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(GC(XXXVIII)/1)

ARTICLE VI OF THE STATUTE

(b) REVISION OF ARTICLE VI AS A WHOLE

1. On 13 September 1994, the Board of Governors requested the Director General to submit to the General Conference, for consideration at its thirty-eighth regular session, the report contained in the Annex hereto.
2. The summary record of the Board's discussion on 13 September 1994 relating to this sub-item will be issued as an Addendum to the present document.

REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE**Report of the Informal Working Group**

1. On 1 October 1993, the General Conference took note with appreciation of documents GC(XXXVII)/1082 and 1082/Add. 1, requested the Board of Governors to re-establish the Informal Working Group to review all aspects of Article VI as a whole and requested Member States to submit written comments on a possible review of the membership of the Board.
2. The Board re-established the Informal Working Group in its meeting on 4 October 1993 and agreed that Ambassador Alec Aalto of Finland should continue to serve as its Chairman.
3. Regarding Article VI.A.2 of the Statute, since consultations on that matter related closely to the task of the Informal Working Group concerned with Article VI of the Statute as whole, the Chairman of the Board would draw heavily on the results of the work of the Informal Working Group when he reports to the Board. The decision of the General Conference to invite Member States to submit written comments on possible amendments of Article VI of the Statute was confirmed in the Board.
4. On 8 November 1993, the Director General of the IAEA sent a Circular Letter to all Member States, asking them to submit their written comments to the Agency Secretariat. Twenty-four replies had been received by 26 July 1994, one of them representing views of several Member States, contained in a letter from the League of Arab States. Copies of the replies received are attached hereto.
5. On the basis of Member States' responses, the Chairman of the Informal Working Group held a series of consultations with representatives of all the "area groups" specified in Article VI of the Statute on 30 and 31 May 1994.
6. The informal consultations focused on the following questions which were raised by the Chairman on the basis of responses of Member States:
 - Should there be an expansion of the Board at the present time in the light of on-going developments in the global system and in the Agency?

- What efforts or circumstances would necessitate a formal revision of Article VI and what improvements could be achieved without necessitating an amendment of the Statute?
- Should the General Conference formally determine the membership of each of the area groups referred to in Article VI of the Statute or should the Board act in this respect? Is a member entitled to choose the group to which it wishes to belong? Could the Agency accept that there are Member States without a place in any area group? Or should the whole issue be left to area groups themselves to decide?
- Regarding designations, should the Board address itself to clarifying the applicable criteria and further be more transparent by clearly setting out the two categories of designated members each year?
- Should the prohibition of re-election under Article VI.A.2(a) be lifted?
- Were there any grievances of States not represented in the Board? Or are the present arrangements under Rule 50 sufficiently satisfactory as seemed to be the case?
- Should the mandate of the Working Group be more specific in order to focus on the issues outlined above?
- How could the Working Group fulfill its tasks more usefully in the coming year?

7. The Informal Working Group itself held two meetings - one on 20 June and one on 26 July 1994. Representatives of approximately forty Member States participated in these meetings, in which the Chairman reported on his consultations with the area groups (see paragraphs 8-14 below).

8. In the consultations with area groups, most members agreed that the Working Group on Article VI should continue and that it should consider revision of Article VI as a whole. Several members stressed that this should be done without reverting to piecemeal changes. It was generally stressed that it was important to maintain the efficiency and effectiveness of the Board. While several members felt that the issue was urgent and needed review immediately, others repeated that no changes should be made at the present time before conclusions are reached in the Security Council and elsewhere in the UN system.

9. As to the distribution of seats between the various area groups, some members and area groups stressed the need for an expansion of the Board because in their view some area groups were under-represented considering the number of seats in relation to the number of Member States. In the view of these members, such inequity should be rectified without delay. On the other hand, other participants in the discussion re-iterated their positions that the Board with the present distribution of seats was functioning well.

10. Regarding the system of area groups, a number of Member States argued that it was essential and necessary to review the Agency's specific area group classification to reflect current geopolitical realities. It was also emphasized that it might be necessary for the General Conference to provide some guidance with regard to the composition of the current area groups since membership of a group seemed to be necessary for elections to the Agency's policy-making organs, such as the Board of Governors and the General Committee of the General Conference. Others felt, however, that the question of area groups was a political issue that went beyond the Agency's mandate and that the Agency should not take the initiative on this matter. Furthermore, they believed that it would be premature to change geographical groups in the Agency alone, one should rather await overall changes taking place within the UN system. It was further suggested that an attempt should be made to improve co-operation within area groups which would in turn facilitate the work of the policy-making organs, for example, by presenting group statements.

11. Regarding designation criteria, transparency and immediate review were urged by some representatives and the Agency was called upon to facilitate a full debate of this matter, as it was felt that to continue discussion in the Informal Working Group might not yield the desired results. The view was expressed that it was time for the General Conference to take up the issue and to make an appropriate decision. It was also stressed that designation criteria should be spelled out and that the designation process should be more transparent. Other members of the Working Group felt that the present designation process had worked well for a long time and that it was better not to tamper with a working and proven system.

12. While several members could support, as an interim measure, the elimination of the no-re-election clause in Article VI.A.2(a), others objected to such a measure as it would result in the de facto increase of semi-permanent members on the Board.

13. It was generally felt that Rule 50 of the Provisional Rules of Procedure relating to the participation of non-Board members was working satisfactorily.

14. At the end of the informal consultations with the area groups, the following trends emerged:

(a) there was no agreement regarding possible expansion of the Board; however, many Member States felt that the Board's membership should be expanded to reflect increased membership in the Agency and to ensure greater participation in and acceptance of the Board's decisions;

(b) with regard to the composition of area groups, concerned Member States should take this matter up in the relevant area groups in order to determine whether there were any problems with regard to individual membership which required attention;

(c) the Working Group should give due attention in its work in the coming year, inter alia, to the question of the designation process in Article VI.A.1 of the Statute;

(d) there was no agreement on the question of a possible revision of Article VI.A.2(a) of the Statute relating to non-re-election to the Board at the present time.

15. The Informal Working Group took note of the Chairman's summary and in its discussions called upon Member States which had not yet done so to submit written comments on the issue in order to enable a more comprehensive debate at the General Conference and to facilitate the future deliberations of the Working Group.

16. The Working Group recalled that the Board at its recent meeting on 9 June 1994 requested the Working Group to give special consideration to the question of "designations", in particular whether the present practice of the Board to designate members alphabetically conformed to the provisions of Article VI.A.1 of the Statute and to submit its views on this latter question well in time for next year's consultations on designations for 1995-96 by the Chairman of the Board.

