



International Atomic Energy Agency

GENERAL CONFERENCE

GC(XXI)/584

1 August 1977

GENERAL Distr.

Original: ENGLISH

Twenty-first regular session

Item 11 of the provisional agenda
(GC(XXI)/577)

AMENDMENT OF ARTICLE VI, A, 2 OF THE STATUTE

Note by the Director General

1. On 28 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 Bangladesh, Egypt, the Libyan Arab Jamahiriya, Nigeria and Pakistan.
2. The proposed amendment is reproduced in Annex I of this document. Annexes II and III contain, respectively, the text of a draft resolution on the amendment of Article VI, A, 2 of the Statute and an explanatory memorandum both of which were submitted jointly by the above-named Member States.
3. In Annex IV those parts of the summary records dealing with the discussions on the item "Amendment of Article VI of the Statute" at the meetings of the Board in February and June 1977 are reproduced. The Board decided at its meetings in June that these records should be transmitted to the General Conference as observations of the Board on the proposed amendment. The summary records and any further observations that may result from discussions on this item by the Board in September will, in accordance with the Board's decision, also be transmitted to the General Conference and will be reproduced in an addendum to the present document.

ANNEX I

AMENDMENT TO ARTICLE VI OF THE STATUTE

PROPOSED BY BANGLADESH, EGYPT, THE LIBYAN ARAB JAMAHIRIYA,
NIGERIA AND PAKISTAN

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

"(a) Twenty-five 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, seven representatives of the area of Africa, four representatives of the area of the 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".

ANNEX II

Draft resolution submitted jointly by Bangladesh, Egypt,
the Libyan Arab Jamahiriya, Nigeria and Pakistan

AMENDMENT OF ARTICLE VI, A, 2 OF THE STATUTE

The General Conference,

- (a) Bearing in mind the principle of equitable representation on the Board as a whole of the Members in the areas listed in Article VI, A, 1 of the Statute,
 - (b) Also bearing in mind the principle of the sovereign equality of all Members,
 - (c) In order to ensure to all Members the rights and benefits resulting from membership,
 - (d) Taking into account the increase in the membership of the Agency as a result of the admission of additional States, mainly from the areas of Africa and of the Middle East and South Asia, and
 - (e) Having considered the observations submitted by the Board on the proposed amendment,
1. Approves the following amendment of sub-paragraph (a) of Article VI, A, 2:
 - (a) Twenty-five 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, seven representatives of the area of Africa, four representatives of the area of the 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;
 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-second regular session on the progress made towards entry into force of the amendment.

ANNEX III

Explanatory memorandum submitted jointly by Bangladesh, Egypt,
the Libyan Arab Jamahiriya, Nigeria and Pakistan

1. Members from the areas of Africa and of the Middle East and South Asia have felt for some time that the representation of these two areas on the Board of Governors of the Agency has not been adequate and equitable. As more States from these areas have been admitted to membership of the Agency, their representation has become even more disproportionate in relation to that of the other areas and the need to amend the Statute has in consequence acquired greater urgency.
2. It may be noted from the attached table that for six of the areas the proportion of Members represented on the Board exceeds 30%. The corresponding proportion for the areas of Africa and of the Middle East and South Asia is about 20%. Even taking into account the factor of designations, the present allocation of elective seats for the two areas is not consistent with the principles of sovereign equality of all Members and their equitable representation on the Board, explicitly stated in Articles IV. C and VI. A. 2(a) of the Statute.
3. As the membership has increased, the need to increase the size of the Board has been recognized and the Statute accordingly amended. Thus in 1961, it was decided that the Board should be enlarged to 25[1], and in 1970 to its present size of 34[2]. Even in 1970, the representation of the areas of Africa and of the Middle East and South Asia was disproportionate in relation to that of the other areas. Since then the imbalance has become even more striking as a result of the admission of additional Members to the Agency from these two areas.
4. Rectification of the existing disparity will serve the principles of sovereign equality and equitable representation. A just implementation of the Statute, ensuring to all Members the rights and benefits resulting from membership, will strengthen the commitment of all Members to fulfil in good faith the obligations assumed by them in accordance with the Statute.
5. The provision in Article VI. A. 2(a), barring the re-election of a Member to the Board in the same category for the following term of office, appears to depart from the general practice in other international organizations. The desirability of rotation is recognized, but the right of Members to re-elect the same Member should not be denied to them.
6. It is therefore proposed that Article VI. A. 2(a) be amended so as to provide for an increase in the number of representatives of the area of Africa from four (as at present) to seven, and for the area of the Middle East and South Asia from two (as at present) to four. It is further proposed that the provision barring re-election be deleted. This matter could, however, be taken up separately.

[1] By Resolution GC(V)/RES/92.

[2] By Resolution GC(XIV)/RES/272.

COMPOSITION OF BOARD OF GOVERNORS

| Area | Members from Area | Members of Board | | | Percentage on Board | Percentage elected to Board |
|------------------------------------|-------------------|------------------|-------------------|----------------|---------------------|-----------------------------|
| | | Designated | Elected | Total | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. North America | 2 | 2 | - | 2 | 100 | - |
| 2. Latin America | 19 | 1 | 5 | 6 | 31.8 | 27.8 |
| 3. Western Europe | 23 | 4 | 4 | 8 | 34.8 | 21.1 |
| 4. Eastern Europe | 11 | 1 | 3 | 4 | 36.4 | 30 |
| 5. Africa | 25 | 1 | $4\frac{1}{3}$ */ | $5\frac{1}{3}$ | 21.3 | 18.1 |
| 6. Middle East and South Asia | 16 | 1 | $2\frac{2}{3}$ */ | $3\frac{2}{3}$ | 22.9 | 17.8 |
| 7. South East Asia and the Pacific | 7 | 1 | $1\frac{2}{3}$ */ | $2\frac{2}{3}$ | 38.1 | 27.8 |
| 8. Far East | 6 | 1 | $1\frac{1}{3}$ */ | $2\frac{1}{3}$ | 38.9 | 26.7 |
| Total | 109 | 12 | 22 | 34 | 31.2% | 22.7% |

*/ Fractions represent portions of the two "floating" seats, provided for in Article VI. A. 2(b) and (c), on the assumption that each of these seats will be held by the specified areas in rotation.

ANNEX IV

Summary records of the discussions on the item - Amendment of Article VI
of the Statute - at the meetings of the Board of Governors
held in February and June 1977

RECORD OF THE FOUR HUNDRED AND NINETY-FIFTH MEETING

Held at Headquarters, Vienna, on Wednesday, 23 February 1977, at 3.20 p.m.

