted that in previous years about six months had been lost because a chairman had not been nominated until February. As in the current year there would be a Board meeting in December, he expected to report on the chairmanship question at that time. While he appreciated the desire of some delegations to see the group begin work as early as possible, he would require a little time for consultations.

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RECORD OF THE 719th MEETING  
(held on 13 December 1989)

[The CHAIRMAN recalled that ... ]

147. ... in resolution GC(XXXIII)/RES/523, the Board had been requested "to re-establish, with no financial implications, an informal working group open to all Member States in order to continue to examine different proposals on the revision of Article VI of the Statute as a whole with a view to preparing a report to be submitted through the Board to the General Conference at its next regular session". The Board had re-established that group on 2 October with the same mandate as it had had previously. The work of the group would be conducted in the same manner as in the past.

148. ....

149. ....

150. ..., he understood that the Board wished to invite Ambassador Halim (Malaysia) to chair the working group on Article VI of the Statute as a whole.

151. ....

152. It was so agreed.

RECORD OF THE 736th MEETING  
(held on 13 September 1990)

9. The CHAIRMAN recalled that, in accordance with General Conference resolution GC(XXXIII)/RES/523, the Board had re-established the informal working group which had been considering the revision of Article VI of the Statute as a whole since 1987. The working group had been requested to continue its examination of different proposals on the revision of Article VI of the Statute as a whole with a view to preparing a report to be submitted through the Board to the General Conference at its next regular session. That report was contained in document GOV/2459. In paragraph 30 of the working group's report, it was suggested that the Board recommend that the General Conference request it to establish a successor working group with the same mandate as that of the previous one.

10. Also before the Board were three draft resolutions relating to matters which had been discussed in the working group. Document GOV/2472 contained a draft resolution submitted by Italy which foresaw the amendment of Rule 50 of the Board's Provisional Rules of Procedure, which related to the participation in the work of the Board by non-Board members. Under Rule 59, the adoption of such an amendment required a two-thirds majority. Document GOV/2474 contained a draft resolution submitted by the Latin American Group and related to the Board's committees. Adoption of that resolution would make the Board's Technical Assistance and Co-operation Committee (TACC) and Administrative and Budgetary Committee (A&B Committee) open to all Member States to participate in all meetings as full members. Lastly, document GOV/2475 contained a draft resolution submitted by the Philippines which also foresaw the amendment of Rule 50 of the Board's Provisional Rules of Procedure. As was the case for the Italian proposal, adoption of that draft resolution would require a two-thirds majority.

11. Before asking the chairman of the working group, Ambassador Halim, to introduce the group's report, he wished to thank him for having so ably guided the group's deliberations.

12. Mr. HALIM (Malaysia) said that, while there had been an exhaustive exchange of views on the various proposals submitted by different delegations on the first three items of the working group's agenda, it had not been possible to discuss items 4, 5 and 6 at such length owing to time constraints and the need of many participants to reflect further on the issues involved.

13. While there were still differences of view on many of the issues considered by the working group, there was strong support for the proposal put forward under item 2 of the group's agenda to make the TACC and A&B Committee open to all Agency Member States. It was the clear position of the supporters of that proposal that the opening-up of those committees would not be a substitute for the expansion of the Board itself.

14. Despite the lack of a clear consensus on the issues before the working group, the discussions had been extremely useful in clarifying the positions of the different delegations. The working group believed that further

consideration of those issues by a successor working group would be useful and had suggested that the Board recommend to the General Conference that it request the Board to establish such a group.

15. Mr. TALIANI (Italy) expressed his appreciation of the working group's report, which faithfully reflected the discussions and views expressed during the group's meetings. While it was regrettable that it had not been possible to reach a consensus on the expansion of the composition of the Board and on other related issues, some progress had been made on the modification of Rule 50 of the Provisional Rules of Procedure to bring it into line with present practice. His delegation hoped that the proposal it had put forward in document GOV/2472 could now be adopted by consensus. He wished, however, to make one amendment to the last sentence of operative paragraph a) of the draft resolution, in which the words "Chairman of the Board" should be replaced by "Board".

