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COMMITTEE OF THE WHOLE

RECORD OF THE FIFTH MEETING

Held at the Neue Hofburg, Vienna, on Wednesday, 28 September 1977, at 10.30 a.m.

Chairman: Mr. RÖHNSCH (German Democratic Republic)

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* A provisional version of this document was issued on 5 October 1977.

** GC(XXI)/591.

THE RECORD

THE AGENCY'S BUDGET FOR 1978 (continued) (GC(XXI)/582, 582/Mod.1, 590)

1. The CHAIRMAN summarized the work done at the Committee's previous meeting and invited participants to examine draft resolution A contained in Annex VI of document GC(XXI)/582/Mod.1.

2. Noting that there were no objections, he took it that the Committee wished to recommend the draft resolution for adoption by the General Conference.

● 3. It was so decided.

4. The CHAIRMAN invited participants to examine document GC(XXI)/582 and pointed out that, in paragraph 5 of draft resolution B in Annex VI of that document, the General Conference was being requested to endorse the Board's special appeal to Member States for additional voluntary contributions so that the effective target for 1978 would be \$7.5 million, the funds in question to be used in financing the provision of technical assistance to developing countries. He also pointed out that, according to document GC(XXI)/589/Rev.1, pledges of voluntary contributions totalling \$4 634 580 had been received by 6 p.m. on 28 September, and he urged all delegations which proposed to pledge voluntary contributions to make known the amounts pledged as soon as possible.

5. Noting that there were no objections, he took it that the Committee wished to recommend draft resolution B contained in Annex VI of document GC(XXI)/582 for adoption by the General Conference.

● 6. It was so decided.

7. The CHAIRMAN invited participants to examine draft resolution C contained in Annex VI of document GC(XXI)/582; noting that there were no objections, he took it that the Committee wished to recommend draft resolution C for adoption by the General Conference.

● 8. It was so decided.

9. The CHAIRMAN invited participants to examine the draft resolution submitted in document GC(XXI)/590 and the amendment proposed by the Egyptian delegation regarding the wording of introductory paragraph 3(c) [1].

10. Mr. ESTRADA OYUELA (Argentina) said his delegation understood that a revised version of the document was being prepared. To help in the redrafting of the text, his delegation suggested that the first paragraph of the preamble recapitulate more fully the text of operative paragraph 6

of Resolution GC(XIX)/RES/328 adopted by the General Conference in September 1975, the phrase "such as those relating to the international transfer of nuclear materials" being added after the words "this area".

11. In operative paragraph 2 of the draft resolution submitted in document GC(XXI)/590, his delegation proposed the addition, after the words "his efforts", of the phrase "in consultation with Member States" in order to meet the wishes of Latin American countries which had not participated in the work of the Advisory Group on Physical Protection of Nuclear Material. Lastly, his delegation would like to see introduced, at the end of the same paragraph, the phrase "account being taken of the fact that physical protection is essentially a national responsibility". His delegation was in favour of the adoption of the draft resolution, with those modifications, for submission to the General Conference.

12. Mr. STONE (United States of America) said, on behalf of the authors of the draft resolution, that the modifications proposed by the delegate of Argentina were acceptable.

13. Mr. EROFEEV (Union of Soviet Socialist Republics) stressed the need to minimize the risks of diversion of nuclear materials and the value of the recommendations already adopted by the Agency. His delegation unreservedly supported the draft resolution contained in document GC(XXI)/590 and was prepared to associate itself with the authors.

14. Mr. HOFFMANN (Federal Republic of Germany) said his delegation could accept the proposal made by the delegate of Argentina.

15. Mr. THOMAS (German Democratic Republic) said his delegation also supported the draft resolution contained in document GC(XXI)/590.

16. The CHAIRMAN took it, since there was no objection, that the Committee wished to recommend the draft resolution GC(XXI)/590, as modified by the delegations of Egypt and Argentina, for adoption by the General Conference.

● 17. It was so decided.

SCALE OF ASSESSMENT OF MEMBERS' CONTRIBUTIONS FOR 1978 (GC(XXI)/583, 583/Mod.1, 586)

18. The CHAIRMAN invited the Committee to consider document GC(XXI)/586; he took it, in the absence of objection, that the Committee wished to recommend the draft resolution contained in that document for adoption by the General Conference.