AMENDMENT OF ARTICLE VI OF THE STATUTE

60. The CHAIRMAN invited the co-authors of the explanatory memorandum concerning the proposed amendment of Article VI of the Statute[*] to introduce that document and announced that Bangladesh was also a co-sponsor of the proposal.

61. Mr. SATTAR (Pakistan) said that, although the principle of equitable representation was universally recognized and indeed specifically cited in the Statute of the Agency, that principle was not being implemented in respect of the areas of Africa and of the Middle East and South Asia, which were clearly under-represented, as could be seen from the statistical table contained in the explanatory memorandum. Analysis of that table showed that the areas of Africa and of the Middle East and South Asia had 41 Members and the other six areas 68, the corresponding representation on the Board being 9 and 25, or 21.9% and 36.7%. The Board had two categories of Members - those which were designated and those which were elected. An argument might be advanced that for the purpose of calculating proportions, the designated Members should be excluded. However, his delegation considered such a premise incorrect, as the Statute required due regard to be given "to equitable representation on the Board as a whole" (Article VI, A, 2(a)). But even if, for the sake of argument, the designated Members were disregarded, the disproportionate representation remained glaring: of the 39 Members from the areas of Africa and of the Middle East and South Asia, only seven (or 17.9%) were elected to the Board, whereas of the 58 Members from the other six areas, 15 (or 25.8%) were elected. As a consequence, the average rotation interval for the areas of Africa and of the Middle East and South Asia was over nine years and for the other six areas less than six years. He pointed out that that statistical analysis had not been performed in ignorance of the fact that a few Members had not notified their affiliation with a particular area. But even if one or two Members were to join an area other than the Middle East and South Asia, that would have little effect on the conclusion that the areas of Africa and of the Middle East and South Asia did not have equitable representation on the Board.

[*] See Annex III to the present document.

62. Amendment of the Statute was necessary not only to rectify the inherent imbalance of the allocations decided in 1970 but also because most of the new Members that had joined the Agency since 1970 were from the areas of Africa and of the Middle East and South Asia. To rectify the situation, it was proposed that the allocation of elected seats for the area of Africa be increased from four to seven, and that for the area of the Middle East and South Asia from two to four.

63. To preclude any confusion or misunderstanding, he wished to make some clarifications. Firstly, the amendment sought was not a fundamental one; it did not introduce any new principle, nor did it reject any existing principle of the Statute. Secondly, the present allocation of seats to the other areas was not being questioned. Thirdly, the co-sponsors were not proposing an explosion in the size of the Board. Fourthly, they were not proposing a redistribution of seats, entailing a reduction in the number of seats for other areas, but merely seeking the addition of a few seats, to assure equitable representation for the two areas concerned. Fifthly, the proposal was not extraordinary or premature. Twice in the first 14 years of the Agency's existence the Statute had been amended to provide for a larger Board. The average interval was seven years. By coincidence seven years had elapsed again since the last amendment had been approved by the General Conference in 1970. However, the amendment procedure was cumbersome and slow and the 1970 amendment had not taken effect until 1973. Thus, if the present proposal were accepted, it was unlikely that the amendment would come into force before 1980. To avoid inordinate delay, the sponsors hoped that the amendment would be adopted at the forthcoming session of the General Conference, in September 1977. That objective required that the text of the amendment be circulated to all Members of the Agency at least 90 days in advance of its consideration by the General Conference. Moreover, submission of observations by the Board on a proposed amendment was a prerequisite for its approval by the General Conference. In the light of those statutory requirements the sponsors hoped that the Board would deem it appropriate to set in motion procedures that would enable all Members to provide their carefully considered observations to the General Conference. It was well known that Members preferred short and crisp sessions

of the Board. For that reason, and taking into account the procedure adopted in 1969, the Board might therefore consider it appropriate to establish an ad hoc committee to examine the proposed amendment and submit its report for consideration by the Board at its June session.

64. Mr. ADENIJI (Nigeria) said he would deal first with the second of the proposed amendments to Article VI contained in . . . [the explanatory memorandum] . . . namely deletion of the provision in Article VI. A. 2(a) barring the re-election of a Member to the Board in the same category for the following term of office. That provision imposed a restriction on Members of the Agency which was not to be found in the constitution of any other specialized agency in the United Nations system and which contributed nothing to the running of the Agency. Despite that provision, it was still possible for a Member elected to the Board under the terms of Article VI. A. 2(a) to be elected to the Board under Article VI. A. 2(b) in the year following expiry of its term, but the possibility was remote and should not be used as an argument that amendment of the Statute was unnecessary. That loophole made the intention of the provision all the more confusing, for in the case of the only other body in the United Nations system governed by such a provision, the Security Council, the intention was not only clear but the Charter ensured that there was no confusion. The increasing interest of the developing regions of the world in the Agency's work made it necessary that the freedom of action of those regions to decide how best and through what representatives to pursue their interests should not be restricted. While no region would encourage or even tolerate the self-perpetuation of any country on the Board, there could be reasons why a region might wish to endorse the re-election of a country at a given time. Thus the proposed amendment would not reduce the chances of interested Members of serving on the Board; that had not happened in the other United Nations organs that had no restrictions on re-election. Rather it would provide the opportunity for countries with special interests in the Agency, such as those endowed with natural resources of nuclear significance, to pursue such interests with the concurrence of and to the general advantage of their region.

65. Turning to the specific proposals to increase the representation of the areas of Africa and of the Middle East and South Asia on the Board, he remarked that in the course of extensive consultations no Member of the Board had questioned the validity of the principle on which those suggestions were based. Indeed it would have been extremely alarming if any Member had questioned the principle of sovereign equality of States, for on it was built the present international system. That principle was enshrined in Article IV. C of the Statute. It had been generally agreed in consultations conducted by the co-sponsors that the areas of Africa and of the Middle East and South Asia did not enjoy equitable representation on the Board. The figures given . . . [at the end of] . . . the explanatory memorandum as well as the statistics presented by the Governor from