16. His delegation had no objections to the draft resolution submitted in document GOV/2475 by the Philippines, which, paradoxically, was a truer reflection of his delegation's views than the proposal it had made in document GOV/2472, the latter having been formulated as a compromise designed to secure as wide support as possible.

17. As to document GOV/2474 submitted by the Latin American Group, he looked forward to comprehensive discussions on that important issue.

18. In conclusion, his delegation agreed to the action recommended in paragraph 30 of the working group's report.

19. Ms. GARZA SANDOVAL (Mexico), introducing the draft resolution contained in document GOV/2474 on behalf of the Latin American and Caribbean Group, observed that, although non-members of the Board were allowed to participate in the work of the Board's committees as observers, they were kept on the edge of the discussions and were not properly involved in the formulation of recommendations on matters affecting the whole international community. If all interested Member States could participate in the Board's committees fully and on an equal footing, the recommendations made by those committees to the Board would be more representative and would facilitate the

Board's decisions. It should be stressed that the proposed draft resolution was not intended to be a substitute for any amendment of Article VI.A.2 or Article VI as a whole and should be regarded as a separate issue to be judged on its own merits.

20. Mr. LAVIÑA (Philippines) said that, while the Italian proposal (the amendment to Article VI of the Statute submitted and set out in Attachment 1 to the Appendix to the draft General Conference document GOV/2459) proposed by Italy provided a basis for discussion, it did not sufficiently redress the present political imbalance of and inequitable representation on the Board. In particular, it did not provide for any increase in the representation of regions such as South East Asia and the Pacific and the Far East.

21. He supported the view that all Agency Member States should be entitled to participate in Board committee meetings as full members in line with the principle of the sovereign equality of States enshrined in the United Nations Charter and the Agency's Statute. Rule 50 of the Board's Provisional Rules of Procedure should be amended since it was outdated and incompatible with the procedures of other bodies in the United Nations system. The geographical divisions of the IAEA should also be reformed, since they were anachronistic and out of line with established United Nations practice.

22. With regard to the criteria for the designation of Board members contained in Article VI, the Board should indicate unequivocally which were the ten members most advanced in the technology of atomic energy, including the production of source materials, and should name the three other most advanced members in each of the eight areas in which none of the previous ten was located. Without such clarification, the designations made by the Board were completely invalid.

23. The argument that the present composition of the Board should be retained because it was effective and efficient was untenable, since the present composition was undemocratic. A few representatives in the working group, almost all of whose countries were designated members, obstinately refused to accede to the demands of the great majority of Member States which wished to see an increase in the Board's membership. The rule of consensus helped to perpetuate the undemocratic composition of the Board.

24. Having made those comments, his delegation could support the recommendation that the working group's report be forwarded to the General Conference and that a successor working group be established.

25. With regard to his delegation's proposal in document GOV/2475 to amend Rule 50 of the Board's Provisional Rules of Procedure, he wished to emphasize its simplicity. Only minor changes of wording were proposed and those changes would not alter the existing arrangements for the attendance of non-Board members at Board meetings.

26. Mr. SINAI (India), speaking in his capacity as Chairman of the Group of 77, said that the Group of 77 supported the draft resolution submitted by the Latin American Group. It would be desirable for the Board to adopt that resolution under Rule 57 of the Provisional Rules of Procedure. Since Rule 58 enabled the Board to prescribe procedures for committees established by it, the Board could explicitly confirm an understanding that recommendations of its committees should only be made by consensus. Such a clarification ought to allay the concerns of those Member States which felt that the phrase "participate as full members" in the operative part of the draft resolution contained in document GOV/2474 could imply that non-members had the right to vote. On the contrary, the intention of the draft resolution was merely to formalize the practice adopted for decades whereby voting in the committees was avoided.

27. Speaking on behalf of his own delegation, he pointed out that the other two draft resolutions required an amendment of the Provisional Rules of Procedure and were connected with the proposed expansion of the Board itself. He therefore considered that those two draft resolutions could usefully be examined by the successor working group and discussed together with all pending proposals relating to the amendment of Article VI. The view of the Group of 77 was that all pending matters on the amendment of Article VI should be retained on the successor working group's agenda, although that group would of course have to be guided by the Board's discussions on the draft resolutions.

