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(GC(XXX)/774)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE

Report by the Board of Governors

1. In response to General Conference resolution GC(XXIX)/RES/454, the Board discussed the question of amending Article VI.A.2 of the Statute at its February, June and September 1986 meetings in the light of reports made by the Chairman of the Board on informal consultations which she had conducted.

2. The Board agreed in September that the summary records of its discussions on this matter since the twenty-ninth regular session of the General Conference should be transmitted to the General Conference for consideration at its thirtieth regular session; the summary records are reproduced in the Annex.

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ANNEX

Summary records of the discussion on the item
"Amendment of Article VI.A.2 of the Statute"
at meetings of the Board of Governors
held in February, June and September 1986

RECORD OF THE 647th MEETING (held on 19 February 1986)

(d) AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XXIX)/RES/454)

67. The CHAIRMAN recalled that the item next on the agenda had been before the Board and General Conference for a number of years. In 1985, the General Conference had, in resolution GC(XXIX)/RES/454, requested the Board to consider and submit its observations and recommendations on proposed amendments regarding the matter for approval by the General Conference at its thirtieth regular session.

68. When the Board had met the previous September, after the Conference's session, it had been agreed that she would hold consultations on that question. Such consultations had accordingly been held with representatives of all the geographical areas listed in Article VI of the Statute and a constructive and open exchange of views on all the implications of amending Article VI.A.2 of the Statute from the points of view of both substance and procedure had taken place.

69. The opinions expressed during the informal discussions showed that Members still held the fundamentally different positions reported to the General Conference the previous year. As to the substance, some delegations wished to preserve the existing balance in the Board and felt that enlarging the Board would impair its efficiency; they were consequently opposed to any amendment of Article VI. Others favoured amending Article VI.A.2 in order to increase the representation of Africa and of the Middle East and South Asia. Some delegations from other areas would accept an amendment to the Article only on the understanding that the relative representation of their areas would not be reduced by such an amendment. Lastly, there were some delegations which, while recognizing the claims of Africa and of the Middle East and South Asia, were of the opinion that advancement in the technology of atomic energy must be taken into account, in which case there were other areas which were also under-represented.

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

71. Given the divergent views which still existed, she suggested that she hold further consultations and report to the Board in June on their outcome.

72. Mr. GOMAA (Egypt) recalled that the item under discussion had been on the agenda of both Board and General Conference for nine years. His delegation would not enter into historical detail on the matter, but wished to recall the essential facts, which he feared might become blurred with the passage of the years.

73. The main reason behind the proposal to amend Article VI.A.2 was the under-representation of the areas of Africa and the Middle East and South Asia on the Board: if the number of seats on the Board allocated to each area divided by the number of Member States in the area was expressed as a percentage, the representation was 100% for North America, 30% for Latin America, 34.78% for Western Europe, 36.36% for Eastern Europe, 38.14% for South East Asia and the Pacific, and 47.57% for the Far East. The African area had only 20.5% representation, the Middle East and South Asia 22.94%.

74. Another way of looking at representation was to compare the proportion of the total number of Member States accounted for by each area with the proportion of the total number of seats on the Board allocated to each region. By that reckoning, Africa was under-represented by 8 percentage points (23.21% of Member States, 15.23% of Board seats), the Middle East and South Asia by 3 and Latin America by 7 points. On the other hand, North America was over-represented by 4 percentage points, Western Europe by 2.3, Eastern Europe by 1.6, South East Asia and the Pacific by 1.4 and the Far East by 2.4 points.

75. It had often been argued that the effectiveness of the Board depended in some way on maintaining the present political balance in that body. In his delegation's view, however, that argument had no solid foundation, for the question of increasing the number of seats allocated to the two under-represented areas had no bearing whatever on the effectiveness of the Board's work.

76. The number of African countries Members of the Agency had increased since the Statute had last been reviewed more than 12 years previously. The documents submitted to the Board each year indicated a constant increase in the peaceful nuclear activities of those Member States, and, as a consequence, the Statute must be applied in an equitable manner so as to ensure that those Members were fairly represented.

77. Many suggestions had been put forward on that subject, and the African group had long before agreed to a proposal to allocate three additional seats to Africa and two to the Middle East and South Asia. Despite the understanding shown by Members of the Board for the claims of those two areas, however, that proposal had not achieved unanimous acceptance so far.

