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ARTICLE VI OF THE STATUTE

The summary records of the discussion in the Board of Governors on 22, 23 and 24 September 1997 under the agenda item "Article VI of the Statute" are reproduced in the Attachments.

EXCERPT FROM THE RECORD OF THE BOARD'S 926th MEETING
(22 September)

ARTICLE VI OF THE STATUTE
(GOV/2918 and Add.1, 2926 and 2932/Rev.1; 1997/NOTE 16)

The CHAIRMAN recalled that there had been extensive discussion of the Article VI issue in June, when the Board had had before it (in documents GOV/2918 and Add.1) his package of proposals covering the size and composition of the Board, criteria for Board designation and the composition of area groups and also (in document GOV/2932) a proposal for expanding the size of the Board submitted by Sudan on behalf of the African Group. To give effect to one element of his package, Canada had submitted (in document GOV/2926) a proposal for expanding the size of the Board, and that too had been before the Board in June. Since the June session of the Board, Sudan had modified its proposal, and the revised proposal submitted by it on behalf of the African Group was contained in document GOV/2932/Rev.1. In that connection he also drew the Board's attention to a Note to Member States (1997/NOTE 16) dated 26 August 1997 containing the views of Saudi Arabia regarding the proposal submitted by Sudan on behalf of the African Group. In addition, a proposal for expanding the size of the Board submitted by Morocco was contained in document GC(40)/20.

At the end of its discussion on the present item, the Board would have to agree on a report to the General Conference in response to operative paragraph 4 of resolution GC(40)/RES/20, in which the General Conference had in 1996 requested the Board - *inter alia* - to "submit its report on a finalized formula for approval by the General Conference" in 1997. In that connection, he had circulated a draft report which would have to be completed in the light of the Board's discussion. In particular, the Board's observations on the Canadian and Sudanese proposals for amending Article VI would have to be included in that report. The Board's observations on the Moroccan proposal had been conveyed to the General Conference in 1996.

In addition, he, as Chairman of the Board, was required under the terms of a statement made by the President of the General Conference at the Conference's 1996 session (GC(40)/DEC/14) to report on "specific proposals to include each Member State within the appropriate area" for consideration at the 1997 session of the General Conference. He intended to circulate his report for the Board's information as soon as possible after the Board's discussion on the present item.

The report by the Director General requested in operative paragraph 5 of resolution GC(40)/RES/20 had been issued as document GC(41)/11.

Mr. EL FADHEL KHALIL, reiterating the African Group's position, said it had been generally been acknowledged that, together with the Middle East and South Asia (MESA) Group, the African Group was under-represented on the Board, as confirmed by General Conference resolution GC(XXV)/RES/389 of 1981 and many subsequent resolutions. In addition, the General Conference had at its 1996 session called for the issue to be resolved in 1997.

Over the years, with the increase in the African Group's membership within the Agency, the under-representation of the Group had become even more pronounced. That trend was likely to continue as many African countries had not yet become Member States of the Agency.

The Group had noted with concern that the Chairman's package contained an obstacle to progress on questions regarding which a large degree of consensus had been emerging - namely, the question of numerical representation on the Board and that of criteria for designation to the Board. An unwarranted and unhelpful linkage had been made, and the African Group believed that the various elements of the package should therefore be considered separately - each on its own merits.

The African Group, while insisting that Africa should be adequately represented on the Board, had noted with appreciation the Canadian proposal contained in document GOV/2926. In the Group's view, that proposal constituted a breakthrough in the

consideration of the long-standing issue of the Board's expansion. However, of the groups which had been seeking correction of their under-representation on the Board, the African Group was the only one for which no change was proposed as far as designated seats were concerned. The only difference between the Canadian proposal and the proposal submitted by the African Group (in document GOV/2932/Rev.1) was that the latter envisaged the addition of one designated seat for Africa.

The African Group believed it should be possible to bridge the gap between the two similar proposals and to achieve a broad consensus on the Article VI issue at the forthcoming session of the General Conference - in the year of the Agency's fortieth anniversary.

Mr. de OURO-PRETO (Brazil), speaking on behalf of the Group of 77, said that the equitable representation of under-represented areas on the Board was a matter of concern to the Group and that, when that matter was addressed, due account should be taken of General Conference resolution GC(XXV)/RES/389 adopted in 1981.

In GC(40)/RES/20, the General Conference had recognized that there was a widely held view in favour of an expansion of the size and composition of the Board in order to permit equitable representation of the under-represented areas. It had requested, inter alia, the submission of a "finalized formula for approval by the General Conference at its forty-first regular session in accordance with Article XVIII of the Statute".

The Group of 77 welcomed all genuine efforts to implement the General Conference resolutions on the long-standing question of amending Article VI, including the proposal of the African Group contained in document GOV/2932/Rev.1. Any solution should be in full conformity with resolution GC(40)/RES/20, and the Group of 77 would like to see Member States helping to find a solution in the shape of a balanced "finalized formula" to be submitted to the General Conference for approval at its forty-first regular session.

