



International Atomic Energy Agency

GENERAL CONFERENCE

GC(XXII)/602

7 September 1978

GENERAL Distr.

Original: ENGLISH

Twenty-second regular session

Item 9 of the provisional agenda
(GC(XXII)/595)

AMENDMENT OF ARTICLE VI, A. 2 OF THE STATUTE

Note by the Director General

1. Since the General Conference met last September the Board had further discussions on the question of the amendment of Article VI, A. 2 of the Statute and it decided at its meetings last June that the records of its discussions should be transmitted to the Conference. Those parts of the summary records dealing with the item "Amendment of Article VI, A. 2 of the Statute" at meetings of the Board in February and June 1978 are accordingly reproduced in Annex I to this document.
2. On 19 June the Director General communicated to all Members of the Agency, pursuant to Article XVIII, A of the Statute, certified copies of the text of an amendment to Article VI, A. 2 of the Statute, jointly proposed by Iran, Pakistan and Saudi Arabia. The proposed amendment is reproduced in Annex II.
3. Annex III contains the text of a draft resolution on the amendment of Article VI, A. 2 of the Statute submitted by Pakistan for consideration by the General Conference.
4. The records and any observations that might emerge from discussion on the item "Amendment of Article VI, A. 2 of the Statute" by the Board in September will, in accordance with the Board's decision referred to in paragraph 1, also be transmitted to the General Conference and will be reproduced in an addendum to the present document.

ANNEX I

Summary records of the discussions on the item - Amendment of
Article VI, A. 2 of the Statute - at the meetings of the
Board of Governors held in February and June 1978

RECORD OF THE FIVE HUNDRED AND THIRTEENTH MEETING

Held at Headquarters, Vienna, on Wednesday, 22 February 1978, at 3.30 p.m.

AMENDMENT OF ARTICLE VI, A. 2 OF THE STATUTE

1. The CHAIRMAN recalled that, in Resolution GC(XXI)/RES/353, the General Conference had requested the Board to give further consideration to the matter of the representation of the areas of Africa and of the Middle East and South Asia on the Board and to submit its observations on the representation of those two areas to the twenty-second regular session of the General Conference.
2. Mr. KHAN (Pakistan), speaking on behalf of the co-sponsors of the proposal for amendment, recalled that that proposal had first been submitted a year before, after which it had been discussed by the Board in February and in June and by the General Conference in September 1977. Since the preceding session of the General Conference, delegations had had the opportunity to discuss it informally and, in some cases, to express their misgivings. He said he would endeavour to allay those misgivings without actually repeating the arguments already advanced. Some delegations tended to forget that the composition of the Board was supposed to correspond both to equitable geographical representation and to the level of technology achieved in the nuclear field. Even if those delegations recognized that the distribution of seats was not truly equitable, they were afraid that an increase in the number of seats would impair the efficiency of the Board's work or disturb the balance in representation which, in their opinion, had now been achieved in the Board's composition. Some delegations also considered that a new amendment would be premature.
3. One of the factors to be taken into consideration in the composition of the Board was most certainly the level of technology, but that consideration applied only to the designated Members, as was clear from Article VI, A. 1 of the Statute. As far as the elected Members were concerned, the Statute provided that the General Conference should give due regard to equitable representation on the Board as a whole. The co-sponsors of the proposal for amendment were asking only that that principle should be respected. In practice, the sole purpose of the system of designating certain Members was to give those Members permanent seats, which meant over-representation. The co-sponsors were not even questioning that principle, although it was dubious, but were asking simply that the two areas "Africa" and "Middle East and South Asia" should no longer be discriminated against; at present the 38 countries contained in those areas controlled only seven of the 22 seats for elected Governors, whereas the 59 countries in other regions controlled 15 seats.
4. Several delegations feared that an increase in the number of seats would reduce the efficiency of the Board's work. That thesis was without any basis of fact. Actually, the co-sponsors of the proposal were requesting greater equity in the distribution of seats, not an increase in their number. The seats could of course be redistributed, but obviously no area would agree to relinquishing them. In any case, there was no evidence that the two preceding amendments had adversely affected the Board's work. The more representative the Board was, the greater the weight and authority it would exercise and in that way it would gain the confidence of all the Agency's Members. The proposal for amendment actually aimed at increasing the Board's efficiency.