17. There was no agreement on the need for an increase in the membership of the Board. Some participants re-iterated their call for an expansion of the Board to reflect the current realities of the global system, while others stressed that the size of the Board was effective and required no change, at least at the present time. A view was expressed that any realistic prospect for change in the size of the Board would have to take into account the competing interests of those who are satisfied with the status quo and of those who desire a change in the present composition of the Board.

18. It was generally agreed that a possible review of the area group classification system taking into account the practice in the United Nations, among others, should be addressed by the Working Group in the coming year.

19. The Working Group stressed that all issues were inter-related and should be considered as an integrated whole.

RECOMMENDED ACTION

20. It is recommended that the Working Group on the revision of Article VI as a whole be re-established with a mandate to review all relevant aspects of the Article in question and, in particular, to examine the present Board procedure for designating members serving on the Board, as well as to review the area group classification system outlined in Article VI.A.1 of the Statute.

COMMENTS PROVIDED BY ALGERIA

The Permanent Mission of the People's Democratic Republic of Algeria to the Office of the United Nations and the other International Organizations in Vienna presents its compliments to the International Atomic Energy Agency (Secretariat of the Policy-Making Organs) and, with reference to the Secretariat's circular letter No. 5.11.6. Circ of 8 November 1993, has the honour to transmit its comments regarding the revision of Article VI of the Statute.

The Permanent Mission, which associates itself fully with letter No. 25.2.94 of 16 February 1994 addressed to the Director General by the Ambassador of the United Arab Emirates on behalf of the Ambassadors of the Arab countries Members of the Agency, wishes to reiterate the great interest which the Algerian Government has in the question of expanding the Board of Governors.

In this regard, it recalls that the General Conference has regularly underlined the urgent need to implement resolution GC(XXV)/RES/389, regretting the continued absence of progress in the search for a solution in that matter.

Accordingly, it is with satisfaction that the Algerian Government acknowledges the efforts made to inject a new dynamism into the search for a solution which would meet the expectations of those Member States which wish the Agency's Board of Governors to be more representative and therefore consider it necessary to increase the number of States designated and elected to seats in that limited body.

Besides the fact that it is important to take into account the significant increase in the number of Agency Member States, it is necessary to correct the imbalances in the representation of the regional groups to which the developing countries belong - especially the African region, which is particularly under-represented.

Over and above the objective facts which make such an increase essential, including the increase in the number of Agency Member States and the pronounced under-representation of the developing countries, it is necessary to ensure that the Agency adapts to current developments with a view to meeting the new challenges to which neither the United Nations General Assembly nor the Security Council is insensitive.

The process of enlarging the Board of Governors requires intensive consultations among all of the Agency's Member States with a view to defining transparent criteria which reflect the Agency's statutory objectives and are based on an objective evaluation of the peaceful nuclear programmes of Member States and on the concrete and constructive commitment of those States to the Agency's activities and to the promotion of its noble objectives.

The Board could not but be strengthened by any process which, by broadening its basis for action, would enable a larger number of Member States to associate themselves, on the basis of equitable geographical distribution, with the decisions which it takes and the recommendations which it is called upon to make to the General Conference.

In the opinion of the Algerian Government, it would be reasonable for the Board to represent (at least) one third of the Agency's Member States - the proportion generally found in other international organizations - instead of one quarter, which is the present proportion within the Agency.

The Algerian Government wishes to emphasize the need to arrive at a consensual solution in a matter of great importance. In this regard, amending Article VI of the Statute as a whole might prove to be a lengthy process, which raises the question of a partial amendment of sub-paragraph A.2(a) of the Article so as to permit the immediate re-election of Member States to regional seats in the Board.

Deletion of the last sentence of Article VI.A.2(a) would bring this sub-paragraph into line with the provisions of sub-paragraphs (b) and (c) of the same article. This measure would give the regional groups greater flexibility in the choice of their representatives, which would be more in line with the practice followed in other international organizations.

A decision on a partial amendment of Article VI.A.2(a) could be taken during the 1994 session of the General Conference.

While supporting the renewal of the mandate of the informal working group and continued examination of the question of amending Article VI as a whole by the Policy-Making Organs, the Algerian Government hopes that the widened consultations which will take place will lead rapidly to consensual solutions.

The Permanent Mission of the People's Democratic Republic of Algeria avails itself of this opportunity to renew to the International Atomic Energy Agency (Secretariat of the Policy-Making Organs) the assurances of its highest esteem.

Vienna, 6 June 1994

COMMENTS PROVIDED BY ARGENTINA

Vienna, 25 February 1994

Dear Sir,

I have the honour to write to you with reference to the Agency's circular letter No. N5.11.6 concerning the revision of Article VI of the Agency's Statute.

The Argentine Government believes that the important worldwide changes that have taken place during the last few years have demonstrated the positive role played by the Board of Governors in connection with the non-proliferation regime and that the main objective of any reform of the composition of the Board should be to maintain that role.

In Argentina's view, the existing composition of the Board reflects a delicate balance involving factors of a political nature and factors relating to technological development. Furthermore, the present size of the Board is practically the maximum compatibility with the satisfactory and efficient discharge of its fundamental responsibilities.

My Government thinks that in carrying out any major review of the Board's composition and size, it is essential to bear in mind the primary need to maintain its operational efficiency.

Argentina, therefore, does not consider that any expansion of the membership of the Agency's Board of Governors is necessary.

Yours, etc.,

(signed)

Juan José Iriarte Villanueva
Minister
Acting Chargé d'affaires

COMMENTS PROVIDED BY AUSTRALIA

I am replying, on behalf of the Australian Government, to the Director General's Note of 8 November 1993 seeking member states' comments on a possible review of membership of the Agency's Board of Governors.

A major interest for Australia is to preserve and enhance the efficiency and effectiveness of the Board. We also wish to see representation on the Board from the geographical groupings continue on an equitable basis. To these ends Australia believes that the issue of membership of the Board should continue to be discussed in the current forum of the Informal Working Group on Revision of Article VI as a Whole.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R A Walker'. The signature is fluid and cursive, with a large initial 'R' and 'A'.