Speaking on behalf of the Latin American and Caribbean Group (GRULAC), he said that GRULAC, which associated itself with the statement which he had just made on

behalf of the Group of 77, regretted the lack of substantial progress since the June session of the Board. At that session, GRULAC had indicated that it considered the Canadian proposal to be an acceptable starting point. In addition, GRULAC was sympathetic to the African Group's proposal contained in document GOV/2932/Rev.1. It was to be hoped that a satisfactory solution to the question of amending Article VI would be found in the year of the Agency's fortieth anniversary.

Ms. MXAKATO-DISEKO (South Africa), having endorsed the statements made on behalf of the African Group and the Group of 77, said that at the Board's June session her delegation had urged Member States to co-operate in resolving the long-standing Article VI issue.

The African Group's proposal was based on the Canadian proposal, and her delegation believed that, given sufficient good will, consensus could be achieved on it. She hoped that Member States would consider the African Group's proposal on its merits and not link it to matters which would make resolution of the Article VI issue virtually impossible.

Mr. SNYDER (United States of America) said that his Government's opposition to a further increase in the size of the Board was well known. As stated at the Board's June session, his Government was strongly inclined towards maintenance of the status quo.

However, in the spirit of compromise and consensus that had long characterized the work of the Agency, the United States was willing to join other countries which favoured a moderate expansion of the Board, but only on the basis of acceptance of the entire package of proposals put forward by the Board's Chairman, who was to be commended for the comprehensive nature of his package and for the balanced solutions to several complex issues which he recommended. Those proposals were inextricably linked, and his delegation was not prepared to accept any dismantling of the package so carefully put

together by the Chairman. In short, the Board could take the package in its entirety or leave it in its entirety.

His Government was not prepared to consider any other proposals regarding Board expansion, since only the Chairman's package adequately addressed the range of difficult issues that had to be addressed.

Furthermore, his Government would accept the Chairman's package only on the understanding that its adoption would lay to rest the discussion on amending Article VI for a long time to come.

Mr. NASSER (Egypt), having expressed support for the statements made on behalf of the African Group and the Group of 77, said that linking complicated problems was not conducive to solving them. The problem of the under-representation of certain areas on the Board should not be linked to a problem which would be very difficult to solve at the present time.

The Canadian proposal for expansion of the Board failed to provide for an additional designated seat for Africa, despite the fact that since 1981 the number of African countries which were Member States of the Agency had increased and the under-representation of Africa had accordingly become even more marked. Furthermore, it was possible that several other African countries would join the Agency with time. The under-representation problem should be solved now and not left to become worse.

Mr. DAHIRU (Nigeria), having endorsed the statement made on behalf of the African Group, said that the representation of Africa on the Board had been grossly inadequate for a long time and that the situation was becoming even worse as more and more African countries joined the Agency.

Commending the efforts of the Chairman, he said that the difference between the Chairman's package and the proposal submitted by Sudan on behalf of the African Group lay only in the number of seats envisaged for Africa. One additional designated seat for Africa was not an unreasonable demand, especially as even with the additional seat Africa

would still be under-represented. The African Group's proposal should therefore be regarded as a compromise proposal.

Mr. SANTER (Luxembourg), speaking on behalf of the European Union and of Bulgaria, Hungary, Poland, Romania and Slovenia, said that for many years the Article VI issue had undoubtedly been one of the most controversial issues before the Board and the General Conference. The size of the Board, the designation criteria and the composition of area groups were aspects of that issue, and they could not be separated if a lasting solution was to be found.

The proposal submitted by the Chairman of the Board offered a chance of reaching such a solution, and that chance should not be lost. Even if certain elements were less attractive than others, the proposal had the clear advantage of constituting a package which took into account all three aspects of the Article VI issue. Also, it was in line with the resolution GC(40)/RES/20, in which the General Conference had requested the Board "to submit its report on a finalized formula" to the General Conference for approval. Any attempt to undo the package which the Chairman had so skilfully put together would therefore be unacceptable.

Mr. SOKOLOV (Russian Federation) said that, in its present form, the Statute constituted an important political compromise among the Agency's Member States, reflecting - in a balanced manner - the real situation in the world at large and also the state of affairs with regard to the peaceful utilization of atomic energy and to nuclear non-proliferation. How effective the Agency was depended on how consistently its Member States complied with the provisions of the Statute. The main principle underlying the composition of the Board - appropriate representation, taking into account the geographical factor, of the Member States most advanced in the utilization of atomic energy and of the Member States receiving technical assistance - was, on the whole, currently being upheld. With its present composition and by making use of Rule 50 of its Provisional Rules of Procedure, the Board was ensuring that the very special functions of the Agency within the United Nations system were being performed effectively.

The most interesting of the proposals now before the Board was the Chairman's package. It attempted to address all three issues of concern: the size of the Board, the designation criteria and the composition of area groups. While considering the package to be far from ideal, the Russian Federation could join a consensus on it. Overall agreement was clearly going to be difficult to achieve, given the strong divergence of opinions within the Board. His delegation therefore felt that discussions should continue in the Open-ended Consultative Group.