● 19. It was so decided.

20. The CHAIRMAN invited the Committee to consider documents GC(XXI)/583 and Mod.1; he

[1] See document GC(XXI)/COM. 5/OR. 4, para. 48.

took it, in the absence of objection, that the Committee wished to recommend the draft resolution contained in document GC(XXI)/583 for adoption by the General Conference, the annex to the draft resolution being found in document GC(XXI)/583/Mod.1.

- 21. It was so decided.

AMENDMENT OF ARTICLE VI, A. 2 OF THE STATUTE (GC(XXI)/584, 584/Add.1 and 2)

22. The CHAIRMAN invited one of the sponsors of the draft resolution contained in document GC(XXI)/584 to introduce the text.

23. Mr. ADENIJI (Nigeria) announced that Tunisia should be added to the list of sponsors contained in document GC(XXI)/584/Add. 2.

24. He stressed that the sponsors of the draft resolution were in no way seeking a pretext for a confrontation with any delegation or group of delegations. Their sole aim was to convince the Member States of the Agency of the just nature of their cause by a constructive exchange of opinion, free from all prejudice. He noted that in effect the two regions "Africa" and "Middle East and South Asia" contained 41 out of a total of 110 Member States. It was therefore clear that the draft resolution could not be adopted without the support and goodwill of the Member States of other regions, since the main parties concerned did not even represent a simple majority at the Conference, whereas a two-thirds majority vote was necessary for the adoption of an amendment to the Statute.

25. Prior to submitting formally a draft amendment to the Board of Governors, the sponsors had informally contacted every Member State represented on the Board and had at that time gained the impression that there was a generally favourable attitude towards their position. The Board had then taken up the matter formally at its meeting in February 1977 and had considered it again in June; consultations had been going on uninterruptedly for nine months. The proposal contained in document GC(XXI)/584 was not therefore being put before the General Conference without warning and every delegation had had quite enough time to assess its overall significance.

26. There were a number of special reasons, moreover, why the General Conference would not be justified in postponing a decision much longer. Indeed, the proposal submitted concerned only the elected seats for representation of two regions which it was generally agreed were seriously under-represented. There were no special strings attached to the decision and it would not hold up the deliberations of the General Conference. The proposal before the Committee did not in any way affect the representation of the other regions and did not deprive any country of the seat it held. Furthermore, the increase in the number of seats envisaged was being kept within very reasonable limits.

27. In their draft resolution the sponsors made two suggestions - one was to increase the number of seats on the Board of Governors from 34 to 39, with three of the additional seats being allotted to the region "Africa" and two to the region "Middle East and South Asia", and the other was to delete the last sentence of Article VI, A. 2(a) of the Statute barring re-election of a Member of a given category in that same category.

28. With regard to the first proposal, he recalled that the two regions concerned were grossly under-represented on the Board of Governors in that the 25 African States Members of the Agency were represented on it by only 5 1/3 elected Members, or in other words a representation of 21.3%, while the 16 Member States of the region "Middle East and South Asia" were represented by only 3 2/3 Members, or a proportion of 22.9%. By comparison, the representation for North America was 100%, for Latin America 31.8%, for Western Europe 34.8%, for Eastern Europe 36.4%, for South East Asia and the Pacific 35.1% and for the Far East 38.9%. The imbalance was striking and even if the proposal for amendment were adopted the regions "Africa" and "Middle East and South Asia" would still be the least favourably treated on the Board. The draft resolution was therefore a very modest one, and its adoption by the General Conference would not alter the balance on the Board. On the other hand, a favourable decision would strengthen the application of the principle of the sovereign equality of States Members of the Agency, affirmed in Article VI of the Statute, and the principle of equitable geographical representation respected by all international organizations.