R A Walker
Permanent Representative

COMMENTS PROVIDED BY CHILE

The Permanent Mission of Chile to the International Organizations in Vienna presents its compliments to the International Atomic Energy Agency and, with reference to circular letter No. N5.11.6 of 8 November 1993, has been instructed by the Government of Chile to state the following:

1. Since the creation of the IAEA, the number of Member States has increased from 83 to 120 (6 new Member States joined during the General Conference in September 1993). In 1963, the Board of Governors comprised 25 members and it now has 35 members. This shows that the proportion of seats on the Board of Governors in relation to the number of Member States has dropped considerably;
2. The system of regional groups laid down in Article VI to determine the composition of the Board establishes groups of varying sizes and gives no clear indication as to which group each Member State belongs. This, together with the increase in the number of Member States, has affected the distribution of the seats, which in turn, alters the composition of the various regional groups;
3. The criteria used under Article VI to designate seats (degree of advancement in the technology of atomic energy and production of source materials) are vague and lack transparency;
4. In view of the aforementioned, there is a clear need to revise Article VI of the Statute to achieve a membership of the Board of Governors which is more commensurate with the present number of Member States, which overcomes the under-representation of certain regions and which makes room amongst the designated members for those which are the most dynamic in the field of nuclear energy, in accordance with clear criteria.

The Permanent Mission of Chile to the International Organizations in Vienna takes this opportunity of reiterating to the International Atomic Energy Agency the assurances of its highest esteem.

Vienna, 28 February 1994

Stamp of the Embassy of Chile
Vienna, Austria

COMMENTS PROVIDED BY CUBA

Vienna, 28 February 1994

Sir,

I have the honour to refer to circular letter No. N5.11.6 of 8 November 1993, in which the Secretariat of the International Atomic Energy Agency requests the comments of Member States on Article VI of the Statute, particularly with regard to a possible review of the composition of the Board of Governors.

As you know, the position of my country has been to support extensive revision of Article VI as a whole in order to find a solution which adequately reflects the interests of the Member States and which takes into account the changes which have taken place in the world over the past years.

Revision of Article VI should consider not only an increase in the membership of the Board to achieve more equitable representation of the various geographical regions, a standpoint we favour, but also its composition as a whole and the functions which the Board carries out in practice, with a view to rendering its functions, as an organ of the General Conference, more explicit.

These comments are also based on the increase in the number of Member States and the Agency's growing role as an appropriate framework for the implementation of the broadest international collaboration. To achieve this objective, there is no alternative but to work - as in other international organizations - towards its democratization so that the General Conference, the Board of Governors and their committees can carry out the role entrusted to them under the Statute with more vigour and dynamism.

I should like to reiterate that the Permanent Mission is willing to take part in consultations organized on this issue.

Accept, Sir, etc.,

(signed)

Alberto Velazco San José
Resident Representative

COMMENTS PROVIDED BY ECUADOR

The Permanent Mission of Ecuador to the International Organizations in Vienna presents its compliments to the International Atomic Energy Agency and, with reference to circular letter No. N5.11.6 of 8 November concerning the revision of the Statute with respect to the composition of the Board, has the honour to enclose letter No. 3588-1 DGOM/DTOEO of 23 February 1994 from the Ecuadorian Ministry of External Relations containing Ecuador's comments on that subject.

The Permanent Mission of Ecuador to the International Organizations in Vienna takes this opportunity of reiterating to the International Atomic Energy Agency the assurances of its highest esteem.

Vienna, 28 February 1994

Stamp of the Ecuadorian Embassy in Austria

Quito, 23 February 1994

Dear Sir,

With reference to your circular letter No. N5.11.6 of 8 November 1993, I am pleased to inform you that Ecuador has no objection to a revision of Article VI of the Statute with respect to the composition of the Board of Governors.

However, my country considers that such a revision should include the following elements:

1. An increase in the membership of the Board proportional to the Agency's current composition; and
2. The stipulation - in the interests of a more fluid and democratic representation on the Agency's Board of its Member States - that the members elected to represent the regional groups should not be eligible for re-election.

Yours, etc

For the Minister, Director General of
Multilateral Bodies

Pablo Yáñez Cossío

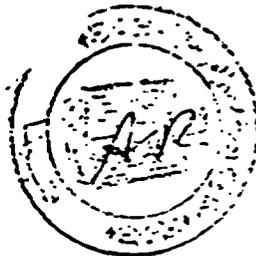
COMMENTS PROVIDED BY EGYPT

Vienna, 28 February 1994

NOTE VERBALE

The Permanent Mission of the Arab Republic of Egypt to the International Atomic Energy Agency presents its compliments to the Secretariat and has the honour to enclose herewith a letter addressed to H.E. the Director General from Ambassador Onsy, Permanent Representative and Governor for Egypt. The letter is in reply to the Director General's note N5.11.6 Circ and it contains Egypt's views on "the revision of Article VI of the Statute as a whole".

The Permanent Mission of the Arab Republic of Egypt to the International Atomic Energy Agency avails itself of this opportunity to renew to the Secretariat the assurances of its highest consideration.



Enclosure

Sir,

In reply to letter N5.11.6 Circ. of 8 November 1993 requesting the views of the Agency's Member States on the revision of Article VI of the Statute, I should like to inform you that, in Egypt's opinion, it has become necessary and urgent to review the composition of the Agency's Board of Governors in the light of the major changes that have taken place in the world order. In this connection, the following considerations should be taken into account:

1. It is necessary to increase the number of Board members to permit broader participation and more equitable representation of the international community, since this would improve the Board's efficiency in discharging its responsibilities and increase its capacity for taking decisions that would be generally accepted and complied with;
2. The expansion of the Board should cover both the designated and elected seats;
3. The present representation of Africa is inadequate. There should be at least one further designated seat for Africa, as well as a greater number of elected seats for that area;
4. Increased representation of Africa should be the first step in the review of the Board's composition, since the area of Africa comprises more States than any other geographical grouping, both in the existing classification of the Agency and in that of the United Nations;
5. The system of regional grouping, as currently defined in Article VI of the Statute, does not reflect present-day political realities, since it establishes groupings of different sizes to which the number of seats allotted is not proportional to their size. We note in this connection that the system of groupings adopted in the United Nations comes closer to representing regional realities;
6. As for the elected seats, we consider it important to delete the provision under which elected members are not eligible for re-election at the end of their term of office.

With regard to the criteria for holding designated seats, we feel that, apart from the criterion of advancement in the field of nuclear energy, account ought to be taken of other additional considerations, including a State's contribution to the maintenance of international peace and security and to the other purposes of the United Nations (on lines similar to Article 23 of the Charter of the United Nations), its accession to the Treaty on the Non-Proliferation of Nuclear Weapons and also the importance of its political role in its geographical region.