28. Mr. LOOSCH (Federal Republic of Germany) thanked the Chairman of the working group for his statement introducing the group's report, contained in the Appendix to document GOV/2459, and lent his support to the suggested Board action, which was to submit the report, together with the summary records of Board discussions on the subject since the General Conferences thirty-third regular session, to the thirty-fourth session of the Conference. However, the wording of paragraph 30 of the report, containing the suggested Board action, seemed unnecessarily complex, and the phrase "the Board recommend to the General Conference that it request the Board" could be substituted by a more straightforward statement of intention.

29. The ideas contained in the three draft resolutions submitted were not new. It was not entirely clear whether the aim of the Italian and Philippine proposals, contained in documents GOV/2472 and GOV/2475, respectively, was to institute a constitutional change, or whether they sought simply to reaffirm the current liberal practice with regard to the implementation of Rule 50 of the Board's Provisional Rules of Procedure. If the former was the case, then it was proper to discuss them under the heading of the revision of Article VI of the Statute as a whole; if however the latter was intended, the most appropriate action would be for the Chairman to reaffirm the current position in his summing-up. The aim of the draft resolution submitted by the Latin American Group, contained in document GOV/2474, was equally unclear, though the Governor from Mexico in her introductory statement had said that it was not intended as a substitute for a possible amendment of Article VI of the Statute as a whole; the Governor from India had confirmed that point in his statement. If that was the case, the proposal amounted simply to a reconfirmation of current practice and perhaps an improvement in certain arrangements. Comments made in the Board's committees by non-Board members were not suppressed, but perhaps reporting of such comments could be improved. In any case, his country was opposed to a revision of Article VI as a whole.

30. Mr. TALIANI (Italy), in response to the statement by the Governor from the Federal Republic of Germany, said that the Italian draft resolution certainly did not aim at an amendment of Article VI as a whole. The latter

topic covered many areas, however, and since the proposal pertained to that general issue it was proper to discuss it under that heading. The text of the draft resolution clearly stated that only an amendment to Rule 50 of the Board's Provisional Rules of Procedure was intended. Its aim was to consolidate current working practice with regard to the implementation of that Rule, but it did introduce a change in that it sought to remedy a situation where a Member State which was not a member of the Board could be denied the right to speak.

31. Mr. LOOSCH (Federal Republic of Germany) thanked the Governor from Italy for his clarification and pointed out that it was normal for amendments to the Provisional Rules of Procedure to be discussed under a separate item.

32. Mr. LAVIÑA (Philippines) confirmed that his country's proposal also did not entail an amendment of the Statute, but merely pertained to the general issue of the revision of Article VI. The arrangements with regard to Rule 50 were insufficient, and a simple summary of current practice in that area would not be an adequate response to the proposal; rather, improvements were needed.

33. Mr. ERRERA (France) said that most of the points he wished to make had already been made by the Governor from the Federal Republic of Germany, whose views he endorsed. He agreed to the transmission of the working group's report to the General Conference and to the suggestion that a successor working group be set up.

34. With regard to the draft resolutions submitted, he pointed out that the Board of Governors was intended as a representative body and that its composition was sufficiently wide to reflect adequately the views of Member States while also ensuring that its work was performed efficiently. Nevertheless, it was incumbent upon the Agency to take a liberal stance and to take account of the comments made and the views held by all of its Member States. Official cognizance of that position already existed on paper in the form of Rule 50 of the Provisional Rules of Procedure, which was being implemented most liberally. If the various proposals aimed at reaffirming current liberal practices in that area, he had no objection to them and would

be willing to join a consensus on the issue; he was also disposed to agree to minor improvements in current practices, but was most definitely against a change in the existing provisions.