Mr. ASHEEKE (Namibia), having expressed support for the statement made on behalf of the African Group, urged that serious consideration be given to the African Group's proposal for amending Article VI.

Mr. COOK (New Zealand), speaking on behalf of his own country and Australia, expressed sympathy for the views of those countries which felt that the present structure of the Board did not meet their needs. Although New Zealand and Australia were not unhappy with the Board's present structure, they could go along with a modest increase in the size of the Board.

The Chairman's package of proposals had their full support as the only basis for a compromise solution. If agreement could not be reached on the package, the question of Article VI should, in their opinion, be set aside until there was a change for the better as regards the external factors beyond the Board's control.

Mr. Seung-Kon LEE (Republic of Korea), having expressed his delegation's fear that the efforts to resolve the Article VI issue would be never-ending, said that at the Board's June session his delegation had declared itself willing to go along with the Chairman's package of proposals. Although the proposals were not completely satisfactory, they offered a practical solution. Unfortunately, some Member States had strong reservations regarding the fact that the question of the composition of area groups was dealt with in the package despite the present political situation in one of the areas listed in Article VI.

After 20 or so years of discussion, it was time to dispose of the Article VI issue and concentrate on issues which were more substantive.

Mr. HREHOR (Czech Republic) said that after some two decades of discussion on the Article VI issue a crucial point had been reached; the Board should decide either to continue seeking the perfect solution or to settle for a compromise one.

For its part, the Czech Republic had thought in terms of an increase of not more than four seats in the Board's membership, due regard being paid to the present situation in the areas listed in Article VI, including Eastern Europe. The Chairman's package envisaged an expansion of the Board far in excess of what his country had been originally prepared to accept. Given the complexity of the issue, however, his country had decided that it could go along with the package as long as no attempt was made to separate its various elements. He hoped that other countries would go along with it in a spirit of compromise, so that the Article VI issue could be closed.

Mr. GHERMAN (Romania), having endorsed the statement made on behalf of the European Union and associated countries, said that the composition of the Board had not changed in step with international technological and political changes and that some of the areas listed in Article VI were under-represented on the Board, including Eastern Europe. Of the 31 countries in the world with advanced nuclear programmes, 10 were in Eastern Europe, so that the East European Group was entitled to at least two designated seats in an expanded Board.

Although the Chairman's package of proposals did not go all the way to satisfying Romania, given the political sensitivity and complexity of the issues his Government would be willing to go along with it in the long-term interests of the Agency.

Mr. IKEDA (Japan) said that it had proved difficult to devise a formula for resolving the Article VI issue which would be to everyone's satisfaction and that in his view the Chairman's package constituted the only viable formula.

As Chairman of the Open-ended Expert Group which had examined the subject of designation criteria, he was grateful for the wide support expressed by members of the Board in June for the list of criteria and indicators produced by the Group.

Given the new challenges facing the Agency, he hoped that the Board would in the not-too-distant future reach agreement on amending Article VI and thereby put an end to what had been an exhausting exercise.

Mr. TIWARI (India), speaking as Chairman of the MESA Group, said that the matter under discussion was as significant as it was complex.

Having considered the package proposal contained in document GOV/2918, the MESA Group had concluded that, as they were unrelated to one another, the three elements of the proposal should not be linked. Furthermore, the Group believed that working groups were not the right fora for discussing the question of the composition of area groups; responsibility for the composition of each area group lay primarily with the members of that group. For its part, the MESA Group saw no reason to change its own present composition.

As had been recognized by the General Conference on several occasions, the MESA Group and the African Group were the groups most under-represented on the Board of Governors. Resolution of that problem would make the Board's structure more equitable and representative.

Mr. MAYOR (Switzerland) said that, for the reasons stated by him at the Board's June session, his country could accept the Chairman's proposals contained in document GOV/2918 as long as they were not modified in any way. By the same token, his delegation could support the amendment proposal by Canada contained in document GOV/2926.

Mr. RAJA ADNAN (Malaysia), having associated himself with the statements made on behalf of the Group of 77 and the MESA Group, said that

responsibility for the composition of each area group rested mainly with the members of that group.

Mr. AL-TAIFI (Saudi Arabia), having expressed support for the statement made on behalf of the MESA Group, said it was inappropriate to link the question of enlargement of the Board with that of the composition of area groups. For that reason, and in view of the present situation in the Middle East, his country could not accept the Chairman's package of proposals. The efforts of the past 20 years to resolve the Article VI issue should not be wasted because of the interests of a single State.

His delegation was prepared to accept the African Group proposal contained in document GOV/2932/Rev.1 if that proposal was amended in the manner envisaged in the letter dated 29 July 1997 from the Resident Representative of Saudi Arabia to the Director General (reproduced in 1997/NOTE 16).

Mr. HASAN (Kuwait) expressed support for the statement made on behalf of the MESA Group and for the proposal submitted by Sudan on behalf of the African Group.