Pakistan made the imbalance abundantly clear. Thus the time had come once again to amend the Statute. Seven years after the last amendment was not too short an interval to start thinking of another adjustment to reflect the growth of the organization and correct an imbalance that had long existed. Of the two alternatives available, namely to redistribute the existing thirty-four seats or create additional seats for the under-represented regions, the latter was the more realistic and the easier to accomplish, as experience had shown that no region would be persuaded to give up a seat. With regard to the potential expansion of the Board to 39, the co-sponsors were as concerned as other Members that the Board should not become unwieldy. However, a Board of 39 compared favourably with a Governing Body of 56 in the International Labour Organisation, for example, or an Executive Board of 48 in the United Nations Educational, Scientific and Cultural Organization, or a Council of 42 in the Food and Agriculture Organization of the United Nations. The proposal being made was that three additional seats be allocated to Africa and two to the Middle East and South Asia, those being the minimum figures needed to bring the level of representation of those regions up to that of the aggregate of the other regions. Unless such an adjustment were made now, the increase in membership of the Agency from those two regions which was bound to occur over the next few years would mean a much greater imbalance than that already resulting from the expansion of the Board in 1970. In 1970 the Board had been increased by nine, from twenty-five to thirty-four, with two extra seats each for Latin America, Western Europe, Eastern Europe and (as a bloc) Africa, the Middle East and South Asia plus one floating seat, which meant that, while the first three areas mentioned, with fewer Member States each than Africa on its own, had each received two extra seats, Africa had had to share two extra seats with the Middle East and South Asia. Moreover, even before the amendment of 1970 the areas of Africa and of the Middle East and South Asia had had the poorest representation, proportionately.

66. In co-sponsoring the proposed amendment to Article VI of the Statute, his delegation recognized that there was always a psychological aversion to interfering with constitutions. However, Members of the Agency had not shrunk from such a step on the two occasions in the past when the need had arisen and they should not do so now - more especially as the co-sponsors had put forward a reasonable and well-documented case. In conclusion he said he wished to join with the Governor from Pakistan in advocating that an ad hoc committee be set up to consider the matter. That committee should submit its report to the Board in June and the matter could then be put on the agenda of the General Conference.

67. Mr. SIRRY (Egypt), Mr. AL-ESKANGI (Libyan Arab Republic) and Mr. HOSSAIN (Bangladesh), the other co-sponsors of the proposed amendment, associated themselves with the statements made by the Governors from Pakistan and Nigeria.

RECORD OF THE FOUR HUNDRED AND NINETY-SIXTH MEETING

Held at Headquarters, Vienna, on Thursday, 24 February 1977, at 10.55 a.m.

AMENDMENT OF ARTICLE VI OF THE STATUTE (continued)

1. Mr. PRIETO CALDERON (Mexico) said his Government was favourably disposed to the proposal contained in . . . [the explanatory memorandum] . . . as the existing situation was indeed out of balance. Two areas of the world were inadequately represented on the Board and, in addition, countries situated in those areas did not have the right to be re-elected whereas countries in other categories were permitted by Article VI of the Statute to be redesignated without limitation. Such a situation could not be allowed to continue. Mexico was therefore proposing consideration of what amendments could be made to the Statute in order to ensure more satisfactory and more equitable representation of all the constituent areas of the Board.
2. Mexico was not so much in favour of the action proposed in the explanatory memorandum as of the ideas and discussions to which it gave rise. Mexico had no interest of its own in seeing the proposed amendments adopted because Latin America, at present represented in a proportion of 17%, would have only 15.4% representation if the proposal was adopted. His country's attitude was thus prompted solely by the interests of justice. Since it was important that discussion of the question of representation on the Board should lead to specific solutions, he wished to conclude by proposing that the Board entrust the study of that question to a committee which would prepare a report enabling the Board to take a final decision at its next series of meetings.
3. Mr. de CARVALHO (Brazil) said his Government was able to support the extremely important proposal made by Egypt, Nigeria, Pakistan and the Libyan Arab Republic.
4. Mr. OSREDKAR (Yugoslavia) said his Government, too, supported the proposal in its entirety.
5. Mr. SLATER (United Kingdom) thanked the co-sponsors of the explanatory memorandum for their clear and precise statement and for the consultations they had held before the Board's meeting. He felt obliged, however, to express certain reservations. First of all, increasing the number of Members of the Board of Governors might well impair its efficiency. In other organizations which were members of the United Nations family, the facts had shown that the increases decided on were always greater than those which had been proposed and that the efficiency of a deliberative body decreased once it had reached a certain size.
6. The Government of the United Kingdom also saw a certain lack of logic in the proposal made in . . . [the explanatory memorandum] . . . : for one thing, the proposed increase in the number of seats allocated to certain areas implied that the countries of those areas wished to be elected to the Board. For another, the proposal for authorizing re-elections might imply that many countries did not particularly want to sit on the Board and that they were willing always to be represented by the same countries. Lastly, his Government did not think it was necessary to appoint a committee to study the question, but he was ready to continue the discussions with the co-sponsors of the draft.
7. Mr. CARTER (Canada) recalled that the Article fixing the composition of the Board had been amended in 1973, in other words, only a little over three years before. During the discussions on that amendment in 1969 and 1970 account had been taken of geographic considerations. Since that date the membership of the Agency had hardly changed since the number of Members had increased by only nine, equivalent to just 10%.
8. He did not think it would be justified to embark on a long and very complicated enterprise like studying the proposal for an amendment which would, in addition, have the result of increasing representation on the Board in a disproportionate manner. At present, the composition of the Board was such as to provide wide geographical representation and its size was compatible with efficiency. The only basis for assessing the present composition of the Board was the experience of the past three years, which was very little, and it was not certain that increasing the number of Governors would improve the work of the Board, which at present provided seats for more than half the Members with permanent missions in Vienna. In conclusion, he wished to propose that the question be considered further and that the Board discuss it again at a later date.
9. Mr. TAPE (United States of America) said that, although his delegation had read the explanatory memorandum with interest, it had, like the United Kingdom and Canada, serious reservations concerning any change in the composition of the Board. Any such changes would have to be preceded by a very long period of thorough investigation, and that was justified only in the case of real necessity. The last amendment of the Statute had entered into force only in 1973; it was therefore too early to change the composition of the Board again. It was difficult to specify what was the optimal size of the Board but one could certainly say that the efficiency of the Agency's work showed that it was related to a reasonable size and balance.
10. It went without saying that the principles of sovereign equality and equitable representation were absolutely fundamental to the Agency,

but the Government of the United States did not agree with the argument advanced in . . . [the explanatory memorandum] . . . which identified equitable representation with the frequency of Member States' service on the Board. He considered that, in its present form, the Statute took account of both regional and technological considerations and established a sufficiently effective balance between them. The time had not yet come to change the composition of the Board.

11. The Government of the United States was therefore opposed to any revision of the Statute for the time being. The Statute in its present form permitted universal participation in the Board; he suggested that better use should be made of the principle of rotation and that those Member States elected to the Board should be encouraged to participate more actively.