78. His delegation considered that the proposed increase was a reasonable one and would not jeopardize the Board's efficiency; moreover, it was the minimum necessary to ensure equitable representation of those two areas on the Board.

79. The Chairmen of the Board of Governors had made great efforts in their consultations with Board Members over the years to arrive at an acceptable solution to the problem. His delegation hoped the present Chairman would continue her consultations in that respect and suggested that she might convene an informal contact group representing the various areas in order to discuss a solution which might meet with general assent.

80. Mr. BADRAN (Jordan) commended the Chairman for her efforts during the consultations she had held with a view to finding a satisfactory solution to the problem of amending Article VI.A.2 of the Statute.

81. The fact that the matter had been pending for many years demonstrated just how important it was and reflected the firm desire of the General Conference that Article VI.A.2 be amended. His delegation did not think amending Article VI.A.2 in accordance with the geographical balance within the Board would diminish the Board's effectiveness. His delegation considered the matter to be extremely important and therefore urged the Board to examine it with understanding so that a solution could be found to which all Members could agree independently of any other amendments.

82. The Chairman should accordingly make additional efforts towards achieving a suitable formula so as to restore to normal the representation of Africa and the Middle East and South Asia.

83. Mr. KHAN (Pakistan) reminded delegates that the amendment of Article VI.A.2 of the Statute was a perennial item at meetings of the Board and the General Conference only because the Board had not so far remedied the imbalance in the representation of the two least represented geographical areas - namely, Africa and the Middle East and South Asia. The figures quoted by the Governor from Egypt were an eloquent statement of the manner in which other areas were better represented at the expense of those two.

84. His delegation felt that the time had come to remove that injustice. The matter had been discussed at various General Conference sessions, and resolutions had been adopted with overwhelming majorities which clearly recognized that action should be taken towards a moderate increase in the representation of those areas.

85. Nevertheless, the problem still remained of defining adequate representation; on the one hand, as the Governor from Egypt had suggested, there was the formula whereby the claims of the two areas would be satisfied by adding three seats for Africa and two for the Middle East and South Asia. There was no consensus on that formula, one of the objections to which had been that it would unnecessarily increase the membership of the Board to the detriment of its efficiency. While not sharing that view, his delegation had felt that a more modest increase in representation might be acceptable as a compromise solution and had proposed, along with a number of other countries, an increase of one seat for Africa and one for the Middle East and South Asia. That "1 + 1" formula had attracted considerable support, but not the two-thirds majority required in the General Conference. His delegation still

considered the 1 + 1 formula to be a realistic approach towards partial rectification of the existing inequity, although it was not a complete solution. However, it was better to accept a modest increase at the present time than to seek a substantial and major increase in the membership of the Board at a future date.

86. His delegation therefore commended the 1 + 1 formula to the Chairman as a compromise formula which she might propose in her consultations with Board Members before the meetings in June.

87. Mr. ILJAS (Indonesia) said his delegation still saw no hope of a solution to the question of correcting the under-representation of Africa and the Middle East and South Asia, despite the incessant consultations that had taken place during the previous nine years.

88. Indonesia had always supported the legitimate claims of those two areas for additional seats on the Board. In 1977, his delegation had supported the proposal to increase the number of representatives from Africa by three and from the Middle East and South Asia by two. In 1978, it had also supported the more moderate proposal to increase the number by one seat for each. His delegation had subsequently continued to reaffirm its support for the demands of those two under-represented areas.

89. A new development had taken place in 1985, when a proposal to revise Article VI as a whole had been formally introduced for the first time. That proposal was still an item on the Board's agenda. Rather than helping to solve the problem of Article VI.A.2, it had complicated matters and had made the finding of a solution more remote.

90. That long-standing problem could be resolved only if the Board agreed that Africa and the Middle East and South Asia were under-represented on the Board and if all Member States accepted that the membership of the Board should be increased accordingly. Unless the Board could agree on those two basic points, he feared that any further discussion on the number of additional seats to be allotted to Africa and the Middle East and South Asia would be futile.

91. His delegation concurred with the view that the matter should be the subject of further consultations, as that seemed to be the only mechanism acceptable to all Members of the Board.