5. It had been asserted that a new amendment would be premature. Looking back, it could be seen that the first amendment had been adopted in 1961, four years after the establishment of the Agency, and the second had been adopted in 1970, nine years after the first one. If the General Conference were to adopt a third amendment during the next session, eight years would have elapsed since the previous one. An interval of that duration could not be regarded as too short. The actual entry into force would certainly not be before 1980 or 1981, so that the interval would be comparable. Moreover, one had to take account not only of the number of years elapsed but also of the important changes that had taken place in those two areas since 1970. The number of Agency Member States belonging to those two areas had increased and the Member States in Africa and in the Middle East and South Asia had greatly expanded their nuclear power programmes. Moreover, the world situation had changed radically since 1973 as a result of the energy crisis. The countries in the two areas under consideration produced a large portion of the energy used throughout the world, in view of the fact that they were providing more than half the oil and that the African sub-soil contained very large quantities of nuclear materials. The General Assembly on 8 December 1977 had also adopted a Resolution number 32/49 which called for due consideration to be given to the request for an increase in the membership of the Board in accordance with the principle of equitable representation.
6. In the light of all those factors, he felt compelled to stress the importance and urgency of the question. The Board had already discussed it at length and should be able to reach a consensus so that the General Conference could discuss it and take a decision at the next session. The co-sponsors of the proposal were not calling into question any fundamental principle of the Statute but were merely asking that it should be strictly applied. They were not contesting the method by which certain Members were designated but were asking only for a moderate increase in the number of seats; they were seeking to increase the efficiency of the Board's work, not to reduce it. Nor were they asking for favourable treatment. They wanted only that the principle of equity should be respected, and proposed that consultations be held in the near future so that a swift decision could soon be taken.
7. Mr. GHEZAL (Tunisia) recalled that the question of equitable representation of the areas "Africa" and "Middle East and South Asia" had been on the Board's agenda since February 1977 and had already been discussed very fully. He agreed with the statement made by the Governor from Pakistan and wanted to add a few comments.
8. The fact that representation was at present inequitable had gone practically uncontested both during the meetings of the Board and in bilateral talks. Moreover, the principle of equity was written into the Statute and was not an innovation. And lastly, the co-sponsors of the proposal were not trying to disturb the existing equilibrium but to obtain for Member States in the two unfavoured areas more equitable participation in the work of the Board and the Agency. The existing provisions, however, only discouraged the participation of those States in the affairs of the Agency. The Tunisian delegation sincerely hoped that the Board would take positive action and that the traditional goodwill and spirit of co-operation would soon make it possible to reach a consensus.
9. Mr. ETEMAD (Iran) agreed with the Governor from Pakistan and sincerely hoped that the Board would discuss the matter without delay so as to reach a consensus.
10. Mr. RATHORE (India) supported the statements made by other co-sponsors of the proposal. He pointed out that the two areas in question had already been under-represented at the time of adoption of the preceding amendment.
11. Mr. SIRRY (Egypt) pointed out that a year had already elapsed since the proposal had been submitted for the first time. The objections raised by many delegations stemmed from what was a perfectly normal reaction to all proposals of a similar type. The problem was not insurmountable, however, and Egypt was ready to show flexibility if the other delegations would do the same.