12. Mr. CASTRO MADERO (Argentina) said he considered that the proposal contained in the memorandum was fully justified and legitimate but required very thorough study. He therefore supported the proposal of the Governor from Mexico that a committee be set up to look into the matter.

13. Mr. KOREF (Panama), supporting the proposal made by the Governor from Mexico, asked that the committee set up should submit its recommendations at the next series of Board meetings, in June.

14. Mr. de BOER (Netherlands) said he had listened with interest to the statements by the Governors from Pakistan[*] and Nigeria[**] the day before. He feared, however, that the Board would not have enough time to consider what was a highly important and delicate matter. Indeed, the proposal touched directly on the balance in representation between the different groups on the Board - a balance on which the proper functioning of the Agency directly depended. The matter had therefore to be studied in depth before the question of balance could be brought up again for discussion; he proposed, accordingly, that consideration of it should be postponed until the next meeting of the Board.

15. As far as the substance of the problem was concerned, his delegation did not believe that the possible inequalities in representation on the Board justified altering the delicate balance between the industrialized and the developing countries that had been achieved only with great difficulty and after long negotiations. No one could claim, furthermore, that the Board, if enlarged, would work more efficiently. His Government was not therefore in favour of increasing membership of the Board; it felt, to the contrary, that the present balance was the one

best suited to dealing with both the problems of technical assistance for promoting the peaceful uses of nuclear energy and the issues relating to the Agency's regulatory functions and its activities in environmental protection.

16. Mr. SASTRADIDJAJA (Indonesia) said his delegation was in favour of the proposal to amend Article VI of the Statute, although he noted the reservations expressed by certain Member States. He felt that the setting up of a committee, as proposed by the co-sponsors, would offer a solution by making it possible to reach conclusions acceptable to all.

17. Mr. EROFEEV (Union of Soviet Socialist Republics) said he could appreciate the motives that lay behind submission of the memorandum but he wondered what form the discussions should take. . . . [The explanatory memorandum] . . . did not propose the setting up of a committee, hence it would only be possible to do so within the context of the Board's consideration of item 7. The Board would then have to give the committee clear-cut terms of reference, which might suggest that it had already approved the principle of amending the Statute. Hence, very careful consideration should be given to any action to be taken and representatives of all the other geographical regions should be consulted. Accordingly, he requested the Board to devote the necessary time to holding such consultations, which should not be too specific in nature.

18. Mr. KARSKI (Poland) said that he would have to consult his Government on the matter. He was not in favour of setting up a committee, and would prefer to see consultations arranged through the normal diplomatic channels.

19. Mr. BABA (Malaysia) expressed the view that the proposal to amend Article VI was based on a desire for better distribution of the seats on the Board and not by any wish to call into question the present balance or the principles pursued by the Agency. The last amendment was now outdated and certain regions were at a disadvantage under the present arrangement.

20. Mr. HOFFMANN (Federal Republic of Germany) said he thought the proposal contained in . . . [the explanatory memorandum] . . . was highly important, but he shared the reservations of the Governors from the United Kingdom, Canada, the United States and the Netherlands and considered the proposal as premature. Like the Governor from the Soviet Union he expressed reservations concerning the establishment, the terms of reference and the composition of such a committee. The matter should be given serious thought and discussions should take place on an informal basis.

21. Mr. GILLON (Belgium) said his country understood perfectly well the need for adequate geographical representation but, from the time of its foundation, the Agency had always succeeded

[*] See summary record of the Board's 495th meeting, paras 61-63.

[**] Ibid., paras 64-66.

in maintaining a delicate balance in representation between countries with nuclear know-how and those without it. Furthermore, as had already been pointed out, the matter of the representation of other regions would certainly come up in contexts other than the proposed amendment. It would therefore be difficult for the Board to meet such demands under its terms of reference; the best way of promoting study of the matter was to initiate informal consultations.

22. Mr. SIRRY (Egypt) said the argument that enlargement of the Board would impair its efficiency was not a new one; it was brought up whenever a proposal to that effect was submitted. In actual fact, however, the situation was the reverse - after several enlargements the Board appeared to be functioning better than ever before. Moreover, there was no incompatibility between the two parts of the proposal submitted by the sponsors, since the second part was intended only to get rid of one provision, which allowed for certain Members to be permanently represented, while others could not even apply for a second term of office; that provision had no equivalent in any other international organization.

23. Moreover, no Article of the Statute specified what time should elapse between the revisions which might be made in it. The most recent negotiations on a modification of the Statute had started seven years earlier, and if any amendments were made now, they would not enter into force for three years. The time elapsing since the preceding revision would thus be longer than that mentioned by the Governors opposed to such a revision.

24. He did not see why the balance in the representation of the various geographic regions on the Board should be maintained at the expense of two of them. Moreover, the proposal set out in . . . [the explanatory memorandum] . . . was limited in scope since it applied only to Article VI.A.2(a). The sponsors of that proposal knew very well that Governors had not had sufficient time to study it and they were not expecting an extensive discussion on the substance of the question at the present stage. It was for that reason that they were requesting the appointment of an ad hoc committee which would have time to study the proposal in the months ahead in order to submit recommendations at the next session of the Board.

25. Mr. ADENJI (Nigeria), with reference to the proposal made by the representative of Mexico, said that, in requesting the Board to set up an ad hoc committee, the sponsors of . . . [the explanatory memorandum] . . . had no intention whatever of committing the Board to the proposal contained in that document. They wanted to avoid any disruption of the normal functioning of the Board by sparing it prolonged discussion of an important question, since most of the work would be performed by that committee. The committee's terms of reference were already defined in

. . . [the explanatory memorandum] . . . and the sponsors of the document wanted to stick to the simple and clear proposal contained in it. Finally, that request was in no way incompatible with the holding of further informal bilateral consultations.

26. Mr. PRIETO CALDERON (Mexico) said that if the establishment of a committee by the Board implied that the Board approved of the proposal which the committee was to study, then Article VI of the Statute was vitiated by an original flaw since, in paragraph I, it provided that the Board might establish such committees as it deemed advisable. Moreover, it was a fact that, although the work of such committees took a great deal of time when their findings were intended for submission to the Board and General Conference, time could actually be saved by appointing them.