29. He then went on to refute the argument that it would not be the right time to amend Article VI of the Statute since the previous amendment had come into force only in 1973. First of all, it had to be considered that the latter amendment had been adopted in 1970 in terms which were, furthermore, very unfavourable for the two regions "Africa" and "Middle East and South Asia". At that time the number of Board Members had risen from 25 to 34, of which one seat was to be distributed between three regions, while two additional seats went to Latin America, which had had two new Agency Members since 1963, two seats to Western Europe, which had had three new Members, one seat to Eastern Europe, which had had one new Member, and three seats to Africa and the Middle East and South Asia, which had had 16 new Members in the Agency. It could further be pointed out that out of the five States which had become Members since 1970 four belonged to the two regions whose representation it was proposed to increase.

30. The sponsors of the draft resolution therefore wished to point out that the situation, unfair even in 1970, had become still worse. They were not unaware of the fact that redistribution of the seats on the Board was, for all intents and purposes, impossible, and had no wish to submit

that any region was over-represented; they were simply claiming that their own regions were under-represented. They believed that a new and moderate increase in the number of seats on the Board would not detract from its efficiency, and quoted, in support of that view, statements made by the Director General himself in his address at the opening of the General Conference, in which he recalled that the Board was considered, within the United Nations system, as an effective deliberating body.

31. With regard to the second part of the draft resolution GC(XXI)/584, he pointed out that the sponsors felt it desirable to delete the last sentence of Article VI, A, 2(a) as it did not bar a Member of the Board from being re-elected in a category other than the one in which he had sat on the Board during the term of office that had just expired.

32. In conclusion, he pointed out that any document, even a fundamental one, should be capable of evolving and adapting itself to changing realities. He hoped that a consensus would be reached on the need to add the limited amendment proposed to the Statute so as to end a situation that was radically unfair. He trusted that on the occasion of its twentieth anniversary the Agency would manifest in that way its desire to guarantee the equality of all its Members.

33. Mr. KHAN (Pakistan) said that, having listened to the eloquent speech by the delegate of Nigeria, he would not reiterate his arguments, but would restrict himself to making some important points.

34. The amendment of the Statute of an international organization was not a matter to be taken lightly, and the delegations sponsoring the proposed amendment had been holding informal consultations since the previous year; at that time it had been generally recognized that measures would have to be taken to ensure that the Board remained truly representative. The reasons for such a move were the following: as the body responsible for formulating policies in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) [2], and in view of the increasing importance of the safeguards system the Board was acquiring ever more responsibilities and should therefore be perfectly representative of the opinions of Member States in all areas of the world. Moreover, nuclear programmes were growing and would call for more co-operation between States.

35. The proposed amendment of the Statute was not the first of its kind. The Board had always been flexible in adapting itself to changing situations: in 1957 the Board had consisted of 23 Members, representing 33% of the Agency's membership of 54; in 1963 that figure had moved from 23 to 25, and subsequently, on the recommendation of the Conference of Non-Nuclear-

Weapon States held in Geneva in 1968, the figure had advanced from 25 to the present 34.

36. The Pakistan delegation considered that the request for a further expansion, which was intended as a rectification of the present imbalance in representation - an imbalance likely to compromise the representative nature of the composition of the Board - was perfectly justified after an interval of seven years.

37. Article VI of the Statute specified, in its sub-paragraph 2(a), that due regard should be given to equitable representation of the Members in the different areas. The table in Annex III of document GC(XXI)/584, which showed the composition of the Board of Governors, gave for the areas "Africa" and "Middle East and South Asia" percentages of representation on the Board of 21.3% and 22.9% respectively, while for the other areas the figures were between 31% and 38.9%. The sponsors of the proposal did not demand that the other areas should be represented to a lesser extent, but that the situation with respect to the areas in question should be improved.

38. Those areas had so far refrained from protesting because they did not want to make difficulties; however, some countries were about to expand their nuclear programmes and were therefore taking an increasingly keen interest in the Agency's activities; they deserved to be encouraged.

39. The countries of Africa were becoming large producers of uranium, a strategic substance of importance for the implementation of programmes. Moreover, it so happened that the areas in question included the countries that were the greatest producers of oil (seven Members of the Organization of the Petroleum Exporting Countries (OPEC) belonged to those areas), and the interdependence between the various sources of energy would have to be recognized in the future. It was therefore important to give those energy-supplying countries an equitable number of votes if it was desired that they should continue to take an active part in the Agency's work. Since 1973 oil had become a precious substance that was becoming increasingly scarce, and it was necessary to strike a reasonable balance in the production of energy and to co-ordinate the development of sources of energy to the greatest extent possible.