35. Mr. KENNEDY (United States of America) said he was opposed to an expansion of the Board of Governors and to any change that might impede the efficiency of the work of the Board or blur the distinction between Board members and non-Board members. He fully agreed with the comments made by the Governor from France concerning the representational nature of the Board and its committees. Granting full membership of Board committees to all Member States would undermine that principle and the prerogatives of the Board itself. It could lead to very lengthy meetings and a deterioration in efficiency. The Board's committees would become a kind of mini-General Conference and would be larger than the Board itself. Therefore, he was absolutely opposed to such a move.

36. While welcoming the participation of Member States which were not members of the Board in Board meetings as provided for under Rule 50, he was nevertheless also opposed to changes being made to Rule 50 and the current practice with regard to the implementation of that Rule. Rule 50 provided adequate arrangements in its current form, prevented the debate from becoming too extended, and preserved the statutory distinction between Board members and non-Board members while at the same time making their views available to the members of the Board.

37. Mr. SINAI (India) pointed out that under Rule 57 of the Provisional Rules of Procedure "the Board may establish such committees and other subsidiary bodies and appoint such rapporteurs as it may deem desirable". One such committee was the Committee on Assurances of Supply (CAS), which was open-ended and therefore more representative than the TACC and the A&B Committee. The latter two committees were exceedingly important bodies and it was therefore desirable that the views of all be represented on them. No change in the Board or indeed the past practice of the Board's committees was being suggested; all that was being asked was that those members of the Board's committees which technically had the right to vote under the Board's Provisional Rules of Procedure should continue to refrain

from exercising that right, as they had done for the last three decades. In the light of that clarification, there seemed to be no reason why the Latin American proposal could not be accepted without any changes being made to the Provisional Rules of Procedure or the Statute.

38. Mr. ZOBOV (Union of Soviet Socialist Republics) said that his country was against a change in Article VI and felt that the Statute as it stood ensured that Member States were properly represented. It also favoured efficiency.

39. Regarding the draft resolutions which had been submitted, he agreed with most of the comments made by the Governors from the Federal Republic of Germany and France. In addition, he pointed out that the Latin American proposal could have serious financial implications and might destroy the distinction between the Board and its committees and between those committees and the General Conference. Some attempt could be made, perhaps, to make more places available for non-Board Members in the Boardroom, but he was not able to support amendments to the current practices under Rule 50.

40. Mr. LEE (Canada) felt that the practices which had been developed by the Board over the past thirty years had served well and should not be changed. The opening up of the Board's committees might have a detrimental effect on the Board's work and the functioning of the Agency as a whole because of the imbalance it would cause between the Board and its committees. All Member States were fully represented at the General Conference, and non-Board members were free to participate in the meetings of the A&B Committee and TACC although without the right to vote. A move of the kind proposed would duplicate the broad membership of the General Conference within the committees, which was not a good idea because no subsidiary body should be larger than its parent body; it would also undermine the Statute and run counter to the practice in other international organizations. In any case, since there had been no consensus on the issue in the working group or in the Board, it should be referred to any successor working group which might be set up.

41. Mr. TALIANI (Italy) said that although he remained convinced of the value of his country's proposal, he would withdraw the draft resolution since there was obviously no consensus on it.

42. Mr. van GORKOM (Netherlands) said that the Board must have authority and be efficient if the Agency was to be an effective organization, and that its efficiency and authority rested upon the provisions made in the Statute for its constitution. Nevertheless, the concern of certain Member States that the composition of the Board should be reviewed deserved attention, provided that any change did not affect its authority. The proposals now under discussion seemed unnecessary, since current practice with regard to the implementation of Rule 50 was satisfactory. However, if the Board were to agree to reaffirm and clarify that current practice, the Netherlands would be willing to join such a consensus - which might be built around a slightly amended version of the Italian proposal.

43. The Latin American proposal, which was supported by India, was difficult to accept, since it was not consistent with the spirit of the Statute that the Board's two committees be larger than the Board itself. Also, the wording of operative paragraph 1 of that proposal, which suggested that all Member States should be able to participate in the Board's committees "as full members" was not acceptable. Even in the light of the clarification given by the Governor from India, he still felt that such a change in membership would adversely affect the functioning of the Board and therefore agreed with what the Governors from the Soviet Union, the United States, France and the Federal Republic of Germany had said in that regard.