92. Mr. ZHOU (China) commended the Chairman for her report on her consultations regarding the question of amending Article VI.A.2 and her efforts to put into effect resolution GC(XXIX)/RES/454.

93. The inadequate representation of Africa and the Middle East and South Asia on the Board was a long-standing problem which the Board must find a way of solving as early as possible in the spirit of the General Conference resolution. China supported the efforts of Pakistan, Egypt and other Member States from the two areas to rectify the existing imbalance and hoped that a solution satisfactory to all parties would be found.

94. Mr. ALLAB (Algeria) recalled that the question of amending Article VI.A.2 had been passed back and forth by the Board and the General Conference for a decade. According to the Chairman's report, the consultations which she had conducted had unfortunately again produced no result.

95. The consultations and discussions which had taken place on the matter over the years had adequately highlighted the under-representation of the geographical areas concerned. Some delegations had argued that enlarging the Board was likely to be detrimental to its efficiency. His delegation could not accept that as a valid reason for perpetuating an imbalance which had lasted all too long. The Governors from Egypt, Jordan and Pakistan had eloquently recalled the facts and figures relating to the matter in hand, and it was his delegation's view that the time had come finally to do away with the imbalance. To that end, his delegation suggested that a group be set up to assist the Chairman in her consultations.

96. The CHAIRMAN took it that the Board wished her to continue with informal consultations, both individually and collectively, and to report to the Board again in June. If so, the item "Amendment of Article VI.A.2 of the Statute" would be placed on the provisional agenda for the June meetings of the Board.

97. It was so decided.

RECORD OF THE 655th MEETING (held on 13 June 1986)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XXIX)/RES/454)

120. The CHAIRMAN recalled that, at the Board's February meetings, she had reported on the informal consultations held following the last session of the General Conference and that the Board had decided that she should continue with those consultations, both individually and collectively, and report to it again in June. Accordingly, informal consultations had again taken place, but the basic differences of opinion which she had reported in February persisted. They related - as in the past - both to the substantive and to the procedural aspects of the matter. In the circumstances, it did not seem possible to make any recommendation to the General Conference at present. She therefore suggested that she should continue to hold consultations with interested parties and report back to the Board in September, when it could decide on the nature of the report to be submitted to the General Conference.

121. Mr. KHAN (Pakistan) said that it was regrettable that the Board had been unable to reach a consensus on the matter under discussion, which had been before it for the past nine years. The motivation behind efforts to amend Article VI.A.2 was to rectify the gross under-representation on the Board of two areas - Africa and the Middle East and South Asia. Initially, there had been some strong opposition to any expansion in the Board, but after extensive negotiations a compromise had been reached under which there would be a limited expansion confined to the two areas concerned and relating only to sub-paragraph A.2 of Article VI. That compromise had been reflected in resolution GC(XXI)/RES/353, in which the General Conference had requested the Board to give further consideration to the matter and to submit its observations on the representation of those two areas to the General Conference.

122. At present, the Board had 35 Members, representing 31% of the total membership of 112. However, only 9, or about a quarter of those 35, were accounted for by Africa and the Middle East and South Asia, although the share of those two regions in the total membership of the Agency would soon reach 40%.

123. That situation was patently unjust; the Member States in those areas had long lived with it in the hope of future improvements, but they were now becoming impatient. They had been participating actively in the work of the Agency and had contributed to world energy supplies by exporting oil and uranium and expanding their peaceful nuclear programmes. They were therefore fully justified in requesting fair treatment.

124. Two specific proposals had been put forward to redress that situation. The first had involved an additional three seats for Africa and two for the Middle East and South Asia, which would have increased the representation of those areas on the Board to 14, or approximately 35%. That proposal had been objected to on the grounds that it would make the Board too large, unmanageable and inefficient.

125. In order to respond to those concerns, a compromise formula involving one additional seat for Africa and one for the Middle East and South Asia had been put forward - although that moderate formula fell far short of rectifying

the under-representation of those areas, since it would mean an increase by only 4 percentage points, to 29% of the seats on the Board.

126. In 1978, the General Conference had adopted resolution GC(XXII)/RES/361, which explicitly recognized that the proposal for a moderate increase of one seat each had been acceptable to a majority of the Member States participating in the discussion on that matter. Unfortunately, owing to the attitude of certain Member States it had not been possible to obtain the necessary two-thirds majority, and deadlock had ensued.

