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on Thursday, 21 September 1978, at 10.30 a.m.

Chairman: Mr. GILLON (Belgium)

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** GC(XXII)/605.

AMENDMENT OF ARTICLE VI.A.2 OF THE STATUTE (GC(XXII)/602, 602/Add.1-4)
(continued)

1. The CHAIRMAN recalled that the Committee of the Whole was to continue its examination of item 9 of the agenda relating to amendment of Article VI.A.2 of the Statute and that it had before it two draft amendments, one giving each of the two areas of Africa and of the Middle East and South Asia an additional place (document GC(XXII)/602) and the other giving those areas three and two additional places respectively (document GC(XXI)/584). If there were no objections, he suggested that the Committee first study the proposal in document GC(XXII)/602, as had been requested by a number of delegations.
2. It was so decided.
3. Mr. SMALL (New Zealand) believed that, on a question as important as amending the Statute in order to enlarge the Board, the Committee should attempt to reach a consensus. It did not appear that there was such a consensus at present, although the majority of Members seemed to recognize that the request involved was justified in principle.
4. There were two opposing factors to be taken into consideration: the principle of the efficiency of the Board's work, which had to be maintained, and that of equitable geographical distribution of seats. Of those two principles he believed that the second carried more weight, and the majority of Members appeared to be of the opinion that representation was not equitable from the point of view of geographical distribution.
5. The proposal formulated by the delegation of Pakistan seemed to him to represent a reasonable compromise and his delegation was prepared to support it. However, there should be a consensus in favour of the proposal, and it should not start a trend whereby the Board became enormously enlarged in the near future.
6. Mr. SODNOM (Mongolia) considered that in order to resolve the question under examination it was necessary first to determine whether the Agency wanted to have an efficient executive organ consisting of a reasonable number of representatives but in which all areas of the world were represented. His country was in favour of equitable representation of all areas, but that did not mean that all Members of the Agency should belong to the executive organs. His delegation feared that if the formula put forward by the delegate of Pakistan - involving a 6% increase in the membership of the Board, which would admittedly not diminish

the Board's efficiency - were accepted, that would lead, not by a controlled process but by a chain reaction, to the acceptance of further enlargements of the Board and perhaps to the creation of other organs. For that reason his delegation proposed that the Statute, which was a viable legal document and which had proved its worth over the previous twenty years, should not be amended.

7. Mr. NORD (Norway), limiting himself to reiterating what he had already stated in the Board, said that the expansion of the Board was not a purely mathematical question: it also involved many other factors. For example, the number of Board Members had already been increased a relatively short time before, and it would be appropriate to let a certain amount of time lapse before taking such steps again. He stated that the delegations of Denmark, Finland, Iceland and Sweden shared that point of view.
8. Mr. HOFFMANN (Federal Republic of Germany) speaking on behalf of the Member States of the European Community, paid tribute to the previous Chairman of the Board, the delegate of Malaysia, for his untiring efforts to find a solution for the question under consideration. The arguments put forward by the delegate of Pakistan had also made a profound impression on the delegations of the European Community, and he pointed out to supporters of the proposed amendment that those delegations were also opposed to any selfish plan and that they wished to continue working in a spirit of co-operation. Nevertheless, a case for the proposed amendment had not been established and the delegations from the European Community countries could not support it.
9. Speaking on behalf of his own delegation, he said that he would limit himself to summing up the position it had already adopted on various occasions. According to his delegation, then, a case for increasing the membership of the Board had not been made out, and no basis for a consensus had emerged from the arguments put forward by the supporters of the proposed amendment.
10. In response to the statement of another delegate, he pointed out that for him the Agency was neither a United Nations organization nor a specialized agency, and he would not like to see it converted into an organization with predominantly political aspirations. What was important for him was the character of the Agency's activities as defined in Article II of the Statute.

11. Furthermore, he did not see why geographical distribution should be considered the main criterion. There were other equally important factors such as the state of advancement in nuclear technology of the various countries, their role in nuclear research and international co-operation in the nuclear field. It was important to take all those criteria into consideration if the Board was to operate efficiently. Last but not least, it was necessary to have regard to the need for financial support of the Agency's programme. Quite a number of West European countries, despite the advanced state of their atomic energy technology, including the production of source materials, were only sporadically represented on the Board. Thus, they too could, under certain circumstances, speak of inequity.

12. He pointed out that the reasons put forward against the formula originally proposed (three plus two additional seats) were equally applicable to the present proposal (one plus one additional seat), in view of the size of the Board in relation to the total membership of the Agency. The Agency had in fact already one of the largest executive bodies of multinational organizations, including the organizations within the United Nations system. Taking into account the criteria he had mentioned earlier, the current composition of the Board reflected a satisfactory balance which had been worked out with meticulous care.