27. Mr. MEHTA (India) said that from the explanations given by the co-authors, the central point which motivated their proposal was the principle of equitable representation on the Board. That principle was enshrined in the Statute and was unexceptionable. A proposal aimed at the attainment of the objective of that principle naturally had the sympathy of his delegation. On the basis of the various opinions which had been expressed on the subject in . . . [the explanatory memorandum] . . . , the proposal was an important one and warranted careful and thorough study. The Board's aim should be to resolve the matter speedily in keeping with the traditions of the Board where it had in the past resolved many a complex problem in a spirit of goodwill and co-operation. The Board had to follow a course of action which was most appropriate. Experience had shown that hastening to appoint a committee was not always the best way of solving problems. A committee might only delay finding a solution. An acceptable solution was more likely through further informal consultations under the direction of the Chairman of the Board.

28. Mr. DEMENTHON (France) and Mr. FURLONGER (Australia) agreed with the Indian delegation. Since the ideas expressed regarding both substance and procedure varied greatly, the proposal of the Governor from India was a compromise which would permit a maximum degree of reconciliation and rapid progress in the study of the question.

29. Mr. SATTAR (Pakistan), speaking on behalf of the sponsors of the explanatory memorandum, thanked the Governors from Argentina, Brazil, Indonesia, Malaysia, Mexico, Panama and Yugoslavia for supporting the proposal to increase the size of the Board and to set up a committee to study the question. The areas of "Africa" and of the "Middle East and South Asia" comprised altogether only 41 Member States, a figure which was far from representing a majority of the Agency's Members, so that the sponsors of the

explanatory memorandum had to rely on the support of Member States of other areas in order to win acceptance for the validity of their request. The Governor from Egypt had already summed up the situation at the end of the debate and he (Mr. Sattar) merely wanted to stress the necessity of making the best use of the time available until the next series of Board meetings, in June.

30. Governments should study the matter carefully and make their views known to the sponsors of the explanatory memorandum so that the latter could prepare a draft amendment of Article VI to be submitted to the Board in June for its comments, which in accordance with the provisions of the Statute would be communicated to the General Conference at its next session. It would be helpful if the Chairman undertook to arrange the necessary consultations, the results of which could be reflected in a factual report, so that in June the Board would not again have to embark on long discussions.

31. The Board should therefore set up an informal "forum", open to all Governors, whose terms of reference would be determined on the basis of the official records of the current series of meetings. He was convinced that such action would save the Board a great deal of time and enable the sponsors of the explanatory memorandum to prepare a draft amendment which would win general approval. In reply to the objection raised by the Governor from the Soviet Union, he said he did not see how the holding of discussions could prejudice their outcome.

32. The CHAIRMAN said that, if there were no objections, he would be willing to undertake consultations on the matter with the aid of the Board's two Vice-Chairmen and to ask the Governor from India, who was resident in Vienna, to organize the first meeting for the purpose as soon as possible. He would report to the Board in June on the consultations.

● 33. It was so decided.

RECORD OF THE FOUR HUNDRED AND NINETY-NINTH MEETING

Held at Headquarters, Vienna, on Wednesday, 15 June 1977, at 3.50 p.m.

AMENDMENT OF ARTICLE VI OF THE STATUTE

33. The CHAIRMAN recalled that, in February, he had undertaken to report to the Board in June on the results of informal consultations concerning an amendment of Article VI of the Statute[*]. The Governor from India, one of the Vice-Chairmen of the Board, had kindly presided at such consultations in his absence, but he - the Chairman - had been able to preside at the consultations which had taken place on 13 June.

34. At those consultations he had discerned a generally favourable attitude towards the idea of increasing the representation of the "Third World" on the Board. However, many of those taking part in the consultations felt that the time was not yet ripe for such an increase and that further informal talks were necessary, particularly since acceptance of the proposal to increase the representation of the areas of Africa and of the Middle East and South Asia might prompt similar proposals in respect of other areas.

35. He felt that the best way of proceeding further was to set up a committee consisting of himself and the two Vice-Chairmen which would be advised by the Agency's Legal Division and whose terms of reference would be confined to the proposal concerned with the areas of Africa and of the Middle East and South Asia.

36. He then invited the Governor from Pakistan to speak in support of the draft resolution[**].

37. Mr. SATTAR (Pakistan), having thanked the Chairman and the Governor from India for presiding at the informal consultations which had taken place since February, expressed regret that a consensus had not been achieved.

38. Although disappointed, the sponsors of the draft resolution were not disheartened; they had not expected that success would be easy. The countries in the areas of Africa and of the Middle East and South Asia were a minority and could obviously not force the majority of the Agency's Member States to accord them justice; a minority had to wait until a majority was prepared to eliminate unfairness out of a sense of justice or because of enlightened self-interest.

39. Accordingly, the sponsors of the draft resolution wished once again to present the case for amending Article VI, in the hope that it would evoke sympathy and support.

[*] See summary record of the Board's 496th meeting, paras 32 and 33.

[**] See Annex II to the present document.

40. The number of seats on the Board allocated to the areas of Africa and of the Middle East and South Asia was, in the opinion of the sponsors, so low as to represent a form of discrimination. The facts spoke for themselves: the area of Africa, with 25 Member States out of a total of 109, had only 15% of the seats on the Board; the area of the Middle East and South Asia, with 16 Member States, had only 10% of the seats on the Board.

41. Although the sponsors felt that one could argue about the philosophical basis or the propriety of reserving more than one third of the seats on the Board for the countries most advanced in the technology of atomic energy including the production of source materials, they preferred not to impugn a privilege which had been granted under the Statute since the Agency's creation. Even allowing for the practice of designation, however, the sponsors felt that their two areas were subject to discrimination: in their two areas 39 Member States had to compete for seven elective seats, whereas in the other six areas 58 Member States were entitled to 15 elective seats.

42. As stated in Article IV.C of the Statute, the Agency was based on the principle of the sovereign equality of all its Members. Accordingly, no Member or group of Members should be subject to discrimination. Moreover, in sub-paragraph (a) of Article VI.A.2 the Statute spoke of "due regard to equitable representation on the Board as a whole of the members in the areas . . .", which - at the very least - meant that there should be no discrimination against the Members from any area.

43. The sponsors had been told on numerous occasions that, although there was some degree of inequity with regard to their two areas, amendment of the Statute was a serious and time-consuming exercise and that it was too soon after the last amendment to embark on such an exercise again. In reply they wished to point out that the first amendment of the Statute had been adopted only four years after the Statute had entered into force, whereas six years had passed since the Statute was last amended. In any case, they felt that it was never too soon to do what was right.

44. During the past six years, further countries belonging to the areas of Africa and of the Middle East and South Asia had joined the Agency. Moreover, several countries in those areas had acquired greater importance on the world energy scene. Some of them were very interested in nuclear energy; for example, Iran, Iraq, Kuwait and Saudi Arabia were known to be engaged in substantial nuclear programmes - and yet not one

of those four countries had a seat on the Board at present.