Mr. HALIM MOHAMED (Sudan)* endorsed the statement made on behalf of the African Group and said he was grateful for the support expressed by the Governor from Brazil - speaking on behalf of the Group of 77 - for the proposal submitted by Sudan on behalf of the African Group.

When discussion of the question of amending Article VI in order to rectify the position of under-represented areas had begun, opposition to expansion of the Board had been voiced on the grounds that it would undermine the Board's efficiency. That excuse for inaction had been bandied about for nearly 20 years. Moreover, during that period, every time the Board overcame one obstacle to expansion another one was erected.

Some Governors were urging acceptance of the Chairman's package of proposals, stating that a unique opportunity for compromise was being offered. One element of that package, however, related to external factors beyond the Board's control, and he shared the

views of those who would like that element to be dealt with separately from the other elements making up the package. Progress in dealing with the other elements should not have to depend on progress being made in respect of the element relating to external factors beyond the Board's control. Those factors were directly connected not with Africa, but with another area. However, the African Group was of the view that the responsibility for the composition of each area group lay with the members of that group - a view shared by the United Nations Legal Department in New York.

EXCERPT FROM THE RECORD OF THE BOARD'S 927th MEETING
(23 September)

ARTICLE VI OF THE STATUTE (continued)
(GOV/2918 and Add. 1, 2926 and 2932/Rev.1; 1997/NOTE 16)

Mr. AMIR (Israel)* said that the proposal to amend Article VI contained in document GOV/2932/Rev.1 addressed only the Board expansion question. It reflected Member States' aspirations for an increased presence on the Board. At the same time, certain Member States were actively opposing Israel's participation in the MESA Group, thereby denying it its statutory right to serve on the Board and participate on an equal footing in Agency activities. Such abuse of the Statute, the Agency's primary code of conduct, could not be condoned and had to be rectified as a matter of urgency before any action was taken to increase the representation of regional groups on the Board.

Having commended the Chairman and Ambassadors Ikeda and Bøjer for recognizing the unacceptability of any solution to the question of the composition of the Board that addressed only one issue while ignoring others, he urged the Board to reject the proposal contained in document GOV/2932/Rev.1, and to support the Chairman's package.

Mr. UMER (Pakistan)* endorsed the statement made by India on behalf of the MESA Group and associated himself with the statements made by Brazil and Tunisia on behalf of GRULAC and the African Group respectively.

The purpose of the expansion of the Board in 1973 had been to preserve its representative character and hence the legitimacy of its proceedings and decisions. The Board's strength lay not only in its functional statutory role, but also in its ability to represent the interests of its constituent groups of countries. Over the past 25 years, the Agency's membership had changed considerably in both quantitative and qualitative terms, a numerical and technological evolution that had to be reflected in the Board's composition. The argument that numbers bred inefficiency and that smallness was conducive to better

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

management and decision-making was based on questionable premises. Taken to its logical conclusion, it would cast doubt on the relevance of such bodies as the Agency's General Conference or the United Nations General Assembly. That was not to deny that a management board, by the very nature of its functions, should have a restricted membership. At the same time, however, it should not be unrepresentative: a balance had to be struck between managerial and representational requirements. The Board as currently constituted was unbalanced since it failed to meet the latter criterion. The African and MESA regions were particularly under-represented. Africa, the largest regional group in terms of membership, had just over five seats, whereas MESA, perhaps the most populous and diverse group with, in some cases, a claim to technological excellence, had only three and two thirds. All proposals tabled to date had acknowledged the inadequate representation of those groups and had endeavoured to correct the situation.

While the Chairman's sustained efforts over the previous months had been highly commendable, the assumptions underlying the proposed package had proved to be unrealistic. The time had come for joint exploration of options that bore a more acceptable relationship to reality. The issue of expansion had been hanging fire for nearly two decades. Every passing year led to greater polarization and aggravated the deprivation of the excluded. It was his earnest expectation that at its current session the Board would distinguish itself by achieving a just and universally acceptable solution so that the under-represented regions obtained their rightful share in the membership of the Board and the spectre of Article VI was laid to rest once and for all.

Judging from the proposals on the table, especially those of Canada and Sudan, he was convinced that a solution was within the grasp of the policy-making organs. His delegation was ready, as always, to enter into any constructive discussions with interested Member States on the issue.

Mr. BENMOUSSA (Morocco)*, having commended the endeavours of the members of the Open-ended Consultative Group and of the Chairman of the Board to find a solution to what was an extremely difficult and sensitive issue, endorsed the statement by

Tunisia on behalf of the African Group and associated himself with the statements by previous speakers from that group and by the representative of Pakistan.

At the previous session of the General Conference, Member States that were as yet undecided on the issue of Article VI had asked for a little extra time for reflection. He trusted that they had developed a final position in the meantime. As the current position of the African Group was supported by the MESA Group, the Group of 77 and a number of other delegations, the movement for an amendment of Article VI had gained considerable momentum and the General Conference would no doubt find it that much easier to consider and take action on the finalized formula to be submitted for its approval.