13. Mr. DE PEYSTER (France), confirming the comments made by the representative of the Federal Republic of Germany, said that the member countries of the Common Market were unwilling to consider any amendment to the Statute whereby the membership of the Board of Governors would be increased; indeed, a considerable part of the West European Group was solidly against any such change. In fact, the first to complain about under-representation should be Western Europe, for he could name about eight countries eligible to participate in the Board's work that more often than not were not members of it.

14. At the present time, the Board was composed of 31% of the Agency's membership, a proportion that had never been exceeded in any United Nations body, and the countries in question, putting aside their legitimate aspirations, recognized that the existing balance represented the better part of wisdom. It was not necessary to be a Member

of the Board in order to benefit from technical assistance and the information associated with it. All interested countries had the option to follow the Board's discussions by means of observers. In the circumstances negotiations or compromises on amendment of the Statute were scarcely to be entertained.

15. Mr. SMOLDEREN (Belgium) considered it essential to ensure that, in the Board of Governors, there should be equitable representation as between the various areas and adequate representation of countries with special responsibility in the field of nuclear energy and technology. Any enlargement of the Board based solely on a geographical factor would, he feared, upset the fundamental balance hitherto existing between the two types of representation, thus entailing a risk of compromising the Board's work. Accordingly, any enlargement of the Board would appear to be inappropriate or at the least premature.

16. His opinion should not be interpreted as a denial of justice in relation to the areas concerned, nor as a lack of confidence in their fitness for advancement in the nuclear field. Even taking into account the geographical factor alone, other areas, including Western Europe, would also have claims to be better represented. The delicate problem of the Board's composition should not be approached from too narrow an angle; all the factors involved should be taken into account.

17. Mr. HOSSAIN (Bangladesh) recalled that his delegation had been a co-sponsor of the original proposal to assign five additional seats to the areas concerned, since it firmly believed that there were good grounds for requesting such an enlargement of the Board. However, his delegation would, in a spirit of compromise, support the formula put forward by Pakistan and hoped that it would elicit a consensus.

18. Mr. LENDVAI (Hungary) said he had listened with sympathy to the arguments adduced by the Pakistan delegate, but he wished to reaffirm his support for the principle of non-proliferation of seats on the Board. The demand for amendment of the Statute was based on the principles of equitable representation and democratic functioning of the Agency. He nevertheless entertained certain doubts in the matter. The Board was an executive organ and, in general, organs of this kind were fairly small in size, since representation in an executive organ had to be limited in order that it could function and some countries had to entrust defence of their interests to others.

19. Secondly, it was noteworthy that every year some seats remained unoccupied at the General Conference because some countries found it hard to be represented, and his delegation felt that a simple increase in the size of the Board might well not ensure automatically the better representation of such countries.

20. Thirdly, although none of the Members was fully satisfied with it, the Agency's Statute had over the years shown itself to be a valid legal instrument and it seemed doubtful whether it could be improved by change.

21. Lastly, any solution not emerging from a consensus would not in his opinion be a good one. In that regard, he had noted that there had been no convergence of views on the matter under consideration, even among the various delegations that were in favour of amending the Statute. There had been mention by some of a temporary amendment; that would appear to imply further possible amendments in the future, a development that caused his delegation particular concern. He accordingly proposed that the Statute should be left as it stood.

22. Mr. DEYANOV (Bulgaria) recalled that the question of representation on the Board of Governors had been under consideration for almost two years and the net result to date had been merely to bring to light the problems which were militating against a consensus in the matter.

23. During the lengthy exchange of views, much stress had been laid on the need for maintaining the efficiency of the Board's work, and the difficulty of specifying its optimal size had emerged. Nevertheless, the positive results obtained in the Agency's overall activities showed that the optimal arrangement was constituted by maintenance of a reasonable size and balance within the Agency's decision-making and executing body. As many delegates had stressed, it was always necessary to bear in mind the provisions of the Statute to the effect that a fair balance between the States most advanced in the nuclear sphere and the States mainly receiving technical assistance should be preserved, so as to make it possible for the Agency to work in an atmosphere of effective co-operation.

24. It was quite natural, given that it was not an ordinary organization, that the Agency should apply specific criteria and rules and, in particular, that it should, when determining the Board's composition, take into account not only geographical factors but also the positive contributions of the Board's Members to international co-operation in the nuclear field. It was therefore extremely difficult for his delegation to understand the purely arithmetical approach to the matter adopted by some delegates.