40. As the delegate of Nigeria had said, if three additional seats were granted to Africa, making $8\frac{1}{3}$ instead of $5\frac{1}{3}$ for 25 Member States, a representation percentage of 33% would be arrived at, which was still less than other ratios. For the area of the Middle East and South Asia, if it were given two additional seats, making $5\frac{2}{3}$ instead of $3\frac{2}{3}$, the figure would be 35%. The representation of the other areas would not be in any way affected.

41. Since Article VI had been amended before, that should not create any problems; a lack of

[2] Reproduced in document INFCIRC/140.

flexibility, however, might lead to a lack of effectiveness for the Agency.

42. Some delegates had wondered whether the present time was an appropriate one for considering the proposed amendment; to that he would reply that many things had changed since 1970, and in any case the modification would not take effect until 1980; thus the time since the previous amendment was not too short. He agreed with the delegate of Nigeria that the number of Members of the Board would not be so high as to jeopardize the proper functioning of that body, and he cited the examples of the governing bodies of other specialized agencies such as the United Nations Industrial Development Organization (UNIDO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

43. Therefore the expansion in question seemed reasonable in the light of the practice followed by other organizations. Some delegations had maintained that the expansion would be excessive and would upset the balance of the Board; he himself, however, felt it more likely that the persistence of inequity would upset that balance.

44. The sponsors of the proposal had tried to arrive at a consensus during the past two months, which would have simplified their task, but they were pained to observe that the Board had not been able to formulate a unanimous recommendation, and it had given its opinion in the form of excerpts from the records of the Board meetings in February and June; that was why he had taken the liberty of speaking at some length in favour of the amendment in question.

45. Mr. STONE (United States of America) said that his delegation had on several occasions explained why it was opposed to an increase in the membership of the Board. He would not repeat its reasons, but he did wish to stress that his delegation remained willing to pursue consultations on the matter.

46. He had been struck by the persuasiveness of the two preceding speakers, whose remarks nevertheless called for a number of observations. With regard to the figures quoted by the delegate of Pakistan, he pointed out that at the outset the Statute had been judged acceptable by the Member States that had adopted it; moreover, he pointed out, with regard to the table in Annex III of document GC(XXI)/584, that at present the percentage of representation on the Board was 39%, and that of the 110 Members of the Agency 34 were represented on the Board.

47. The sponsors of the proposal had maintained that the present composition of the Board was not in harmony with the principle of equitable geographical representation, an attitude which seemed to suggest that "equity" could be gauged only on the basis of proportional representation of the various geographical regions on the Board. His delegation felt, however, that another very important factor had to be taken into account, namely the degree of advancement

in the technology of atomic energy, which included among other things electricity generation, the fuel cycle, nuclear research, contributions to international co-operation in the nuclear sphere, and uranium production, including prospecting and mining.

48. Yet another factor that had to be taken into account, in his opinion, was the financial support given to the Agency's programme. In that context, it should be noted that 14 States which were Members of the present Board, situated in the regions of "North America", "Western Europe" and "Eastern Europe", together accounted for more than 80% of the total assessed contributions paid into the Agency's budget. The regions of "Africa" and "Middle East and South Asia" did, however, hold at the present time 9 of the 34 seats on the Board.

49. The present version of Article VI had entered into force only four years previously. Since that time the number of Members of the Agency had increased by only five. About 84 Member States had ratified the last amendment of the Statute, from which the present text of Article VI had emerged, and that showed that in their view the amendment answered the requirements of equitable geographical distribution. Circumstances had not changed enough to justify another revision at present, and for that reason his delegation believed that the composition of the Board should not be changed for the time being.