127. Since then, new ideas and proposals had been put forward which envisaged a much larger increase in the Board. Pakistan was not against a large increase, if that was what Member States wanted, but in that case it would be obliged to demand proportionally more seats for the under-represented areas.

128. He urged the Board to act quickly and in the spirit of compromise which his own delegation was showing so as to reach a settlement. The alternative was either growing frustration among the under-represented Member States or the possibility of a very large future increase in the membership of the Board.

129. The CHAIRMAN asked whether the Board could accept her introductory statement and whether it wished an item entitled "Amendment of Article VI.A.2 of the Statute" to be placed on the agenda for its meetings in September.

130. It was so agreed.

PROVISIONAL RECORD OF THE 659th MEETING (held on 23 September 1986)

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XXIX)/RES/454)

33. The CHAIRMAN said that the amendment of Article VI.A.2 of the Statute had been extensively discussed since the adoption by the General Conference in the previous year of resolution GC(XXIX)/RES/454, in which the Board had been requested to consider and submit its observations and recommendations on proposed amendments to the article in question for approval by the General Conference in 1986.

34. Governors would recall that she had been requested in June to continue to hold informal consultations on the matter with interested parties and to report to the Board at its meetings in September, when the Board could decide on the nature of its report to be submitted to the General Conference.

35. Since June she had conducted further consultations, but unfortunately differences of view on both substance and procedure still persisted, as they had when she had reported in February and again in June.

36. With regard to the substance, some delegations still wished to preserve the present balance in the Board and felt that an enlargement of the Board would impair its efficiency; they consequently continued to be opposed to any amendment of Article VI. Others continued to favour the amendment of Article VI.A.2 in order to increase the representation of Africa and of the Middle East and South Asia. Some delegations from other areas would accept such an amendment on the understanding that the relative representation of their areas would not be reduced by it. Lastly, there were some delegations which - while recognizing the claims of Africa and of the Middle East and South Asia - were still of the opinion that advancement in the technology of atomic energy must be borne in mind; in other words, they considered that there were other areas which were also under-represented.

37. With regard to procedure, certain delegations continued to favour the establishment of a specific mechanism for dealing with the matter, while others would still prefer to leave the process of consultation in the hands of the Chairman, as at present.

38. In the light of the situation she had just described, she had circulated for the Board's consideration a short draft report[*] by which it could transmit to the General Conference the summary records of the discussions of the item "Amendment of Article VI.A.2 of the Statute" which it had held since the Conference met in the previous September.

39. Mr. SHASH (Egypt) noted that the amendment of Article VI.A.2 of the Statute had been on the agenda of the Board and the General Conference for more than ten years. It was highly regrettable that no solution had as yet

[*] Subsequently issued as document GC(XXX)/787.

been found to a problem which it would be relatively simple to eliminate if goodwill and mutual comprehension prevailed. The reason for the perpetual recurrence of the item on the Board's agenda was the continuing imbalance in the representation on the Board of the areas of Africa and of the Middle East and South Asia.

40. It had been proposed initially that the area of Africa should receive three additional seats and that of the Middle East and South Asia two additional seats. That proposal had been accepted as being justified and had received considerable support in both the Board and the General Conference right from the start, especially as it represented a limited increase which would not impair the efficiency of the Board and merely reflected the expanding application of nuclear energy for peaceful purposes in the areas concerned.

41. He pointed out that, if that request were acceded to, there would no longer be a need for the item to be discussed by the Board and the General Conference.

42. Considerable efforts had been made to solve the problem, and various proposals had been put forward relating to the amendment either of Article VI.A.2 alone or of Article VI as a whole. His delegation was prepared to consider any proposal and had always displayed an understanding for the claims of other areas, on the understanding that the requirements of the areas of Africa and of the Middle East and South Asia would be met.

43. Egypt would, in any case, be prepared to accept any consensus on either Article VI.A.2 or Article VI as a whole. However, none of the proposals so far put forward had been the subject of a consensus in the Board, and he felt that the time had come to resolve the issue and to meet the just demands of the regions of Africa and of the Middle East and South Asia for respectively three and two additional seats on the Board.