The Chairman's proposed package constituted an approach that was neither unusual nor innovative in a multilateral context. Nevertheless, under the present circumstances it was inappropriate because it contained one element which, although worthy of consideration, could not succeed because the timing was wrong and there was not the necessary momentum. The prerequisites for a consensus were: one additional designated seat for Africa; the use of all the criteria listed in Attachment 2 to document GOV/2918 - without weighting - as guidelines in the designation of Member States to serve on the Board; the introduction in the list of States by areas contained in Attachment 3 to document GOV/2918 of footnotes concerning the Federal Republic of Yugoslavia (Serbia and Montenegro), whose membership situation was not clear, and concerning Kazakhstan and Uzbekistan, which had been included in the MESA Group without consulting the members of that group; lastly, a statement by the Chairman regarding the composition of regional groups, acknowledging the complexity of that question and indicating that it should remain subject to detailed examination.

At all events, no practical changes would occur until after the entry into force of the amended Article VI following its ratification by two thirds of Member States, a process that could take up to five years. A decision on the amendment of Article VI should therefore be taken forthwith to clear the way for the ratification procedure, while the question of the

composition of the regional groups should continue to be studied in depth so that an appropriate solution could be found when the time was ripe.

The proposal by the African Group and the proposal by Canada in document GOV/2926 had a great deal in common, the only major difference being the number of designated seats for Africa. Even with an additional designated seat on the Board, Africa would still be the region with the weakest representation ratio. Moreover, half of the countries in that region were not yet Member States of the Agency. Steps should already be taken to ensure that countries which joined later on would find a favourable environment in which to defend their national and regional interests.

Given the fact that the Agency was celebrating its fortieth anniversary and could look back on a fine record of accomplishments, it was surely a fitting moment to crown those achievements by reaching agreement on Article VI. He was convinced that in the prevailing climate of conciliation it should be possible to dispose once and for all of that long-standing bone of contention.

Mr. SIAGE (Syrian Arab Republic)*, having endorsed the statement by India on behalf of the MESA Group, said he did not support the package of proposals regarding Article VI set forth in document GOV/2918 and strongly objected to the Attachments thereto. However, he was willing to discuss the elements individually.

There were a number of basic principles. Firstly, a country's membership of a geographical group depended on its acceptance by the existing members of that group. Secondly, before applying for membership of a regional group that conferred eligibility for a seat on the Board, Israel should fulfil its international obligations, accede to the NPT, conclude a comprehensive safeguards agreement, and declare all its nuclear facilities so that they could be inspected and placed under international control. Thirdly, recognition of the presence of a country in a particular region had sensitive political implications that had to be taken into account. Fourthly, a country's geographical boundaries did not make its admission to a regional group mandatory. Lastly, there was no explicit provision in the Statute requiring acceptance of a list such as that proposed.

Mr. AYATOLLAHI (Islamic Republic of Iran)* said that he associated himself fully with the statement by the Chairman of the MESA Group. The proposed package was unacceptable since it sought to combine disparate elements that had unequal weight. Responsibility for the composition of a regional group rested primarily with the members of the group, and the MESA Group had to contend with political sensitivities that had developed over a period of decades. The current political climate was particularly un conducive to any change of attitude.

There had been frequent warnings that increased representation of under-represented regions would undermine the Board's efficiency. However, the Agency's Statute stipulated that the Board of Governors should represent all regions of the world in an equitable way. The African and MESA Groups had been under-represented on the Board for decades - hence their proposed amendment to Article VI. If efficiency was the sole criterion, the Board could have comprised a handful of Member States that had highly developed nuclear industries.

Failure to resolve the Article VI issue was, in his view, due to the introduction of the highly sensitive side-issue of the composition of regional groups. It was unfair to allow the generally acknowledged need for change in the size and composition of the Board to be held up indefinitely on account of an application by one Member State for membership of a regional group.

Ms. EDDIB (Libyan Arab Jamahiriya)* expressed her support for the statement by Tunisia on behalf of the African Group, a statement that had been welcomed by the Group of 77. Article VI of the Statute had to be amended as a matter of urgency in view of the far-reaching changes that had occurred in recent years, particularly in the nuclear industry, and the extensive reforms that had been introduced in a number of international organizations. An expansion of the Board to ensure more equitable representation and participation would enhance its efficiency, credibility and decision-making capacity.

It had been recognized for some time that Africa was under-represented on the Board. The proposed increase in its membership to seven was fully compatible with the relative weight of the various regional groups and would still leave Africa the least well-represented region in relative terms.

Linking the expansion of the Board to other issues such as the composition of regional groups merely led to unjustified delays. A separate approach to the various components of Article VI was warranted by the fact that the principle of expansion of the Board had been accepted by consensus at the General Conference. The composition of regional groups, on the other hand, was a sensitive matter and should be deferred until the circumstances were more propitious and intensive consultations had been held among Member States.