44. In the past, Member States which were not members of the Board had always been allowed to express their views, and their views had been taken into account. He was willing to endorse that liberal practice, and was even in favour of more active participation by non-Board members in the deliberations of the Board's committees, since participation of that kind placed the Board in a better position to take decisions on financial matters and on technical assistance.

45. Given that it would be difficult at the current stage to reach a consensus on the proposals before the Board, two possible courses of action suggested themselves: one was to refer the proposals to any successor working group the General Conference might authorize the Board to set up. That seemed to be the best course, for it was undesirable that the matter go to a vote, since the Board had successfully conducted its operations for many years working on the basis of consensus and it could be unwise and divisive to break with that tradition. Alternatively, the Chairman could, in his summing-up reaffirm the position with regard to practices under Rule 50 and participation of non-Board members in meetings of the Board's committees and recommend that their views be duly reflected in the Board's discussions.

46. Mr. CORREA (Chile), recalling that his delegation had co-sponsored the draft resolution in document GOV/2474, pointed out that the mandate of the Board's Committees was restricted to exchanging views and formulating recommendations. Allowing all interested Member States to participate in the work of those Committees could only make their deliberations more fruitful.

47. With regard to the revision of Article VI as a whole, he endorsed the proposal that a successor working group be set up to continue discussion of that matter.

48. Mr. KIMURA (Japan) said he supported the action recommended in paragraph 3 of document GOV/2459. His Government was rather reluctant to change the existing arrangements for the Board's subsidiary committees, as that might adversely affect efficiency and effectiveness and conflict with the administrative and budgetary austerity which the Agency had been pursuing. His Government wished to avoid creating another Agency General Conference. The current composition of the committees, which included almost a third of Member States, was broad enough to provide a satisfactory balance between technical viewpoints and geographical distribution. Furthermore, if non-members of the committees wished to attend meetings and make a statement, they were entitled to do so under the present rules.

49. Mr. ALVAREZ GORSIRA (Venezuela) said that the persistence of certain delegations in relating the efficiency of the Agency to the

composition of the Board had prevented the deliberations of the working group from being as fruitful as they might have been. Enlarging the Board's membership would not have a negative effect on its efficiency, rather it would reflect the principle of equitable geographic representation. The opening up of the Board's main committees, namely the TACC and the A&B Committee, would be a significant step towards meeting the legitimate desire of Member States to participate actively in the discussion of matters they considered important. Such a step would democratize and facilitate the decision-making process in the Board and the General Conference. The Latin American proposal would not create any new General Conferences - the Board's main committees were not decision-making bodies, but rather had the task of formulating recommendations for submission to the Board and General Conference. Moreover, the Board had in the past set up committees in which all Member States could participate - for example, the Safeguards Committee in 1970.

50. In conclusion, he wished to express strong support for the informal working group to continue to examine different proposals for the revision of Article VI of the Statute as a whole.

51. Mr. KANIEWSKI (Poland) endorsed the recommendation that the activities of the working group be extended. Poland, not being a permanent member of the Board, felt that there should be a reliable channel for transmitting its views on different subjects to the Board. The proposals put forward by Italy, the Philippines and the Latin American Group therefore merited serious consideration.

52. However, before any decision was taken on the matter, consideration should be given to possible negative consequences: unnecessary prolongation of debates and the increased cost of organizing Board and committee meetings, including translation and meeting room costs. It should also be remembered that the Agency operated a very effective system of informal consultations. Any amendment of rules governing the Board's work should be introduced very carefully and on a step-by-step basis. He fully shared the views expressed by the Governor from the Netherlands on that subject and considered the spirit of the Italian proposal very appropriate. Detailed discussions on those matters should be held in the successor working group, which could perhaps attempt to reach a consensus on the democratic approach proposed by Italy.

53. Mr. VILAIN XIII (Belgium) said that, with regard to the basic issue of the revision of Article VI as a whole, his country was in favour of a balanced expansion of the Board's composition and therefore wished to see that question continue to be discussed in a working group.