Accept, Sir, etc.,

(signed) Abdel Hamid Onsy
Ambassador

COMMENTS PROVIDED BY FRANCE

Vienna, 8 March 1994

Sir,

In accordance with the decision of the Board of Governors of 4 October 1993 and pursuant to the Note by the Secretariat dated 8 November 1993, I wish to communicate to you herewith the comments of France concerning a possible review of Article VI of the Statute of the Agency dealing with the composition of the Board of Governors.

As I have already had occasion to point out during previous informal consultations, the thinking of my authorities is based on the following considerations:

- (1) France's primary concern is to guarantee and maintain the efficiency of the Board and thereby of the IAEA. That is why France wishes to avoid anything which might be detrimental to the smooth working of the Board. The present number of countries represented on the Board, which is 35 out of a total of 120 Member States (i.e. around a quarter of them), seems from this standpoint to be an appropriate number in line with the above requirement;

The way in which the Board has recently dealt with difficult political and technical issues has moreover served to show the capacity of the Board in its present form to take quick and important decisions with the necessary flexibility;

- (2) Another essential element has to be taken into account, namely the criteria for membership of the Board of Governors. Two criteria in particular need to be fulfilled:
 - Firstly, member countries or countries designated to serve on the Board must support the objectives of the Agency in the field of atomic energy (Articles II and III of the Statute);

- Secondly, members must meet the criterion of "advancement in the technology of atomic energy" (Article VI.A.1);

It appears therefore paramount that this dual requirement should be not only maintained but preserved and should remain the basis for designation of members of the Board whether the latter be enlarged or not;

This is a problem in itself which cannot be evaded or ignored and therefore needs to be examined properly;

- (3) Any proposal to expand the Board should therefore be studied with care and form part of a global consideration, in which efficiency should be treated as paramount and accordingly serve to determine any future limits.

The emergence of new independent States constitutes another factor to be taken into account in this consideration. If it is postulated that any expansion of the Board shall be governed - here as elsewhere - by the concept of "geographical balance" and consequently shall be effected on the basis of "equitable" representation among the geographical groups, it seems clear today that no decision can be taken without this problem being examined beforehand from this particular angle.

In other words, one should not reverse the order of things by commencing with what should only be the culmination of a review process dealing first of all with the composition of the geographical groups themselves.

Such then are the considerations which underlie the position of my authorities; they are of course open to discussion. Without ignoring developments on the international scene, France's main concern is to enable the Agency to function as efficiently and as flexibly as possible so that it can discharge the obligations conferred on it by its Statute. This means that decisions must be avoided which do not take into account all aspects of the problem or which, taken hastily, would involve the risk at the end of the day of being counter to the desired objective which is presumably to balance the interests of the Agency with those of the international community.

Accept, Sir, etc.,

(signed)

Marcel Tremeau
Ambassador, Resident
Representative of France

COMMENTS PROVIDED BY GERMANY

Vienna, 17 March 1994

Sir,

Referring to your note N5.11.6.Circ. dated 8 November 1993 concerning Article VI of the Statute please find attached the comments of my Government.

Please accept, Sir, the assurances of my highest consideration.



(Alfred PROTZ)

Chargé d'Affaires a.i.
Deputy Resident Representative

Enclosure

Comments of the German Federal Government on the Revision of
Art. VI of the Statute as a Whole

The German Government welcomes the re-establishment of the Informal Working Group on the Revision of Art. VI of the Statute as a whole.

During the September session of the Board in 1993 and during the General Conference a large majority of the members emphasized that a revision of this article will take its time.

Since the present rules for the composition of the Board in Art. VI provide for a balance with regard both to advancement in the technology of atomic energy and to geographical distribution, the working group should - in particular - take into account that this balance must not be jeopardized.

The mere fact of an increased number of members in the Agency should not automatically lead to an enlargement of the Board. In order not to put at risk the effectiveness of the Board's work, we should be extremely cautious.

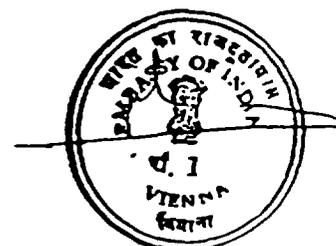
In addition, we have to take into consideration that the provisional rules of procedure of the Board provide the possibility to invite any member state of the Agency that is not a member of the Board to attend Board meetings (rule 50). A large part of the member states regularly make use of this possibility. This together with additional measures such as the early discussion of the Agency's draft programmes and budgets at informal meetings of the Board in February give wide room to all non Board members' participation in important matters dealt with by the Board without impairing the effectiveness of the Board's work.

COMMENTS PROVIDED BY INDIA

March 24, 1994.

The Permanent Mission of India presents its compliments to the Director General of the International Atomic Energy Agency and has the honour to refer to the Agency's Note No.S.11.6.Circular of November 8 concerning the decision of the 37th General Conference on the item entitled "Revision of Article VI of the Statute as a whole". The Permanent Mission of India notes that the Board of Governors have decided to reestablish an informal working group to consider this subject further. India will continue to participate actively in the informal working group. With regard to the request to the members State to offer written comments, attached herewith are some comments which represent the views of India at this stage on this issue.

The Permanent Mission of India avails itself of this opportunity to renew to the Director General of the International Atomic Energy Agency the assurances of its highest consideration.



INDIA

Comments on factors relevant to the issue concerning the membership of the Board of Governors of the IAEA.

1. Several factors are important in determining the size and the pattern of composition of the Board of Governors of an international organisation. These are: the total number of members in the organisation and the optimum ratio between the number of members in the BOG and the total membership, equitable geographical representation, a mechanism to ensure that diverse groups and interests are represented with an adequate balance and a system of 'designations' to see that countries most advanced in the field of activity are included in the Board. With regard to the IAEA, Article VI of the Statute of the IAEA pays due regard to many of these factors as principles such as the countries most advanced in the technology of atomic energy from different areas of the world being on the Board, equitable geographical representation, etc. have been explicitly mentioned. The existing number i.e. 35 members of the BOG also seems to be working well in relation to the membership of the Agency, although there has been a spurt in the total membership in the recent past due to the political changes.

2. In discussing any possible review and expansion of the BOG, certain overarching political realities are very relevant. The world is still undergoing a process of transition and there is a continuing transformation of the political and the geographical land-scape. The number of members of the United Nations has increased substantially, new groupings are still taking place and some of the regional, economic or other groupings, which had characterised the international system are becoming out-dated. Partly in response to all this, questions relating to the reorganisation and the restructuring of the UN are being debated. All these macrolevel-changes

in international politics and in the U.N. certainly have a relevance to the process of a review of the pattern of membership of the BOG of the IAEA.