45. Africa had a particularly strong case for greater representation on the Board: not only were there several petroleum-producing countries with a considerable interest in all forms of energy in that area, but Africa was a major supplier of nuclear source materials.

46. In proposing an amendment of Article VI, the sponsors had taken into account the desirability of keeping the Board manageable in size; the increase in the number of seats which would result from acceptance of their proposal was modest compared with the increase from 25 in 1961 to 34 in 1971. Moreover, if Member States from any other areas felt that the amendment as proposed would be to their disadvantage, the sponsors would take their views into account.

47. Recapitulating, he stressed that the proposed amendment was not a fundamental one, that the sponsors were not seeking an enlargement of the Board for its own sake, that they did not question the present allocation of seats to any other area and that they wished to maintain the Board's efficiency.

48. Mr. ADENIJI (Nigeria) said that, at the informal consultations which had taken place on 13 June, there had appeared to be no opposition to the deletion of the second sentence in subparagraph (a) of Article VI. A. 2. He wondered therefore whether that sentence could be deleted without a formal amendment of the Statute.

49. The CHAIRMAN said he had been informed by the Agency's Legal Division that it could not.

50. Mr. AL-ESKANGI (Libyan Arab Jamahiriya) said that the co-sponsors of the draft resolution wished to redress an imbalance and to participate more actively in the taking of decisions concerned with nuclear energy, which had become a vital element in economic development.

51. His delegation had tried to follow the reasoning of those who were against the proposed amendment of Article VI and had come to the conclusion that, in some cases, the only reason for opposition was a desire to maintain the status quo at all costs.

52. There was nothing miraculous about the present size of the Board from the point of view of efficiency; it simply resulted from a compromise among certain Member States, and he saw no reason why the areas of Africa and of the Middle East and South Asia should be permanently subject to discrimination just because they had not been parties to that compromise. Moreover, the argument that a large Board would be less efficient cast doubts on the capabilities of certain Member States.

53. Noting that the question of amending Article VI was to be included in the provisional agenda of the next regular session of the General

Conference, he said that his delegation would - if necessary - also bring it before subsequent regular sessions.

54. Mr. OSREDKAR (Yugoslavia), expressing support for the draft resolution, said that the Agency did not always respond as it should to the demands made of it and that a thorough analysis of the Agency's structure had been proposed on several occasions. The draft resolution could be regarded as one step in adapting the Agency so that it might respond more satisfactorily to such demands.

55. In the informal consultations there had been much talk about the efficiency of the Board. He could conceive of a Board comprised solely of nuclear-weapon States which would be very efficient, but he did not consider "efficiency" in that sense acceptable; the interests of a very large number of Member States could not be looked after properly by a very small Board.

56. Much had changed in the 20 years since the establishment of the Agency and, in his opinion, three amendments of the Statute during such a long period were not too many.

57. Mr. MEHTA (India) said that the main thrust of the arguments advanced by the sponsors of the draft resolution was that their geographical areas had not received equitable representation even when the Statute had last been amended and since then the inequity had grown with the addition of new Members from their areas. The central point of their proposal, as he understood it, was the principle of equitable representation on the Board. That principle was enshrined in the Statute and was unexceptionable. As stated by him in the February Board meeting, a proposal aimed at the attainment of the objective of that principle naturally had the sympathy of his delegation[***] and accordingly he supported the draft resolution.

58. Mr. CASTRO MADERO (Argentina) said he agreed that the areas of Africa and of the Middle East and South Asia were not adequately represented on the Board, but he felt that there was no point in correcting the imbalance if one thereby created a lack of balance to the detriment of other Member States. He therefore welcomed the Chairman's idea of setting up a committee to examine the question in detail but considered that the committee should include representatives of all the areas.

59. Mr. HOSSAIN (Bangladesh), noting that the Board had discussed in February the idea of setting up a committee and that it had decided in favour of informal consultations, said that, since the informal consultations had apparently revealed a generally favourable attitude towards increased representation of the "Third World" on the Board, there remained only questions of detail to be

[***] See summary record of the Board's 496th meeting, para. 27.

settled. He accordingly hoped that the Board would be able to reach a favourable decision regarding the draft resolution.

60. Mr. GARCIA-LOPEZ (Mexico) pointed out that the areas of Africa and of the Middle East and South Asia were clearly under-represented on the Board and that the draft resolution neither introduced a new principle nor reduced the repre-

sentation of other areas. That being so, he supported the draft resolution on the understanding that its adoption would be the first step in a general review of the representation of all areas and of the designation system.

61. There was a need for a special group to study the question of the Board's structure and he believed, like the Governor from Argentina, that all areas should be represented in the group.

RECORD OF THE FIVE HUNDRED AND SECOND MEETING

Held at Headquarters, Vienna, on Friday, 17 June 1977, at 11.5 a. m.

AMENDMENT OF ARTICLE VI OF THE STATUTE (continued)

1. Mr. EROFEEV (Union of Soviet Socialist Republics) said that his delegation had carefully studied the proposal to amend Article VI of the Statute and that it had taken part in the consultations held on the subject. In his opinion, those consultations might usefully be continued, since they made for a better understanding of the positions adopted by the Member States of the Agency. From the consultations that had already taken place one could not discern a consensus in favour of a further increase in the size of the Board. His delegation did not find anything very surprising in that, since altering the representational ratio between advanced countries and those benefiting from technical assistance was a matter of some delicacy.

2. In his opinion, the present representation provided a satisfactory balance. The same could be said about numerical strength - approximately one third of the Agency's Member States were serving on the Board, and that could be considered an optimum percentage. A further increase in its size was therefore likely to upset the balance. Furthermore, by approving the proposal under consideration the Board might easily start off a chain reaction on the part of countries which felt that their interests were not adequately represented on the Board. Indeed, another regional group had already claimed that its representation was insufficient. Be that as it might, the Soviet delegation was willing to continue with the consultations in the hope of reaching a consensus.

3. Mr. GOLDSCHMIDT (France) fully supported the observations of the Governor from the Soviet Union, which he considered very much to the point.

4. Mr. ADENIJI (Nigeria) said he felt it necessary to restate some of the arguments put forward by the sponsors of the joint draft resolution on the amendment of Article VI of the Statute so that they would be fresh in the minds of Governors during the coming consultations. Before coming back to those arguments, however, he wished to make known the disappointment felt by the sponsors of the draft during their informal consultations. They had hoped for specific proposals from Governors belonging to other regions with a view to finding a solution acceptable to all. Rather what the co-sponsors had found had been a negative and unhelpful attitude on the part of many Members which had certainly not advanced negotiations nor created the right conditions for easy deliberation by the Board.