44. Mr. MATSUDA (Japan) said that the position of his delegation with respect to the membership of the Board remained unchanged, since it feared that a further increase in membership might adversely affect the efficiency and the effectiveness of the Board as a policy-making organ. In view of the difficult and delicate nature of the problem, however, he suggested that the

Chairman of the Board should continue to hold informal consultations with Member States and that the results of those consultations should be reported at the Board's meetings in February 1987.

45. Mr. BADRAN (Jordan) associated himself with the statement by the Governor from Egypt with regard to the amendment of Article VI.A.2. Despite the perpetual recurrence of the item over many years without a solution apparently being in sight, he pointed out that the proposed increase in the number of seats for the two under-represented areas of Africa and of the Middle East and South Asia was a very modest one, and that it would have no effect on the efficiency of the Board or its ability to take decisions; nor would it affect the weighting of the various regional groups on the Board.

46. The purpose of the proposal was, as before, to render more equitable the representation on the Board of two areas with large populations, especially since various countries in those areas were engaged in extensive efforts to make use of nuclear energy.

47. His delegation did not believe that proposals for alternative solutions would result in the desired outcome; the purpose of discussing the amendment of Article VI.A.2 was not to introduce new ideas but merely to give two areas of the world the representation on the Board which they should have had since the beginning. It would therefore be desirable for the Chairman to engage in extensive consultations with a view to increasing the representation of the area of Africa by three seats and that of the area of the Middle East and South Asia by two seats.

48. Mr. NOE (Italy) said that his delegation was convinced that Members from the areas of Africa and of the Middle East and South Asia were justified in requesting additional seats. For that reason, together with other European Members, Italy had put forward a proposal which took that request into account and placed it in a wider context. Instead of the one additional seat for Africa and one for the Middle East and South Asia currently being requested by certain of the countries in those areas, the Italian proposal foresaw two additional seats for Africa and one and one third for the Middle East and South Asia, which would increase the total number of seats for those areas to eight and five respectively.

49. Mr. KHAN (Pakistan), thanking the Chairman for her efforts to solve a long-standing and recurrent problem, said that it was highly regrettable that after ten years of discussion no solution had been found.

50. The main purpose of the amendment of Article VI.A.2 was to eliminate the glaring inequity in the representation on the Board of the areas of Africa and of the Middle East and South Asia, which accounted for approximately 40% of the Agency's membership. Those two areas were the least represented on the Board. The formula mentioned by the Governor from Egypt, which would involve three additional seats for Africa and two for the Middle East and South Asia, certainly went some way in the direction of equity in geographical representation and therefore merited support. However, since it wished to make a gesture towards certain countries which feared that a substantial increase in the Board would upset its balance and excessively inflate its size, his delegation had agreed to compromise on a very modest proposal of one additional seat for each of the two areas. That proposal had been supported by a majority in the General Conference, as was testified by resolution GC(XXII)/RES/361, and Pakistan still considered that that solution represented the most practical one. Although it did not amount to total equality of representation, it would partially rectify the imbalance.

51. If, on the other hand, the proposal for one additional seat for each of the two areas were not accepted, it would be necessary to revert to the formula of three additional seats for Africa and two for the Middle East and South Asia, and possibly even to consider a very much larger increase in the membership of the Board. He therefore commended to the Board the proposal for a modest increase of one additional seat for each of the two areas.

52. Mr. ALER (Sweden) said that his delegation had co-sponsored the Italian proposal for an amendment of Article VI of the Statute for reasons that he had stated earlier.

53. The experience of past years had convinced his Government that no agreement could be obtained on an amendment of Article VI which was limited to Article VI.A.2, and the present discussion had confirmed that view. For that reason, and also because of its other merits, his delegation was in favour of amending Article VI as a whole. The proposal by Italy provided for an

increase in the size of the Board from 35 to 44 Members. His delegation considered that such an enlargement would satisfy at least some of the demands made in the past in relation both to elective and to designated seats.

54. The CHAIRMAN took it that the Board wished to transmit to the General Conference the draft report which she had distributed, together with the summary records of its discussions of the item "Amendment of Article VI.A.2 of the Statute" since the General Conference met in September 1985.

55. It was so agreed.