3. In a specialised and technical Agency like the IAEA some unique criteria should also be taken into account in determining the composition of the BOG. The capability of a country in the nuclear field in all its aspects, its overall expertise in the nuclear fuel cycle, the number of nuclear installations and facilities that a country has, the total available scientific and technical manpower engaged in the nuclear field and its interest and commitment to the peaceful uses of nuclear energy are all relevant as criteria for 'designations'. In addition other objective factors such as the country's population, gross domestic product, contributions etc. should also be taken into account in determining the membership.

4. In looking at a possible review of the membership of the BOG India believes that all the factors mentioned above need due consideration. As indicated above, the basic transitions and changes in the world are still continuing, the exercise of the restructuring of the UN has been initiated only recently, and it may thus not be opportune at present to undertake a review of the composition of the Board. As and when it is decided that a review is necessary, the diverse factors mentioned above may have to be considered. In the meanwhile, the informal working group could keep these under review.

5. With regard to a limited exercise of changing parts of Article VI, it is felt that any such piecemeal and limited approach will throw up a different set of problems and may add distortions to the present system. It may therefore be better to wait for an integrated review rather than a piecemeal approach.

COMMENTS PROVIDED BY ISRAEL

22 February 1994

Sir,

I have the honour to refer to your circular letter N5.11.6.Circ. of 8 November 1993 in which the Member States were requested to submit to the Secretariat written comments on a possible review of the membership of the Board of Governors. In light of the foregoing, I have been instructed by my Government to submit the following comments.

Article IV C of the IAEA Statute states that "the Agency is based on the principle of sovereign equality of all its members". In this spirit Article VI of the Statute should have been implemented with regard to membership by the Member State on the Board of Governors.

However, Article VI contains an inherent deficiency. It defines the eight regional groups as the basis for representation of Member State on the Board without, however, addressing the issue of a Member State's membership and participation in the regional group on the geographical basis. As you know, not all Member States are admitted as members of their geographical group and as such are denied the right to be elected on behalf of the group to serve on the Board. As a result, the principle of sovereign equality of Member States of the Agency is violated.

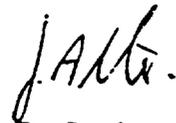
Israel believes that serving on the Board of Governors is both a privilege and right of every Member State. Membership of a state in a regional group should be determined on a geographical basis only. Article VI should, therefore, reflect this principle of sovereign equality of Member States

Israel, therefore, proposes that Article VI 2(a) be amended by adding after "equitable representation" the words "in each area and" The text would, then, read:

"2 The General Conference shall elect to membership of the Board of Governors;

(a) Twenty members, with due regard to equitable representation within each area and on the Board "

Accept, Sir, the assurances of my highest consideration.



Dr. J. Alter
Ambassador
Resident Representative

COMMENTS PROVIDED BY THE REPUBLIC OF KOREA

The Permanent Representative of the Republic of Korea to the International Organizations in Vienna presents his compliments to the Director General of the International Atomic Energy Agency (IAEA) and, with reference to the latter's note N5.11.6 Circ. dated 8 November 1993, has the honour to submit herewith the comments of the Government of the Republic of Korea on a possible revision of Article VI of the Statute.

The Permanent Representative of the Republic of Korea to the International Organizations in Vienna avails himself of this opportunity to renew to the Director General of the International Atomic Energy Agency the assurances of his highest consideration.

Enclosure: as stated

Vienna, 10 March 1994



COMMENTS BY THE GOVERNMENT OF THE REPUBLIC OF KOREA ON THE QUESTION OF REVISION OF ARTICLE VI OF THE STATUTE

1. The Government of the Republic of Korea (ROKG) considers it important and necessary for the Agency to seriously address the question of revision of Article VI of the Statute in order to reflect the increase in membership of the Agency as well as the important changes and developments which have taken place in the field of atomic energy in some Member States over the past two decades since the last revision of the Statute in 1970. The ROKG welcomes the follow-up steps taken by the Director General and the Secretariat to implement the decision on this matter by the 37th session of the General Conference in September and the meeting of the Board of Governors in October last year.

2. In this regard, the ROKG wishes to make the following comments:

First, the ROKG deems it essential and necessary to review and revise the criteria for so-called designated membership as provided for in Article VI.A.1, which allow the outgoing Board to designate the ten members "most advanced in the technology of atomic energy including the production of source materials." In the view of the ROKG, this criterion lacks clarity and the process by which such designation is made requires elaboration to ensure transparency of the process. The members to be designated through such elaborated process in the context of Article VI.A.1 should be from among Member States which are, for example, "most advanced in design, construction and operational capabilities of nuclear power plant and in the nuclear fuel cycle for the peaceful use of atomic energy." In addition, contributions made by Member States to the Agency should also be taken into consideration as one of criteria for designating membership in this category in view of the urgent need for securing more and

steadier financial and human resources to support the Agency's ever-expanding programs and mandates.

Second, the ROKG regards the current classification of the Agency's membership into eight geographical groupings as artificial and without justification. No other U.N. organizations have such geographical groupings of membership as the Agency. It is therefore desirable to reclassify the Member States into five geographical groupings in line with the established practice followed by the U.N. General Assembly and other organizations within the U.N. system.

Third, the ROKG views that the size of the Board of Governors should be expanded to reflect the increase in membership of the Agency. Contrary to the argument that expansion might lower the efficiency of the Board, it is believed that the increase of a reasonable number of its membership will rather enhance the Board's representative capability to carry out its responsibilities on a broader consensual basis without affecting its efficiency.

3. In case the issue of revising Article VI as a whole requires more time for consultations among Member States, the ROKG suggests that the Agency, as an initial step towards redressing Article VI as a whole, consider deleting, for example, the last sentence of Article VI A.2.(a) which provides non-eligibility of the outgoing members for immediate reelection in the same category, in conformity with the relevant rules and practices in most of the U.N. organizations.

COMMENTS PROVIDED BY THE LEAGUE OF ARAB STATES

16 February 1994

Sir,

On behalf of the Resident Representatives to the IAEA of the Arab Member States, I have pleasure in replying to your letter N5.11.6 Circ. of 8 November 1993 concerning revision of Article VI of the Agency's Statute.