54. The very much more limited question facing the Board at present was, in fact, simply whether or not to formalize the current practices of the committees concerned. There was a formal difference (non-members, non-voting members and observers) between, on the one hand, Italian and Philippine proposals and, on the other hand, the Latin American proposal as amended by the Governor from India when speaking on behalf of the Group of 77. However, the practical effects were very limited. Under the circumstances, he hoped that the Chairman would not feel it necessary to ask the Board for a formal decision, it being clear that there would be no consensus, but that he would bring the discussion to a close by stating that there was general agreement that Member States should be fully involved in the work of the Board's committees and that the views they expressed in those committees should be duly taken into account.

55. Mr. WALKER (United Kingdom) said that his country had consistently taken the view that enlarging the Board would hinder its efficiency and therefore considered proposals to increase membership unjustified. Evidence submitted to the working group had shown that the Board was already larger in its percentage of total Agency membership than other comparable international bodies, and he was thus unable to support the Latin American proposal.

56. His country recognized the legitimate claims of all Member States to have a say in the Agency's management and in determining the scope of its activity, and felt that the Board should have the benefit of those views. That could be achieved by full reports of committee discussions being transmitted to the Board. The existing arrangements provided such a mechanism. It might none the less be helpful, as suggested by other delegations, if the Chairman's summing-up of the current discussion were to reaffirm the practice whereby non-Board members could attend the two committees, speak at the appropriate time and have their views reported to the

Board. In that way, any confusion would be removed without the need for changes to Rule 50. However, if a consensus emerged on amending Rule 50 in order to define more clearly than at present what current practice was, then his delegation would not stand in the way.

57. Mr. WILSON (Australia) expressed his support for the action recommended in the working group's report.

58. There seemed little distinction between the Italian draft resolution, which had just been withdrawn, and that proposed by the Philippines. The draft resolution put forward by the Philippines introduced the concept of observers which, although it existed in the United Nations system and in the IAEA itself, found no expression in the Provisional Rules of Procedure. Apart from separating Agency Member States from other States and organizations in terms of representation, the Italian proposal seemed to be largely in accordance with existing practice and would presumably apply to the committees as well. His delegation would have been prepared to join a consensus on that proposal.

59. The proposal put forward by the Latin American Group, on the other hand, seemed quite different, both in substance and in procedure. It appeared to give open-ended committees of the Board extensive powers, and implied that participants would have the right to vote. Although that right might not be explicit, it was certainly not excluded. If the draft resolution were adopted, differences in attitude and position might arise in future years between one or more of the committees, or between a majority in one committee and the Board on particular issues. There were evident risks of differences on procedural, legal and substantive matters between the Board and its committees. The work of the Board and both committees would become more difficult, time-consuming and costly.

60. He invited the sponsors to reflect on their proposals, since their principal objectives might very well be met by a careful, explicit summary by the Chairman of the discussion, reflecting the principal views expressed.

61. Mr. ZHOU (China) said that he had no objection to the transmission of the working group's report to the General Conference. His country's

position on the revision of Article VI as a whole was well known, so he would not restrict his remarks to the draft resolution submitted by the Latin American Group on expanding the composition of the Board. The Board was a decision-making body and if it became too large its efficiency might be impaired. However, the task of the Board's committees was to make recommendations to the Board. That being so, the more members that were actively involved, the better the Board could reflect their views. His delegation could therefore agree in principle to the draft resolution put forward by the Latin American Group.

62. Mr. ALER (Sweden) said that the proposal which his country had co-sponsored for widening the membership of the Board was the only reasonable way of achieving improved representation. His delegation supported the action suggested in paragraph 3 of document GOV/2459.

63. With regard to the two draft resolutions still before the Board, he shared the views expressed by the Governors from the Federal Republic of Germany, the Netherlands and other countries, and would be prepared to join a consensus whereby the existing practice was confirmed and improvements were made regarding attendance at meetings of the Board and its committees and, in particular, the transmission of committee discussions to the Board.