50. In reply to the comments of the delegate of Nigeria, he recalled that the bar on re-election to the Board had been instituted to foster broader participation in the work of the Board and that that prohibition in fact accomplished its purpose, just as did the informal practice of rotation in most of the eight geographical areas. A certain number of Members had already made use of the "floating seat" when they had wished to secure two successive mandates as Members of the Board. Up to the present time the bar on re-election had created no problems, whereas its removal might in fact hinder broad participation in the work of the Board. Furthermore, the proposal to eliminate the re-election bar seemed inconsistent with the other main proposal the co-sponsors of the draft resolution were putting forward - that of increasing the number of seats for their region - since they had maintained that eligibility for re-election would enable Member States that were less able or less willing than others to participate in the work of the Board to be represented by a surrogate Member.

51. Even now one saw a situation where a number of States with important nuclear programmes had less opportunity to be represented on the Board than others whose participation in nuclear energy activities was more limited or indeed negligible. That was another reason why his delegation felt that no attempt should be made to modify the existing delicate compromise embodied in the present version of Article VI.

52. Mr. MILLS-LUTTERODT (Ghana) thought that the draft resolution in document GC(XXI)/584 provided for an equitable distribution of seats which reflected the composition of the General Conference. Its adoption would remedy an abnormal situation, because the areas of "Africa" and "Middle East and South Asia" were in fact less adequately represented on the Board than the other areas.

53. Mr. MALU wa KALENGA (Zaire) thought that the delegates of Pakistan and Nigeria had given an exceptionally fair and complete analysis of the present situation and had shown quite clearly how that situation could be remedied. The Agency was a technical organization in which political considerations had no place. The Government of Zaire wholeheartedly approved the draft proposal.

54. Mr. MESSAN (Niger) said that his country was a co-sponsor of the draft resolution. He could not accept the argument of the delegate of the United States of America according to which too little time had elapsed since the last amendment to justify the adoption of another. In fact, a situation could evolve considerably in four years. Besides, the draft resolution was aimed simply at correcting an inequality and improving co-operation between the industrialized countries and the developing countries. It would be absurd if the regions of "Africa" and "Middle East and South Asia", which included the principal producers of uranium, had not the means to make themselves heard in the Board.

55. Mr. KIBRIA (Bangladesh) said that he fully endorsed the statements by the delegates of Nigeria and Pakistan and would limit himself to a few remarks. In the first place it appeared that the United States of America had discovered a new definition of equitable geographical distribution which relied on abundance of technical knowledge. The other organizations of the United Nations family applied the principle of equitable geographical distribution, and they had a large number of developing countries among their Members. There was no reason why the Agency should not apply the same principle as those other organizations. The delegate of the United States of America had likewise stated that the size of a Member State's financial contribution should determine its power within the Agency; but there was a principle, applied in all the Western democracies, which stated that representation should not be based on riches. Finally, the Agency should adapt itself to changes in the world and to the requirements of its Member States. States which refused to countenance modifications in the structure of the Board were in fact opposed to the efficient operation of the Agency.

56. Mr. GILLON (Belgium) said that he believed, like the delegate of Zaire, that the Agency should be a technical and not a political organization. That was why the Statute provided that the Members of the Board should be chosen on the one hand in such a way as to guarantee equitable geographical distribution, but on the other hand in such a way that the most advanced Member States

were adequately represented. In point of fact, those were the States that had to assume the most weighty responsibilities. In its early years the Agency had bent its efforts primarily towards promoting the peaceful applications of nuclear energy, but now its first task was to ensure that nuclear energy was not diverted to military purposes. The Belgian Government realized that the present distribution was slightly unfavourable to the countries belonging to the regions of "Africa" and "Middle East and South Asia", but believed that it was nevertheless essential to maintain the balance at present prevailing in the Board. In any case, it was always a delicate matter to amend a statute, because too frequent amendments carried the risk of diminishing its value. He accordingly invited Member States to pursue their consultations and allow themselves time for reflection.

57. Mr. AL-ESKANGI (Libyan Arab Jamahiriya) felt that the delegates of Nigeria and Pakistan had stated the case very fairly. He endorsed what they had said and approved of the draft resolution.

58. Mr. RATHORE (India) said that he too was entirely in favour of the proposal contained in document GC(XXI)/584 and wished to associate himself with the sponsors.