5. Turning to the arguments for the amendment, he said that those who claimed that

it was too early to propose an amendment to Article VI because of the most recent amendment to that Article in 1970 were not supported by the facts. He asserted that the historical background of Article VI compiled by the Secretariat led one to the conclusion that it was by no means premature to make proposals for amendment. He recalled that the first amendment to Article VI had been proposed in 1961, that was four years after the Statute had come into force. The second amendment had been proposed seven years later in 1968/69 while the present amendment was being proposed in 1977, that was nine years after the second. Thus the year ratio in terms of one amendment proposal to another was four to seven to nine. Indeed the present proposal for amendment had come with a time interval longer than the two previous proposals.

6. He stressed that the amendment adopted in 1970 was in any case unfair to the areas of Africa and the Middle East and South Asia, as it did not give the two areas equitable representation on the Board. The Board had then been increased from 25 to 34 by nine Members, distributed as follows:

One floating seat;

Latin America which had had an increase of two in membership of the Agency had been given an increase of two on the Board;

Western Europe which had had an increase of three in membership of the Agency had been given an increase of two on the Board;

Eastern Europe which had had an increase of one in membership of the Agency had been given an increase of one on the Board;
Africa, Middle East and South Asia which had had an increase of 16 in membership of the Agency had been given an increase of three on the Board.

The result of the inequitable distribution of the increase gave the following percentage representation on the Board for the various areas: North America 100%, Latin America 31.8%, Western Europe 34.8%, Eastern Europe 36.4%, South East Asia and the Pacific 38.1%, Far East 38.9%, Middle East and South Asia 22.9%, Africa 21.3%. There was thus a 10 point percentage difference between the lowest of the six other regions on the one hand and the regions of Middle East and South Asia, and Africa on the other.

7. That imbalance could not be justified by any yardstick. It had become still more glaring since four of the five States that had joined the Agency since 1973 - the date on which the last amendment had come into force - belonged to the areas of Africa and of the Middle East and South Asia. If the draft amendment before the Board were adopted, the percentage representation of the area

of Africa would be increased to 33.3% and that of the Middle East and South Asia to 35.4%, those regions thereby being placed on the same footing as the others - except, of course, for North America, which had 100% representation.

8. During the discussions and consultations to which the draft amendment had given rise, some Governors had referred to three criteria for determining the Board's size, namely, degree of development in nuclear technology, equitable geographical representation, and effectiveness of the Board. The draft amendment under consideration paid due regard to all three criteria. In their desire to meet the first criterion, the sponsors of the draft had carefully avoided proposing any change in the part of Article VI in which it was mentioned. It was, of course, precisely their desire to meet the second criterion that had prompted the draft amendment. The principle of equitable geographical representation was universally recognized in all international organizations and was enshrined in Article VI.A.2 of the Statute. He urged the Members of the Agency to be faithful to that principle which was the only criterion required under Article VI.A.2. As for the third criterion, i.e. effectiveness of the Board, he argued that that could only be determined by one yardstick, namely how successful the Board was in accomplishing the objectives of the Agency. Until the two functions of the Agency in regulation and promotion had adequate and effective advocates on the Board, the direction of the work of the Agency would continue to be distorted. That was the lesson to be drawn from the imbalance in the attention given by the Agency to its regulatory as against its promotional activities. The proposed amendment would render the Board more effective as it would better reflect the interest groups within the Agency.

9. Lastly, the draft amendment was also aimed at getting rid of the provision in Article VI.A.2(a) barring re-election. It appeared that Governors had no objection to that change, but equally it was clear that the change could not become effective unless the Board decided to amend the relevant part of the Article.

10. Mr. de MESQUITA (Brazil) thought, in view of the complexity of the matter, that it would be better to continue the consultations, in which his delegation would also take part.

11. Mr. OTALORA (Colombia), giving due credit to the arguments put forward by the sponsors of the draft resolution, considered that any such proposal should be considered not only in the light of the three criteria already mentioned, but also in terms of representation on the Board as a whole.

12. Mr. SIAZON (Philippines) said that his delegation could approve the draft amendment. The figures given showed that the two areas in question were quite inadequately represented on the Board. Some delegations feared that an increase in the Board's size would detract from

its effectiveness, but in actual fact its deliberations could only be effective if it reflected the aspirations of all areas in an equitable manner. A certain amount of hesitation was to be noted among the representatives of some areas, but he believed that the Member States of the two areas sponsoring the draft amendment would be prepared to make concessions if a solution could soon be found.

13. Mr. STONE (United States of America) endorsed the statement made by the Governor from the Soviet Union.

14. Mr. KOREF (Panama) shared the opinion of the Governor from Brazil.

15. Mr. SATTAR (Pakistan), speaking on behalf of the co-sponsors of the draft resolution, said he was happy to see the support given it by the Philippine delegation and was grateful to Members of the Board who had taken the trouble to express their views on the matter.

16. The statement of the Governor from the Soviet Union, which had been supported by the French and United States representatives, gave him the impression, first and foremost, that although the Soviet delegation was not in favour of any substantial increase in the size of the Board, it was nevertheless not against a continuation of the dialogue on that subject. Accordingly, one might still reasonably hope that a solution would emerge in the relatively near future, and he hoped that the Secretariat would clarify the provisions of the Statute and Rules of Procedure of the General Conference defining the procedure in accordance with which the draft might be considered.

17. Mr. EDWARDS (Director, Legal Division) said that the relevant texts on the submission of amendments were Article XVIII.A of the Statute and Rules 97-100 of the Rules of Procedure of the General Conference; the latter, furthermore, simply spelled out the basic provisions of the Statute and repeated, in particular, the requirement for a minimum period of 90 days between the communication of the text of the amendment and the decision of the General Conference. Furthermore, Article XVIII.C of the Statute and Rule 100 of the Rules of Procedure stipulated that amendments could only be approved by the Conference after consideration of observations submitted by the Board of Governors.

18. As to the procedure by which the Board of Governors transmitted its observations to the General Conference, there seemed to be two cases in practice. If a consensus was reached by the Board in favour of a proposal, a statement to that effect was transmitted by the Board to the General Conference and that constituted its observations. In the one case where no consensus had been reached, the Board's observations had consisted of the records of the relevant meetings of the Board of Governors, the records of the meetings of an ad hoc committee and the comments of individual Governors.