64. Mr. KHAN (Pakistan) endorsed the action recommended in paragraph 3 of document GOV/2459. He was not opposed to amending Article VI as a whole in order to have better representation for all areas and to remove certain anomalies. However, the proposal put forward by Italy did not meet the concerns of Africa and the Middle East and South Asia. It would result in the over-representation of Western European countries, 47.8% of which would be represented, and which would hold almost one quarter of the Board's seats. Further consideration ought therefore to be given to that matter.

65. The titles of the draft resolutions submitted by Latin America and the Philippines were somewhat misleading: the draft resolutions pertained to the amendment of Rule 50 of the Board's Provisional Rules of Procedure, yet they were listed under the agenda item dealing with the revision of Article VI of the Statute as a whole. He suggested that any future discussions on the

matter be held under an item entitled "Amendment of Rule 50 of the Board's Provisional Rules of Procedure".

66. The real problem, however, was the amendment of Article VI as a whole, and not the amendment of the Provisional Rules of Procedure. As long as that problem remained unresolved, it would crop up in discussions on the composition of the Board's committees. The basic issue was that many Member States did not feel that the current set-up of the Board and its committees allowed adequate representation. Inflexibility in that matter could only be counterproductive, and he had been dismayed to hear some Governors express the view that no amendment of Article VI would be acceptable. A measure of understanding and flexibility was needed to deal with the changing situation. A spirit of give-and-take was needed, otherwise it would become difficult to conduct the business of the Board in a spirit of consensus.

67. His delegation well understood the motivation behind the draft resolution put forward by the Latin American Group and endorsed by the Group of 77. It was aimed at achieving greater participation in the committees of the Board. An outright rejection of the resolution would be unacceptable. One way of trying to accommodate the aims of the draft resolution would be to have a liberal interpretation of Rule 50 of the Provisional Rules of Procedure. Another solution would be to merge the draft resolutions submitted by the Latin American Group and the Philippines into one which would command greater support. A vote should be avoided for the time being, as more time was needed for consultations, both formal and informal.

68. Mr. AHAFIA (Ghana), commenting on the argument that revising Article VI of the Statute as a whole might impair the efficiency of the Board, pointed out that that argument depended entirely on the definition of "efficiency". If efficiency meant making the right policy decisions for the Agency, then increasing the membership of the Board would not reduce it, but rather would provide better data upon which to base such decisions. If, on the other hand, efficiency was defined in terms of completing Board meetings on time, then increased membership would indeed tend to reduce efficiency by prolonging meetings. In any case, there was nothing absolute about the number

of seats on the Board, and any reduction or increase by one seat would surely have little practical effect on the length of meetings.

69. With regard to the idea of permanent membership of the Board, he did not wish to criticize it, but it seemed worth thinking about the criteria on which it was based. Today, the criterion was that a Member State must be advanced in nuclear technology; tomorrow, it might be different. Thus, the Board should take a flexible attitude to its rules, and change them when that seemed necessary or desirable.

70. Mr. NEGREIROS PORTELLA (Peru) said that his delegation agreed with the action recommended in document GOV/2459, as a consensus seemed to be emerging that the various proposals on the revision of Article VI should continue to be studied in the future.

71. The Latin American Group's proposal to open up membership of the TACC and A&B Committee to all Member States had been inspired by the wish to make international forums more democratic, by increasing the participation of all Member States in the decision-making processes. The Latin American Group and the Group of 77 made a very clear distinction between the Agency's policy-making organs, on the one hand, and advisory bodies such as the Board's two committees, on the other, and felt that the latter should be open to all Member States. After all, there was nothing in the Statute or in the Board's Provisional Rules of Procedure requiring that only members of the Board of Governors could be members of the Board's committees.

72. With regard to the Board of Governors itself, he had the impression that those countries which had permanent seats on the Board considered it to be a more democratic decision-making body than did those which did not hold such seats. It seemed unreasonable for those permanent members to argue that the present structure of the Board was sufficiently representative and democratic and provided adequate opportunities for participation by all regions, and that wider participation would only bring increased costs, longer meetings, and so on, when other Member States already attended the meetings in any case and were simply asking that their participation be formalized, which would have no significant impact on costs.