On this subject, I wish to communicate to you our points of view, which are as follows:

1. The review of the composition of the Agency's Board of Governors has become an imperative and urgent matter in the light of the substantial and extensive changes that have taken place in the world over the last few years.
2. The size of the Board must be increased in order to permit wider participation and representation of Member States, since greater and more equitable representation of the international community on the Board would raise the latter's efficiency in carrying out its responsibilities and enhance its credibility and its capacity to take important decisions. Moreover, the decisions of such a Board will be accepted and complied with fully by the international community.
3. In view of the foregoing, we reaffirm our support - based on an understanding of the motives and justification - for the demand of the Agency's Member States from the areas of "Africa" and "the Middle East and South Asia" for increasing their representation on the Board in accordance with the principle of equitable representation of geographical areas. This calls for earnest action with a view to revising Article VI.A.2 of the Statute.

4. **The system of regional groupings indicated in Article VI of the Statute does not reflect contemporary political realities since it establishes groupings widely varying in size and the number of seats allocated to them is not proportional to their size. In this context we should point out that the system of groupings adopted by the United Nations comes nearer to representing regional realities.**

Accept, Sir, etc.,

(signed)

**Jasim Yusuf Jamal
Ambassador
Resident Representative of Qatar to the
International Atomic Energy Agency**

**Acting Dean of the Arab Diplomatic Corps
in Vienna**

COMMENTS PROVIDED BY LIECHTENSTEIN

The Office for Foreign Affairs presents its compliments to the Director General of the International Atomic Energy Agency and had the honour to acknowledge receipt of note N5.11.6 Circ. of 8 November 1993 concerning the revision of Article VI of the Statute as a whole.

The Government of the Principality of Liechtenstein has no comments to make on this subject.

The Office for Foreign Affairs takes this opportunity to reiterate to the Director General of the International Atomic Energy Agency the assurances of its highest esteem.

Vaduz, 4 February 1994

(Seal of the Office for Foreign Affairs,
Principality of Liechtenstein)

COMMENTS PROVIDED BY MEXICO

The Permanent Mission of Mexico presents its compliments to the Director General of the International Atomic Energy Agency and, in connection with his circular letter No. N5.11.6 of 8 November 1993 concerning the revision of Article VI of the Statute as a whole, has the honour to submit herewith the comments of the Mexican Government on this issue.

The Permanent Mission of Mexico takes this opportunity of reiterating to the Secretariat of the IAEA the assurances of its highest esteem.

Vienna, 28 February 1994

(Stamp) Permanent Mission of Mexico to the
International Atomic Energy Agency

COMMENTS OF THE MEXICAN GOVERNMENT ON THE COMPOSITION OF THE BOARD AND THE CRITERIA FOR DESIGNATION OF BOARD MEMBERS

1. The Government of Mexico welcomed the re-establishment of the informal working group on the revision of Article VI of the Statute as a whole, which was decided upon by the Agency's Board of Governors pursuant to a request made by the thirty-seventh session of the General Conference.
2. Although various amendments to Article VI of the Statute have entered into force, in 1963, 1973 and 1989, we feel that a revision is necessary in view of the increase in the number of the Agency's Member States (currently standing at 120, with another 4 States about to deposit their instruments of ratification of the Statute), the vastly disproportionate size of certain regional groups, and the need to clarify which specific regional group each Member State belongs to.
3. Moreover, in recent years new regional powers have arisen which have consolidated their activities and their interest in the peaceful uses of nuclear energy and which should be given the opportunity to participate continuously in the Board's work.
4. The Government of Mexico feels it would be appropriate to examine the possibility of expanding the Board's composition in order to achieve a balance between the membership of the IAEA and of the Board, within the framework of a global and extensive revision of Article VI of the Statute.

Composition

5. Any increase in the number of Board members should be such as to allow its efficient and expeditious functioning. A disproportionate increase in the number of members could only hamper the adoption of decisions by the Board.

6. As regards the size of the Board, we feel that one third of the total number of Member States would be adequate. In expanding the composition of the Board, care should be taken to ensure the following: maintenance of an equilibrium between representation of those Member States which are most advanced in the nuclear field at a global level and other categories of Member States; equitable allotment of the places assigned to each region in proportion to the number of Member States in that region, in order to ensure just geographical distribution; and participation of new regional powers which have demonstrated their support for the peaceful uses of nuclear energy and non-proliferation of nuclear weapons.

7. In order to ensure that the Board's decisions have the best possible chance of being supported and implemented, it is essential, when considering the expansion of the Board, to take into account the rise of countries with specific regional importance and a record of support for the functions and objectives mandated to the Agency by the Statute and by other international agreements which assign functions to the Agency in the areas of co-operation in the peaceful uses of nuclear energy, denuclearization and non-proliferation of nuclear weapons.

8. It would also be appropriate to include in the review exercise those options which allow for immediate re-election of members elected by the General Conference - which would enjoy the support of all Member States in each region - in order to ensure election by consensus, or an increase in the number of floating seats.

Transparency of designation criteria

9. In addition, it is important that the designation criteria be transparent and objective so as to eliminate any doubts and confusion when Board members are being designated. This would also mean that the designated members would have the support of those Member States which belong to the same region but are not members of the Board.

10. Thus, the designation criteria should not be determined solely on the basis of the technical matters covered by the Agency, but should be extended to cover such areas as the support shown by each Member State for assistance and co-operation work of all kinds, timely fulfilment of financial obligations, and support for the military denuclearization of regions and non-proliferation of nuclear weapons.

11. The Government of Mexico is ready to examine, in collaboration with the other Member States of the Agency, the options which are submitted to the Secretariat and, ultimately, to the informal working group. In order to facilitate the work of the group, the Government of Mexico would also be prepared to submit a proposal regarding numbers for its consideration.

Vienna, 28 February 1994

COMMENTS PROVIDED BY NIGERIA

The Permanent Mission of the Federal Republic of Nigeria to the International Organizations in Vienna presents its compliments to the International Atomic Energy Agency and has the honour to forward herewith written comments of this Mission on Revision of Article VI as a Whole, sought vide Agency's Note No.N5.11.6 Circ. dated November 8, 1993.

The Permanent Mission of the Federal Republic of Nigeria avails itself of this opportunity to renew to the International Atomic Energy Agency the assurances of its highest consideration.