Mr. AL-BERKDAR (Iraq)* said that the close linkage of the expansion of the Board to other elements would make it difficult to reach a solution. If the intention of the developed countries was to prevent change at all costs because they were opposed to increased representation of the developing countries, they should say so candidly instead of prolonging a fruitless debate.

The proposed criteria would allow Israel, which possessed a considerable nuclear arsenal and capability, to occupy a permanent seat on the Board. Such an arrangement would be unfair to the countries of the MESA Group and, in any case, it was for the Member States of the region to decide which countries should be admitted to membership of their group.

Mr. AL-ERYANI (Yemen)*, having endorsed the statement made by India on behalf of the MESA Group, reiterated his delegation's view that the three elements under consideration should not be interlinked. Otherwise, that complex issue, which had taken up so much of the Board's time, would never be resolved.

There was obviously a wide gap in the opinions of Member States regarding ways and means of expanding membership of the Board. As a consensus was therefore unattainable, he felt that current political endeavours to reactivate the peace process in the

Middle East region should be given time to bear fruit. Once the appropriate conditions for peace had been established in the region, a solution that was satisfactory to all could be achieved.

Mr. EL FADHEL KHALIL (Tunisia) said that representatives now appeared to be more entrenched in their positions concerning Article VI than at the June meetings of the Board and he was less optimistic than the representative of Morocco that a consensus could be reached at the present juncture.

The question of expansion of the Board had been discussed for more than 20 years with a view to doing justice to certain under-represented regions. The concept of groups had been introduced three years previously in an attempt to be equitable, as though equity was a question of allowing a particular country to become a member of the Board of Governors. However, equity was not a question of grouping, as could be demonstrated by the fact that, since the Agency had been established, 36 Member States had never been members of the Board of Governors - 9 of them having joined the Agency in the same year as Israel. Consensus and understanding within a group was essential, and a regional group could not be forced to accept a member which it did not welcome.

While the Chairman was to be congratulated on his efforts to produce a coherent package, it had to be recognized that no consensus could be reached until elements beyond the Agency's control had been settled.

The CHAIRMAN, summing up the discussion, said that opinion continued to be divided on the appropriate approach to resolving outstanding issues relating to Article VI. There were some who continued to maintain that the package approach was the only possible way of resolving a series of interrelated matters, several of which had been on the Board's agenda for many years, and supported the increase proposed by the Chairman in his package on the size of the Board - despite their reservations about Board expansion - only on the condition that other elements of the Chairman's package were also accepted.

On the other hand, some continued to maintain that the three issues in the Chairman's package were not interlinked, that a package approach was inappropriate at the present time and that a renewed attempt should be made to deal with the long-pending issue of the expansion of the Board separately. In the view of some of them, agreement on the issue was now possible given that the two most recent proposals for Board expansion were bridgeable.

Under those circumstances, the Board stated as its observation under Article XVIII of the Statute that there was no consensus at the present time in favour of either the proposal for amending Article VI submitted by Canada as a follow-up to the Chairman's package or that submitted by Sudan on behalf of the African Group. The Board agreed to reflect that position in its report to the General Conference.

The summary records of the Board's discussions of the matter in June were attached to the Director General's report in document GC(41)/11 and Add. 1. The summary records of the Board's discussion at the present session would be issued as Addendum 2 to document GC(41)/11 pursuant to operative paragraph 5 of resolution GC(40)/RES/20.

It was so agreed.

The CHAIRMAN said that he intended to complete the draft of the Board's report to the General Conference pursuant to operative paragraph 4 of resolution GC(40)/RES/20 along the lines of the summing-up which he had just read out. It would be distributed as soon as possible and any delegation objecting to it should inform him; otherwise he would assume that it could be submitted to the General Conference. In addition, he would circulate, for information purposes, his report to the President of the General Conference as soon as it was completed.

It was so agreed.

The CHAIRMAN expressed the Board's appreciation to Ambassador Bøjer for the skill, enthusiasm and patience with which he had conducted the deliberations of the Open-ended Consultative Group and to Ambassador Ikeda for his very painstaking work in developing a set of criteria for Board designation.

EXCERPT FROM THE RECORD OF THE BOARD'S 929th MEETING
(24 September - morning)

ARTICLE VI OF THE STATUTE (resumed)

Mr. EL FADHEL KHALIL (Tunisia), commenting on the draft report by the Board to the General Conference on "Article VI of the Statute" which the Chairman had circulated, noted that paragraph 10 contained the phrase "the appropriate approach to resolving outstanding issues relating to Article VI". He suggested that in paragraph 13 the words "a finalized formula" be amended to read "an appropriate approach".

Paragraph 5 contained the phrase "all the three interrelated issues", which he felt should be amended to read "the three in his view interrelated issues".

He disagreed with the reference in paragraph 10 to "a series of interrelated matters, several of which had been on our agenda for many years". The Board enlargement question had been on the agenda for 21 years, but the question of regional group composition and that of designation criteria had been raised only two years previously.