12. Mr. AZIKIWE (Nigeria) associated himself with the previous speakers. The item under discussion was one of the most important on the agenda. The previous amendment had resulted in increased efficiency and the proposed amendment could therefore be expected to have the same effect. Progress in the technology of atomic energy came into the question only for the designated Members, while the election of the other Members was based solely on equitable representation. Nigeria urged the Members of the Board to concern themselves not with the Agency's past, but with its future, and to approve the proposal, of which Nigeria was a co-sponsor.
13. Mr. LINDSAY (Ghana) wished to associate himself with the statement made by the Governor from Pakistan and hoped that the Members of the Board would give favourable consideration to the proposal.
14. Mr. ABU-EID (Kuwait) said that his country, which formed part of the two areas under question, was a co-sponsor of the proposal and a firm supporter of the principle of equitable representation. He associated himself with the statement made by the Governor from Pakistan.
15. Mr. CASTRO MADERO (Argentina) said he appreciated the reasoning of the co-sponsors of the draft resolution and understood their position, but he was afraid that a change in the way some areas were represented would lead to similar requests from other geographical areas. It was in order to avoid such difficulties that Argentina had earlier suggested that the Board set up a committee which would be specifically entrusted with the task of considering the entire question of the representation of geographical areas with representatives from each area.
16. Mr. MUÑOZ RIVADENEIRA (Ecuador) said his delegation was in favour of efforts to eliminate an obvious imbalance and he supported the proposal of the Governor from Argentina which should make it possible to reach an overall solution to the problem of area representation.
17. Mr. KOREF (Panama) also thought that the best solution would be to set up a committee; however, the possibility of consultations in small groups could not be discarded.
18. Mr. GARCIA-LOPEZ SANTAOLALLA (Mexico) said his delegation fully shared the views expressed by the Governor from Pakistan on behalf of the co-sponsors of the draft resolution and he thought it would be best to establish an informal discussion group to study the question.
19. Mr. KOUTOUBI (Niger) was in favour of adopting the amendment proposed by the co-sponsors of the draft resolution.
20. Mr. GROZA (Romania) said that Romania understood and supported the efforts of the developing countries of the two areas in question to achieve a more equitable representation in the Board.
21. The CHAIRMAN suggested that the Board should comply with the wish expressed by the co-sponsors that informal consultations start as soon as possible. If there were no objections he would take it that the Board agreed to act along those lines.
22. It was so decided.

RECORD OF THE FIVE HUNDRED AND TWENTIETH MEETING

Held at Headquarters, Vienna, on Friday, 9 June 1978, at 11 a.m.

AMENDMENT OF ARTICLE VI, A. 2 OF THE STATUTE

48. Mr. KHAN (Pakistan) recalled that the proposal to amend Article VI, A. 2 of the Statute had been under discussion for some time. The General Conference had in 1977 adopted Resolution GC(XXI)/RES/553 requesting the Board to give further consideration to the matter and submit its observations on the representation on the Board of Governors of two areas, Africa and the Middle East and South Asia, to the twenty-second regular session of the General Conference. Since that time there had been continuous consultations on the subject, and the Chairman and representatives of various countries had made great efforts to arrive at a consensus on a fair solution to the problem of representation on the Board. An amendment to the Statute had been proposed that would change the number of representatives from Africa from four to seven, and of representatives from the Middle East and South Asia from two to four[*].

49. It had been widely recognized in the discussions that the two areas in question were at present not equitably represented on the Board. Only 22.5% of the Agency's Member States in those areas were represented, whereas over 36% of the Member States in the remaining six areas enjoyed such representation. If the designated Board Members were excluded, the figure for Africa and the Middle East and South Asia was about 18%, for the other six areas it was over 25%. Article VI, A. 2(a) of the Statute called for "due regard to equitable representation on the Board as a whole". The Member States of the two areas in question were taking an increasing interest in the peaceful uses of nuclear energy, and they contributed greatly to world energy production, supplying not only over 50% of the world's oil, but also significant amounts of nuclear materials. It was thus only fair that they should be as fully represented on the Board as other areas.

50. Consideration of the question of amending Article VI was by no means premature - that article had previously been amended in 1961 and 1970, and changes warranting another such amendment had occurred during the past eight years: the number of States Members of the Agency from those areas had increased, the two areas had gained considerably in significance as a result of the energy crisis, and nuclear power programmes in the countries involved had grown rapidly in the intervening years. The time was ripe for a change to be introduced in the representation of States on the Board that would reflect those developments. Such a change would remove the grievances of countries that felt they were inadequately represented, and would thus strengthen their commitment to the Agency's objectives and improve the efficiency of the Board.

51. It had variously been suggested that the extent of the proposed increase in the number of representatives would have an unfavourable effect on the representation of other areas, but he considered that the increase proposed was fair and legitimate and would not create a new imbalance on the Board. However, in order to pave the way for a speedy and equitable solution to the problem, he was willing to adopt a more flexible attitude to suggestions concerning the extent of the increase. His delegation would submit a proposal to the Director General before the beginning of the ninety-day period required by Article XVIII, A of the Statute, and he hoped it would be possible to reach a consensus at the forthcoming session of the General Conference.