Vienna, 30 June, 1994



COMMENTS OF THE RESIDENT MISSION OF NIGERIA TO THE
IAEA ON THE REVISION OF ARTICLE VI OF THE
STATUTE OF THE IAEA AS A WHOLE

The Resident Mission of Nigeria to the IAEA wishes to submit that time has come for a careful revision of Article VI of the Statute of the IAEA as a Whole for reasons stated hereunder:-

- (i) Since the General Conference adopted Resolution GC(XIV)/RES/272 which established Article VI in its present form, with effect from 1 June 1973, there has been significant changes in the membership of the Agency as well as the nuclear industry. Also the wave of reforms sweeping international organizations in the wake of new realities, priorities, and interests, has resulted in renewed demands for a review of membership criteria for the Board of Governors in order to enhance its effectiveness. In the assessment of this Mission, the Board of Governors should, in its composition, reflect the foregoing factors. It should be dynamic without becoming unwieldy but continue to operate on the basis of clearly laid down rules and regulations;
- (ii) Changes in the nuclear industry, including the emergence of new supplier States of nuclear equipment and material and thorium, and other materials have further reinforced the urgent need to review the basis of future representation on the Board;
- (iii) The present Article lumps together countries divergent in size, interests and preoccupation, and in a few cases, leaves others in the cold;

(iv) It perpetuates, with little regard to recent developments in the nuclear industry, the balance of interests that were at play in the immediate world war II era. Only a deliberate policy of inclusiveness on the Board would enable the Agency, and the world, address the implications of such ominous development;

(v) It leaves some groups including Africa, out of consideration, even regarding the so-called floating seat, although there have been significant changes in the nuclear industry; and

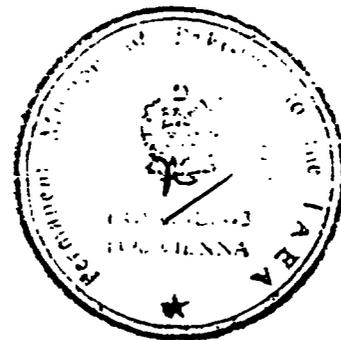
(vi) The increase of membership from Eastern Europe, anticipated integration of South Africa into the Agency, among other factors, now confront the Agency with new players with significant nuclear industries. They deserve to be accommodated on the Board. A mere mathematical increase will only perpetuate current inequities. A new formulation should correct these.

COMMENTS PROVIDED BY PAKISTAN

April 27, 1994

The Permanent Mission of the Islamic Republic of Pakistan to the International Organizations in Vienna presents its compliments to the International Atomic Energy Agency and has the honour to forward herewith written comments of this Mission on Revision of Article VI as a Whole, sought vide Agency's note No. N5.11.6.Circ dated November 8, 1993.

The Permanent Mission of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the International Atomic Energy Agency the assurances of its highest consideration.



Revision of Article VI of the Statute

Comments of the Pakistan Mission

The Board of Governors of the IAEA is the highest Executive body and principal Policy Making Organ of the Agency, and consequently there is a widely shared interest in maintaining its representative character. An expansion of the Board was effected in 1968, raising the strength to 34 in order to take appropriate account of the substantial increase in the membership of the Agency from 56 in 1957 to 96 in 1968. Since then there has been no further expansion in the Board (except for the inclusion of China as a designated member), although in the interim the membership of the Agency has risen to 124. In light of the importance of maintaining its equitable representational character, it would be desirable to further expand the Board; so as to accommodate 1/3rd of the present membership of the IAEA, a ratio which would conform to the historical trend followed throughout the 1960's and 1970's.

2. At the time of the Revision of Article VI, it may also be appropriate to examine the current composition and geographical demarcation of the areas defined under Article VI.A.1. A more equitable distribution of the Board membership in different areas should be worked out with due consideration to the number of countries.

3. Each area should be allocated at least two seats on the Board as designated members.

4. For designations on the Board, universally accepted and approved criteria may be followed. The criteria for the determination of advancement "in the technology of atomic energy including the production of source material" should be in conformity with the objectives and functions of the IAEA as incorporated in its Statute.

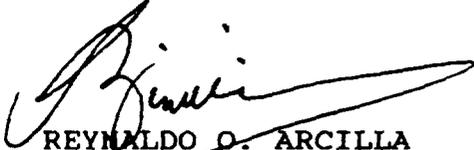
COMMENTS PROVIDED BY PHILIPPINES

9 June 1994

S i r:

With reference to your Circular Letter dated 8 November 1993, I am pleased to provide you with the attached comments of the Philippines for consideration by the Informal Working Group on the Revision of Article VI.

Please accept, Sir, the renewed assurances of my highest consideration.



REYNALDO O. ARCILLA
Ambassador
Resident Representative

COMMENTS OF THE PHILIPPINES

The following items in Article VI of the Statute of the International Atomic Energy Agency need to be revised:

1. The composition of the Board of Governors of the Agency.
2. The groupings of member-states of the Agency for purposes of representation in the Board of Governors.
3. The provision on re-election of members of the Board of Governors.

The membership of the Board of Governors as provided for in Article VI.A of the Statute is divided into two categories: those designated by the Board and those elected by the General Conference. The system of designation of membership in the governing body is an outmoded and undemocratic practice. It is proposed that all members of the Board of Governors be elected by the General Conference.

The grouping of member-states in accordance with the "areas" provided in Article VI.A.1 of the Statute does not reflect the prevailing situation. It is proposed that the following groups be adopted for purposes of representation in the Board: (1) Western Europe and Others Group, (2) Latin America and Caribbean, (3) Eastern Europe, (4) Africa, and (5) Asia.

Article VI.A.2.(a) of the Statute does not allow for the re-election of elected members of the Board. It is proposed that any reference to prohibition of re-election be deleted.



COMMENTS PROVIDED BY SOUTH AFRICA

8 March 1994

The Department of Foreign Affairs of the Republic of South Africa presents its compliments to the Director General of the International Atomic Energy Agency and has the honour to refer to your note of 8 November 1993, concerning the decision adopted by the General Conference of the IAEA on 1 October 1993 at its thirty-seventh regular session on item 22(b) entitled "Revision of Article VI of the Statute as a whole".

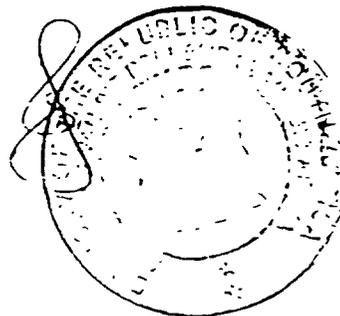
The Government of the Republic of South Africa is of the opinion that the membership of the Board of Governors should be enlarged. In this, particular regional interests should be taken into consideration with specific reference to the permanent seats on the Board, i.e. where regions are underrepresented.

South Africa should like to draw your attention to the fact that politically the globe has changed substantially in recent years. Reflecting this, there are even discussions on the expansion of the Permanent Membership of the Security Council of the United Nations.