With regard to the draft report by the Chairman to the General Conference on the "Composition of regional groups" which the Chairman had circulated, paragraph 6 stated that "a number of other States were of the view that Israel had been properly included in MESA". He had attended all meetings of the Board held in June and had not heard a single participant say anything to that effect.

Ms. MXAKATO-DISEKO (South Africa) said that in the Agency linkages - for example, between the financing of safeguards and the financing of technical assistance - had traditionally been resorted to only in order to unblock situations; where linkages threatened to impede progress, they had been avoided. The various components of the Chairman's package were all important in their own right, but progress would not be made in the prevailing climate if they were linked.

Mr. TIWARI (India) said that, as Chairman of the MESA Group, he felt that the draft report by the Board to the General Conference should be amended in the light of the comments just made by the Chairman of the African Group, the Governor from Tunisia.

Given the last sentence in paragraph 4 (“Several others felt that the other issues had no bearing on the question of expansion of the Board and expressed the view that they should be taken up separately.”), the word “interrelated” should in his view be deleted wherever it occurred.

With regard to paragraph 9, he did not think that the report should state that opinion in the Board had been “equally divided” on the proposal submitted by Sudan on behalf of the African Group.

In the draft report by the Chairman, the second sentence of paragraph 3 read “The basis of the grouping is geographical proximity and is for purely electoral purposes.” In that connection, it should be borne in mind that a Member State did not have to belong to a regional group in order to be elected to the Board of Governors.

Paragraph 5 referred to “objection by a number of States to the inclusion of Israel in the MESA Group at this time.” The fact was that the entire MESA Group had in a joint statement rejected the idea of Israel’s becoming a member of the Group.

Like the Governor from Tunisia, he could not recall a single statement to the effect that “Israel had been properly included in MESA”. In any case, even if Member States not belonging to the MESA Group had made such statements, the principle that the final decision regarding the membership of each regional group lay with the existing members of that group was paramount.

EXCERPT FROM THE RECORD OF THE BOARD'S 930th MEETING
(24 September - afternoon)

ARTICLE VI OF THE STATUTE (continued)

Mr. AL-TAIFI (Saudi Arabia) associated himself with the statements made during the previous meeting by the Governors from Tunisia and India.

Mr. HALIM MOHAMED (Sudan)*, having expressed support for the comments made during the previous meeting by the Governors from Tunisia, India and South Africa, said it had frequently been stated that a number of countries were not in favour of a package approach to the Article VI issue. That was not true. The countries in question were not against a package approach as such, but against the particular package being offered, which touched on the controversial matter of the composition of regional groups. Thus, in paragraph 11 of the draft report by the Board to the General Conference on "Article VI of the Statute", the phrase "that a package approach was inappropriate" should be replaced by something on the lines of "that the package being offered was inappropriate".

With regard to the proposal submitted by Sudan on behalf of the African Group, opinion in the Board had not been equally divided - contrary to what was stated in paragraph 9 of the draft report by the Board. The support for the proposal had easily outweighed the opposition to it.

Referring to paragraph 6 of the draft report by the Chairman of the Board on the "Composition of regional groups", he said that, like the Governor from Tunisia, he had not heard the view "that Israel had been properly included in MESA" expressed by even one State - let alone a number of States.

Mr. BENMOUSSA (Morocco)* recalled that, in decision GC(40)/DEC/14, the General Conference had requested the Chairman of the Board to submit to it in 1997

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

“specific proposals to include each Member State within the appropriate area” and that, in operative paragraph 4 of resolution GC(40)/RES/20, the Conference had requested the Board to submit to it in 1997 “its report on a finalized formula” for amending Article VI. The two draft reports before the Board did not constitute an adequate response to the General Conference’s requests. The Chairman’s package, which the Chairman had, of course, been fully entitled to propose, had failed. No consensus on the package was going to emerge.

With regard to the draft report by the Chairman, he pointed out that, although paragraph 11 referred to the view that the gap between the Canadian proposal for amending Article VI and the African Group proposal was bridgeable, no mention was made of the fact that no delegation had formally opposed either proposal. That was a remarkable admission.

Mr. AYATOLLAHI (Islamic Republic of Iran)*, having endorsed the comments made by the Governors from India and Tunisia, said that for something like two decades 40-50 countries had been under-represented on the Board. Recently, that issue had become overshadowed by an unrelated one - that of the composition of regional groups. Some people had attempted to link the two issues, but the resulting package was simply not acceptable. The regional group composition issue should be set aside and a formula for amending Article VI and thereby expanding the Board agreed upon, so that the question of the Board’s size could be allowed to rest for a decade or so.

Ms. SAYAF (Syrian Arab Republic)*, having associated herself with the comments made by the Governors from India and Tunisia and by the Ambassador of Sudan, said that the opinions of the MESA Group were not properly reflected in the draft report by the Chairman, paragraph 5 of which spoke of “objection by a number of States to the inclusion of Israel in the MESA group at this time”. In fact, all members of the MESA Group were opposed to the idea of Israel’s becoming a member.