19. Mr. SATTAR (Pakistan) recalled that the draft resolution had been submitted to the Director General on 13 June 1977, and that it was therefore up to the Secretariat to apply Article XVIII of the Statute in the matter of communicating the text to Member States. Since, furthermore, the General Conference was expected to consider the Board's observations before adopting the amendment, he requested the Secretariat to inform Member States also of the observations made on the subject by the Board at its February meetings as well as during the present session.

20. The consultations held on the draft amendment should normally enable a compromise solution (and, in consequence, a modified draft amendment) to be agreed on before the September meetings. According to Rule 100 of the Rules of Procedure, a revised amendment could not be finally acted upon by the General Conference until at least 90 days after the Director General had sent the new text to all Members of the Agency and the General Conference had considered the relevant observations of the Board of Governors. Thus, even if a consensus were reached in the near future, the General Conference would not be in a position to consider it unless it decided to suspend Rule 100 of its Rules of Procedure for that purpose. It was therefore to be hoped that the Board would commit itself to recommending that approach to the General Conference, so that the parties concerned could be sure that the continuation of consultations would not cause undue delay in consideration of the draft amendment.

21. The CHAIRMAN asked the Director of the Legal Division whether he thought it possible to suspend the application of Rule 100 of the Rules of Procedure, assuming that the Members of the Board were in favour of such a move.

22. Mr. EDWARDS (Director, Legal Division) read out Rule 102 of the Rules of Procedure of the General Conference, under which any of the Rules could be suspended by a decision of the General Conference, subject to the provisions of the Agency's Statute. Comparing that Rule with Article XVIII.A of the Statute, however, he felt it would be very difficult to suspend Rule 100 of the Rules of Procedure.

23. The CHAIRMAN pointed out that difficult was not the same thing as impossible.

24. Mr. SIAZON (Philippines) thought that while Article XVIII.A of the Statute could be construed as applying solely to amendments to the Statute, Rule 100 of the Rules of Procedure of the General Conference related to modifications that might be proposed to a draft amendment submitted beforehand. He felt that the General Conference ought to be able to suspend the application of that Rule.

25. On the other hand, it seemed doubtful whether the Board could make any commitment with regard to application of the Rules of Procedure of the General Conference. In any case, since the Members of the Board were all Members of the General Conference too, they could validly commit themselves to supporting suspension of Rule 100 of the Rules of Procedure within that body.

26. Mr. EROFEEV (Union of Soviet Socialist Republics) wished to point out that his statement on item 8 of the agenda had not been off-the-cuff, but rather had been prepared beforehand and read out. He reiterated that the Soviet delegation was not in favour of the trend towards a further increase in the size of the Board, which could easily lead to reduced efficiency. He was quite willing, however, to consider . . . [the proposed draft amendment] . . . with a view to reaching agreement with the sponsors after the consultations required. The document should, however, be considered as a set of proposals that could not be studied individually.

27. He further pointed out that, for the time being, any consensus reached only concerned the advisability of consultations on the contents of . . . [the proposed draft amendment]

28. The CHAIRMAN declared that a thorough study by the legal service of the various provisions applicable to the case was clearly going to be necessary before the Board could take a decision. He therefore invited the Director of the Legal Division to clarify the Secretariat's position at the next meeting of the Board.

RECORD OF THE FIVE HUNDRED AND THIRD MEETING

Held at Headquarters, Vienna, on Friday, 17 June 1977, at 3.55 p.m.

AMENDMENT OF ARTICLE VI OF THE STATUTE (continued)

1. The CHAIRMAN said that there had been some differences of opinion regarding the interpretation of the rules to be followed in connection with the amendment of Article VI proposed by a number of States. The Director of the Legal Division had therefore been asked to clarify the position.
2. Mr. EDWARDS (Director of the Legal Division) said that the Board was not competent to decide whether any of the Rules of Procedure of the General Conference could or could not be suspended. Decisions to suspend Rules of Procedure of the General Conference were for the Conference itself to make under Rule 102.
3. The Secretariat had looked into the history of the previous amendment of Article VI.A of the Statute, which had been approved by the General Conference on 28 September 1970. The text of the amendment to Article VI finally adopted by the Conference, on 28 September 1970, was identical with the text circulated to Member States by the Director General on 24 June 1970. No further amendments had been made to the text during the Conference before its adoption, and there had therefore been no need for the Conference to consider suspending Rule 100 of the Rules of Procedure.
4. While the Secretariat could always express views on the precise legal effects of the Statute and the Rules of Procedure of the General Conference, it was for the Members of the Agency to make authoritative interpretations of those documents.
5. His own view, as Director of the Legal Division, was the following. Rule 102 of the Rules of Procedure of the General Conference provided that any of the Rules could be suspended, subject to the provisions of the Statute of the Agency, by a decision of the General Conference taken by a two-thirds majority of Members present and voting. The question that arose was whether suspension of Rule 100 would be consistent with Article XVIII.A of the Statute. Article XVIII.A provided that certified copies of the text of any proposed amendments to the Statute were to be prepared by the Director General and communicated by him to all Members at least 90 days in advance of the consideration of such amendments by the General Conference. He had formed the view, in the short time available to him to study the matter, that the reference to "amendments" in Article XVIII.A of the Statute included any modifications which might at any time be proposed to such amendments. That view was reinforced by the use in the second sentence of Article XVIII.A of the word "any" which appeared before the word "amendment". To decide that Rule 100 could be suspended might therefore defeat one of the main purposes of the requirement in Article XVIII.A that copies of the text be communicated to Members, namely to give Member Governments a reasonable period (90 days) to consider amendments to the Statute.
6. The CHAIRMAN said that the Governor from India, one of the Vice-Chairmen, had agreed to preside over informal consultations which were to take place during the following week and which would - he hoped - produce a consensus capable of winning the necessary support at the September session of the General Conference; both the question of the representation of the areas of Africa and of the Middle East and South Asia and that of the deletion of the second sentence in subparagraph (a) of Article VI.A.2 would be considered during the informal consultations.
7. Mr. TAPE (United States of America), recalling that the Governor from Pakistan had proposed that the summary records of the discussions which the Board had had on the item under consideration during its present series of meetings and in February be made available as observations to the General Conference[*], proposed that the Conference also be provided with the summary records of any discussion on the same subject which took place when the Board met in September before the Conference's next regular session. He also observed that certain Members might wish to submit new proposals for amendments in the time remaining before the beginning of the 90-day period was reached.
8. The CHAIRMAN took it that the proposals made by the Governors from Pakistan and the United States of America were acceptable to the Board.
9. It was so agreed.

[*] See summary record of the Board's 502nd meeting, para. 19.