[*] See document GC(XXI)/584.

52. Mr. JIMETA (Nigeria) associated himself with the Governor from Pakistan in thanking the Chairman for his efforts to find a solution to the question raised by the Nigerian delegation, which considered that the imbalance in the representation of the areas of Africa and the Middle East and South Asia was unfair to those areas. In his delegation's view the "elements of control" contained in the Agency's Statute were directed considerably more against the representation of Africa on the Board than against that of any other area. There was no question that, among other considerations, the Agency was concerned with the problems of peace. There was also no question that Africa, like all other regions, would like to be considered capable of making contributions to the securing of peace; that ability seemed to be more equitably reflected even in the composition of the Security Council of the United Nations than in that of the Board of Governors as determined so far by the Statute. His delegation was prepared to take part in further discussions on the understanding that the motives which prompted it to seek to rectify the injustice which it detected in the Statute were not called into question.

53. Mr. SAMANIEGO (Ecuador) said that most of the Latin American countries agreed with the views of the Governor from Pakistan and supported an equitable increase in the number of States represented on the Board. He hoped a fair solution acceptable to all could be arrived at once a definite proposal had been put forward and examined.

54. Mr. LEE (Republic of Korea, Mr. BABA (Malaysia) and Mr. BUHOARA (Romania) agreed with the remarks of the Governor from Pakistan, and hoped a consensus would be reached in the near future.

55. Mr. CARTER (Canada) felt that the case for an enlargement of the Board to provide more representation for the areas of Africa and the Middle East and South Asia had not been established during the various discussions in 1977. He had heard no further justifications for such an enlargement in the current year which would cause the Canadian delegation to change its attitude.

56. The CHAIRMAN suggested that the question of the amendment of Article VI of the Statute should be included in the provisional agenda for the Board's meetings in September; the proposal by the Governor from Pakistan would be distributed as soon as it was received, and the records of the Board's discussions on the subject would be made available to the General Conference.

57. The Chairman's suggestion was accepted.

ANNEX II

AMENDMENT TO ARTICLE VI OF THE STATUTE PROPOSED BY
IRAN, PAKISTAN AND SAUDI ARABIA

Replace sub-paragraph (a) of Article VI, A.2 of the Statute by the following:

"(a) Twenty-two members, with due regard to equitable representation on the Board as a whole of the members in the areas listed in sub-paragraph A.1 of this article, so that the Board shall at all times include in this category five representatives of the area of Latin America, four representatives of the area of Western Europe, three representatives of the area of Eastern Europe, five representatives of the area of Africa, three representatives of the area of Middle East and South Asia, one representative of the area of South East Asia and the Pacific, and one representative of the area of the Far East. No member in this category in any one term of office will be eligible for re-election in the same category for the following term of office; and"

ANNEX III

Draft resolution submitted by Pakistan

AMENDMENT OF ARTICLE VI OF THE STATUTE

The General Conference,

- (a) Recalling its Resolution GC(XXI)/RES/353, requesting the Board of Governors to give further consideration to the proposal for amendment of Article VI.A.2 of the Statute relating to the representation of the areas of Africa and of the Middle East and South Asia on the Board of Governors,
 - (b) Having considered the observations submitted by the Board,
 - (c) Bearing in mind the principle of equitable representation on the Board as a whole of the Members in the various areas, and
 - (d) Anxious to preserve and increase the efficiency and effectiveness of the Board of Governors,
1. Approves the following amendment of sub-paragraph (a) of Article VI.A.2:

At the beginning of the sub-paragraph, substitute "twenty-two" in place of "twenty"; before the words "representatives of the area of Africa", substitute "five" in place of "four"; and before the words "representatives of the area of the Middle East and South Asia", substitute "three" in place of "two".
 2. Urges all Members of the Agency to accept this amendment as soon as possible in accordance with their respective constitutional processes as provided for in Article XVIII.C(ii) of the Statute; and
 3. Requests the Director General to report to the General Conference at its twenty-third regular session on the progress made towards entry into force of the amendment.