The CHAIRMAN proposed the following changes to the draft report by the Board: the deletion of paragraph 4; the deletion of “Following on from this discussion,” at

the beginning of paragraph 5; the replacement of “all the three interrelated issues” in paragraph 5 by “the three issues”; the replacement of “a series of interrelated matters which had been the subject of discussion over many years” in paragraph 7 by “these issues”; the replacement of “a series of interrelated matters, several of which had been on our agenda for many years” in paragraph 10 by “these issues”; and the replacement of “equally” in paragraph 9 by “also”.

He proposed the following changes to the draft report by the Chairman of the Board: deletion of the second sentence of paragraph 3 (“The basis of the grouping is geographical proximity and is purely for electoral purposes.”); and the redrafting of paragraph 6 to read “On the other hand, a number of States welcomed the proposal as a compromise solution and were prepared to endorse it because they were of the view that Israel should be included in MESA and that the principle of sovereign equality implied that all Member States belonged to regional groups.”

Mr. BENMOUSSA (Morocco)* called for the addition of a sentence to the effect that a compromise bridging the gap between the African Group proposal and the Canadian proposal might be an acceptable formula for amending Article VI.

Mr. HALIM MOHAMED (Sudan)* said that he was not in favour of the deletion of paragraph 4 *in toto* as it contained a very important element - namely, the idea that the regional group composition issue and the designation criteria issue had not been “within the purview of the mandate of the Open-ended Consultative Group”.

The Chairman’s proposals did not take into account what he had said earlier about a package approach as such and the particular package being offered.

Mr. EL FADHEL KHALIL (Tunisia) recalled that he had earlier suggested that in paragraph 13 of the draft report by the Board the words “a finalized formula” be amended to read “an appropriate approach”.

The African Group could go along with all of the Chairman’s proposals except the one for the deletion of paragraph 4 of the draft report by the Board.

The CHAIRMAN said he had an open mind about the deletion or retention of that paragraph.

In response to the second comment just made by the Ambassador of Sudan, he proposed that in paragraph 11 of the draft report by the Board "a package approach" be replaced by "the package proposed".

He announced - following further comments by Mr. BENMOUSSA (Morocco), Mr. EL FADHEL KHALIL (Tunisia) and Ms. MXAKATO-DISEKO (South Africa) - that a revised version of the draft report of the Board to the General Conference would be circulated later in the meeting. The revised version would reflect all the proposals which he had made for change except the one concerning the deletion of paragraph 4.

Mr. de OURO-PRETO (Brazil), supported by Mr. MAFFEI (Argentina), proposed deletion of the second sentence of paragraph 5 of the draft report by the Chairman ("There was objection by a number of States to the inclusion of Israel in the MESA group at this time.") and the replacement of "These States" by "A number of other States" at the beginning of the third sentence.

Ms. SAYAF (Syrian Arab Republic)* said her delegation could not accept the Brazilian proposal. She suggested amending the second sentence of paragraph 5 to read something like "There was objection by a number of States, including all members of the MESA Group, to the inclusion of Israel in that group at this time."

Mr. RITCH (United States of America) said it was not clear to him why so much emphasis should be placed on the views of the members of a particular regional group.

Mr. HALIM MOHAMED (Sudan)*, supported by Mr. RAGHURAMAN (India), said in response to the comment made by the United States Ambassador that the particular regional group in question was the one most affected by the regional group composition issue and that, in reality, it was one particular State whose views were receiving great emphasis.

Mr. de OURO- PRETO (Brazil) said that he would not press his proposal.

Mr. EL FADHEL KHALIL (Tunisia) said - following comments by Mr. AL-TAIFI (Saudi Arabia), Mr. RITCH (United States of America), Mr. HEATHCOTE (United Kingdom) and Mr. BENMOUSSA (Morocco)* - that the draft report by the Chairman was, with the changes which the Chairman had proposed earlier in the meeting, acceptable to him. It should be borne in mind that the Chairman did not need the Board's approval of a report from himself to the General Conference.

The meeting was suspended at 4.50 p.m. and resumed at 5.00 p.m.

ARTICLE VI OF THE STATUTE (resumed)

The CHAIRMAN invited comments on the revised version of the draft report of the Board.

Mr. BENMOUSSA (Morocco)* said that in his view, as the beginning of paragraph 12 read "In these circumstances, the Board stated as its observations under Article XVIII of the Statute, that there was no consensus ...", the words "The Board was therefore unable to make any recommendation to the General Conference" in paragraph 13 were superfluous. In fact, he felt that the whole of paragraph 13 should be deleted.

Mr. EL FADHEL KHALIL (Tunisia) suggested that the words "The Board was therefore unable to make any recommendation to the General Conference" be added to paragraph 12 as a second sentence and that the rest of paragraph 13 be deleted.

The CHAIRMAN asked whether that suggestion was acceptable to the Board.

It was so agreed.

The CHAIRMAN said that all that remained was for him to make final adjustments, in the light of comments made during the Board's discussion, to the draft of his report to the Board on the "Composition of regional groups" after the meeting had risen.