59. Mr. NOWIN (Iran) noted that his country was also a co-sponsor of the proposal.

60. Mr. SIAZON (Philippines) affirmed that the Agency was not a purely technical organization, but also a political one: after all, its Members were not research institutes but States. Representatives were delegated by their Governments, and the Governments were purely political entities. The Director General had himself made that point in his opening statement, in the course of which he had said that the Agency could not live in a political vacuum.

61. It emerged from the discussion that many representatives of Member States were opposed to an enlargement of the Board even while insisting that international safeguards should be effectively applied. The effectiveness of safeguards depended, however, on the climate of confidence prevailing in the Agency. Safeguards, as everyone knew, were not a purely technical phenomenon - they were based above all on political arguments advanced in the main by the Western countries. The last amendment of the Statute dated from 1970, the year in which NPT had entered into force. At that time the Board could not have known what amplitude the Treaty and the safeguards which it called for were going to acquire. By way of example, the safeguards budget in 1970 had been only \$1.7 million, whereas it was now ten times that size, a fact which demonstrated the political weight of the industrialized countries. It was the Board, in any case, that determined how safeguards should be applied; they were applied mainly in the developing countries, and the industrialized countries were able to bring greater weight to bear on the Board's decisions than the developing

countries. Thus, it was perfectly normal that the latter should be proposing to modify the distribution of seats on the Board.

62. Mr. EROFEEV (Union of Soviet Socialist Republics) recalled that the Board had examined a similar proposal at its last two series of meetings without any consensus being reached. The Soviet Union believed that the Statute was a fundamental document and that amendment of it was not desirable. At present, the Board was composed both of representatives of the States most advanced in the nuclear sphere and of States which received technical assistance. The Agency was not an ordinary organization; it had special objectives and it was therefore normal that it should apply specific criteria and rules.

63. In his opinion, all areas were represented equitably on the Board, since the areas of "Africa" and "Middle East and South Asia" held a quarter of the seats and the six other areas held the other three quarters. The Board was at present an efficient body, and an increase in the number of seats could only weaken it. If it were accepted, the draft resolution at present under consideration would inevitably be followed by others. The most recent amendment of Article VI had been adopted after very long discussions and after mature reflection, to make allowance for a large increase in the number of Members of the Agency. The situation had not changed a great deal since then, and only four years had passed.

64. Furthermore, the Soviet Union thought there was no reason to permit re-election of Members to the Board, as there would then be the risk of creating a situation in which the same Members would be constantly re-elected, thus reducing the chances of other Member States. The second part of the proposal in document GC(XXI)/584 seemed indeed to stand in contradiction to the first part. In conclusion, he reiterated the view of his delegation that there appeared to be no justification for any change in the composition of the Board.

65. Mr. SILANGWA (Zambia) felt that a change in the distribution of seats on the Board was a question of elementary fairness. His Government could not accept the argument that an enlarged membership of the Board would reduce its efficiency; on the contrary, efficiency would be enhanced.

66. Mr. ESTRADA OYUELA (Argentina) said that his delegation had already spoken in favour of the idea embodied in the proposal during the Board's meetings in February and June and had suggested that a committee be constituted to examine the question. The Board had preferred informal consultations, but they had led to no result. The Argentine delegation felt, like that of Bangladesh, that magnitude of financial contributions should not be considered in deciding how the seats on the Board were to be apportioned. On the other hand, the degree of a country's advancement in nuclear energy should not be a criterion for deciding the number of eligible Members of the Board of Governors, since the Statute already provided for that in Article VI, A, 1.

67. Mr. STROHAL (Yugoslavia) said that the Yugoslav delegation intended to make a proposal which might lead to a solution.

68. Mr. KEBLŮŠEK (Czechoslovakia) said that his delegation had listened carefully to the statements of the different speakers and had come to the conclusion that the Board was an adequately representative body in its present form. That judgement had been arrived at with the interests of the Agency and of all its Member States in mind. The Board had to be an efficient body and repeated amendment of the Statute could not but weaken it.

69. Mr. KHOR (Malaysia) said he would add to the arguments submitted by the developing countries the point that the Agency's mission was to place atomic energy at the service of humanity, and that it was the developing countries which were in greatest need of it.

● The meeting rose at 1 p.m.