In terms of the provisions of Article VI of the Statute as of present, greater transparency in practice is also of essence in determining the qualifications of a country to Permanent Membership of the Board.

South Africa looks forward to working actively together with the IAEA and member states towards a satisfactory solution to this delicate, though urgent matter.

The Government of the Republic of South Africa avails itself of this opportunity to renew to the Director General of the International Atomic Energy Agency the assurances of its highest consideration.



COMMENTS PROVIDED BY THE SYRIAN ARAB REPUBLIC

Dear Dr. Blix,

I would like to refer to the Circular NS.11.6 dated 8 November, 94, in which you requested member states to submit comments on the revision of Article VI of the Statute.

Having considered the article, I have the following suggestion to submit as to the constitution of the Board on international, regional and national levels.

1- On the international level: To designate a number of members with permanent membership equitable to the number of the nuclear countries, as identified in the Treaty of Non-Proliferation of Nuclear Weapons.

2- On the regional level:

Alternative a- To designate One permanent member for each regional group, chosen as the country the most advanced in nuclear technology and sciences in the group.

Alternative b- To designate two permanent members for each regional group, chosen for being the countries the most advanced in nuclear technology and sciences in the group.

3- On the national level:

Alternative a- To elect annually a number of non-permanent members for each regional group, on the basis of rules and principles each group shall agree upon. The number of memberships is defined as follows:

One member for every four countries, the population of each exceeding 5 million inhabitants.

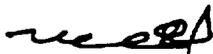
Alternative b- To elect annually a number of non-permanent members for each regional group, on the basis of rules and principles each group shall separately agree upon. The number of memberships is defined as follows:

One member for every two countries, the population of each exceeding 10 million inhabitants.

I should like to point out that the statistics for the number of countries with 5 or 10 million inhabitants is convenient.

Please accept, Dear Dr. Blix, the assurances of my highest consideration.

Prof. I. Haddad



Director General

COMMENTS PROVIDED BY TUNISIA

The Permanent Mission of Tunisia in Vienna presents its compliments to the Director General of the International Atomic Energy Agency and, with reference to his letter of 8 November 1993, has the honour to inform him that it associates itself fully with the contents of letter No. 25.2.94 of 16 February 1994 addressed to him by His Excellency the Ambassador of the United Arab Emirates on behalf of the ambassadors of the Arab countries. The Mission takes this opportunity to express once again the Tunisian Government's interest in the subject of expansion of the Board of Governors.

The point at issue here is that the Board's membership must be enlarged, for it is the only possible and rational way in which the legitimate aspirations expressed over a number of years by an ever increasing number of Member States desirous of participating in the Board's work and decision-making can be fulfilled.

Contrary to the views of certain Members, such an expansion would in no way upset the present political balance in the Board, nor for that matter the balance between technological advancement in the nuclear field on the one hand and geographical representation on the other.

Certain delegates might indeed argue that the observer status offers, under the provisions of the Statute, the possibility of participating in some way in the work of the Board.

Apart from being discretionary and uncertain in nature, such a possibility cannot be a substitute for full and complete participation in the Board's deliberations.

Consequently, the Permanent Mission of Tunisia supports the idea of an expansion of the Board.

The Permanent Mission of Tunisia in Vienna takes this opportunity to renew to the Director General of the International Atomic Energy Agency the assurances of its highest esteem.

Vienna, 21 June 1994

(Seal of the Permanent Mission of Tunisia in Vienna)

COMMENTS PROVIDED BY UKRAINE

The Permanent Mission of Ukraine to the International Organizations in Vienna presents its compliments to the IAEA Secretariat and in reference to the Director General's Circular Letter of 8 November 1993 has the honour to inform about following:

Ukraine supports the idea that it is important to maintain in the future the efficiency of the Board of Governors and is interested in avoiding any complications in this respect.

Keeping in mind all aspects connected with the formation of newly independent states on the territory of the former Soviet Union, the necessity to reflect current geopolitical realities, the complex approach should be worked out to the question of revision of Article VI, as a whole and in particular, Article VI.A.2, concerning the just representations of Member States in the Board of Governors.

The final decision, in Ukrainian point of view, should be based on the principles of geographical balance and equal representation.

Following the provisions of the Article VI.A.1 Ukraine believes that it is important to take into account the level of the nuclear power development of the states. In this connection Ukraine, possessing 14

nuclear reactors on its territory, takes second place in nuclear electricity production among the former soviet republics and has sufficiently developed potential and experience in the field of the atomic energy.

At the same time promotion of effective international cooperation in increasing the NPP's safety is the most necessary and complicated task for the moment. The problems, facing Ukraine as the state, which suffered from the consequences of the Chernobyl catastrophe, require the close attention of world community.

Taking account of the afore-mentioned, Ukraine supports the proposals that the Working Group on Article VI should continue its work.

The Permanent Mission of Ukraine avails itself of this opportunity to renew to the Secretariat the assurances of its highest consideration.



Vienna, 26 June, 1994

COMMENTS PROVIDED BY THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND

11 April 1994

ARTICLE VI

In the Secretariat's note of 8 November 1993 we were invited to express our views on the question of revising Article VI of the statute. With apologies for the delay, I should like to give you a British reaction.

We believe that the first priority must be to maintain the effectiveness of the Board of Governors. The complex political and technical issues which the Board addresses, and the need for decisions to be taken quickly and flexibly, argue for a small and coherent body.

We further believe that two fundamental criteria for Board membership should remain paramount. Firstly, Member States must support the aims and objectives of the Agency expressed in Articles II and III of the Statute. Secondly, Member States should be committed to encouraging the development of nuclear energy technology (Article VI.A.1).

In addition there is the need to ensure adequate representation of the IAEA membership. It is the view of the United Kingdom that the 35-strong membership of the Board strikes a satisfactory balance between these competing requirements, and therefore that there is no need to consider a revision of Article VI at this time.

Yours ever

Christoph

C Hulce

COMMENTS PROVIDED BY THE UNITED STATES OF AMERICA

March 24, 1994

In response to the Director General's Note of November 8, 1993 regarding membership of the Agency's Board of Governors, the United States of America does not believe any change in the membership of the Board is warranted at this time. The current Board composition has proven to be an effective and, generally, equitable representation of a broad cross-section of countries. While we are sensitive to the desire of a number of regions to increase or modify their representation, we also must consider the fact that changes in the Former Soviet Union have occurred which must be eventually factored in. Consequently, we support continued consideration of the issue of membership in the Informal Working Group on the Revision of Article VI As A Whole.

Sincerely,



Thomas G. Martin
Charge d'Affaires ad Interim