73. Thus, it was important that the Board should take the time needed to reach, through consultations, a clear and fair decision that would accommodate the desire of all Member States for appropriate representation.

74. Mr. CHIKELU (Nigeria) supported the proposal that a successor working group be established, provided attention was paid to the following: first, the group should not be unduly restricted by the need to maintain the political balance, since, it was the change in political balance which had made a review necessary at all. Second, the opening-up of TACC and the A&B Committee to all of the Agency's Member States, while a good move in itself, should not be regarded as a substitute for reviewing the composition of the Board. Third, while the Board should not be allowed to become unwieldy, it was nevertheless essential to achieve fair representation among all regional groups. Finally, the principles and criteria for the designation and re-election of Board members, and the issue of geographical distribution, required more detailed examination by the working group if meaningful recommendations were eventually to be made.

75. His country sympathized with the resolutions now under consideration and therefore hoped that further consultations would ultimately lead to a consensus being achieved on them.

76. Ms. GARZA SANDOVAL (Mexico) said that various speakers had opposed the Latin American proposal with arguments which she did not find convincing in view of the Board's past practice regarding its subsidiary bodies. There had, for example, been a Safeguards Committee open to all interested Member States, and also one on peaceful nuclear explosions. Other more recent examples were the Committee on Assurances of Supply and the Standing Committee on Liability for Nuclear Damage. It was therefore difficult to understand the reluctance now being shown over the proposed changes in the composition of the Board's committees. From the legal point of view, the relevant sections of the Agency's Statute and of the Board's Provisional Rules of Procedure clearly stated that the Board was the master of its own procedures and was therefore competent to decide on the composition and procedures to be adopted for its committees. Her delegation would be seeking the opinion of the Legal Adviser

on that interpretation, as it was likely to be of considerable assistance in any further consultations on the matter.

77. Mr. ROSALES (Cuba)[\*] said that document GOV/2459 provided a good basis from which to continue working toward solutions which should satisfy the legitimate interests of all the Agency's Member States. He therefore endorsed the proposal to establish a successor working group. He also supported the draft resolution submitted by the Latin American Group in document GOV/2474, since, by being open to participation by all Member States, the TACC and the A&B Committee would be more responsive to the interests of all Member States, which would facilitate the taking of decisions. However, while the adoption of the measure envisaged by that resolution would constitute clear evidence of progress on a matter which had been under consideration for so long, it should in no way be seen as a substitute for revising the existing structure of the Board itself.

78. The CHAIRMAN said that, while there appeared to be a consensus that the report contained in document GOV/2459 should be transmitted to the General Conference together with the recommendation that the Conference establish a successor working group with the mandate set out in General Conference resolution GC(XXX)/RES/467, and together with the summary records of the Board's discussion on the item, there appeared as yet to be no consensus on the draft resolutions before the Board. In order to preserve the Board's tradition, therefore, he suggested that the Board return to the matter following informal discussions with all concerned.

RECORD OF THE 738th MEETING  
(held on 14 September 1990)

The CHAIRMAN said that after intensive informal consultations among the Board members concerned, the following understanding had been reached.

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[\*] Member States not members of the Board of Governors are indicated by an asterisk.

The Board affirmed that all Member States should be afforded every opportunity to participate fully in the deliberations of the Technical Assistance and Co-operation Committee and the Administrative and Budgetary Committee and that they should have their views taken into account in the formulation of the committees' recommendations and reflected in the reports which the committees submitted to the Board.

The Board reaffirmed that every endeavour should be made for the committees' recommendations to be achieved by consensus and that that objective would be facilitated by more extensive informal consultations.

In addition, there was agreement that the matter would be reviewed in the coming year, for which purpose the next Chairman of the Board should consult with the chairmen of the area and regional groups.

The Board further reaffirmed that Rule 50 should be applied in a liberal manner and agreed that the matter would also be reviewed similarly in the coming year.

He took it that that statement would meet with the approval of all Board members.

It was so agreed.