25. The above considerations were equally applicable whether it was the proposal to enlarge the Board by five seats or any modification of that proposal aimed at increasing the Board's size that was under consideration. The fact that the Committee had before it two different proposals on the matter, submitted officially for its consideration, showed that there was little justification at that stage for a further increase in the Board's membership.

26. In conclusion, he made it plain that his delegation was still of the view that the composition of the Board as it stood represented a very carefully determined balance, any change in which could only lead to a chain reaction that would be dangerously detrimental to the Board's effectiveness.

27. Mrs. DAVIDOVÁ (Czechoslovakia) recalled that her country had already stated its views on the proposal relating to the representation of the areas of Africa and of the Middle East and South Asia on the Board. Those views were still the same because at the present time the general representation on the Board was balanced and any increase in the number of seats would be prejudicial to the work of that important organ and would complicate the work of the Agency and the Secretariat. The Czechoslovak position was based not just on arithmetical considerations but also on the fact that not all countries had the same interests or were at the same level of development in the nuclear field. Of course, the principle of geographical distribution was not to be ignored but it applied only in the case of the 22 elected Members. Czechoslovakia considered that the areas of Africa and of the Middle East and South Asia were equitably represented and it could not therefore support the draft amendment of Article VI.A.2 of the Statute.

28. Mr. MANZ (Switzerland) did not consider it appropriate to modify the composition of the Board of Governors so soon after entry into force of the previous amendment of the Statute to that end. He observed that, in comparison with the majority of specialized agencies within the United Nations system, the Board was one of the executive organs with the most members in relation to the total number of Member States. Besides, as the General Conference met in regular session every year, all Member States had an adequate opportunity to voice their opinions on the operation of the Agency. It was in that spirit and in the interests of efficiency that Switzerland, which was considerably active in the nuclear field, generating more than 17% of its electrical energy with nuclear power stations, had been content to sit on the Board of Governors only twice since the Agency had been set up. The Swiss delegation was not in favour

of any amendment to the Statute at that stage and hoped that the matter would not come to a vote, which could only disrupt the spirit of harmony which had always characterized the General Conference.

29. Mr. DIOUF (Senegal) deplored that the debate had given rise to such a wealth of sophisms, with the supporters of equity advocating the very contrary thereof, the champions of democracy showing that the representation of a country depended on financial and other factors, the defenders of historical materialism insisting on stability and the revolutionaries providing every evidence of conservatism.

30. To be more specific, some speakers had said that the executive organs of democratic bodies consisted of only a limited number of members, omitting to mention that those organs were representative; that the creation of two additional seats would seriously affect the efficiency of the Board, although in fact it already had 34 Members; that in any case the areas of Africa and of the Middle East and South Asia could have observers and that that resolved the problem; that the role played in research was a determining factor, although in fact those two regions were involved in research and, in any case, that criterion had not been applied to them when it had been a case of inducing them to become party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)^{1/}. For the benefit of those who had opposed the draft amendment with arguments of a geographical and arithmetical nature, he recalled that the co-sponsors had decided to moderate their legitimate claims and to seek only a minimum increase in representation, which did not satisfy them but which they thought should form a basis for a consensus. The truth was that in the minds of the opponents of the draft amendment any argument was valid if it helped to achieve the desired end.

31. Senegal and the African Group were resolved to find a compromise solution, but would continue to advocate enlargement of the Board and would remain faithful to the principles of universality and equity which were the pre-condition for understanding between nations.

^{1/} Reproduced in INFCIRC/140.

32. Mr. FELICKI (Poland) said that he had to admire the eloquence of the delegate of Pakistan but that he was not convinced of the soundness of his argument. It was, of course, necessary to ensure equitable representation of the various Member countries within the organs of the Agency but the criteria that had to be applied to achieve that were difficult to define. Numerous criteria could be imagined: not only the number of countries making up each area but also the population of the area, its gross national product, the state of advancement of its nuclear technology, the potential for development of that technology, or the demand for nuclear energy. In fact there were no strict criteria that could be applied and in the end only a common will on the part of Members could bring about an equitable solution. Moreover, although it was important to be fair, it was also important to be efficient, and efficiency required that the Board be an organ of restricted membership. Therefore the Polish delegation could not subscribe to the proposal to amend Article VI.A.2 of the Statute.

33. Mr. THOMAS (German Democratic Republic) considered that the composition of the Board of Governors reflected a carefully determined balance, bearing in mind, on the one hand, the two principal objectives of the Agency set out in Article III of the Statute and, on the other hand, the requirement for equitable geographical representation, which could not be reduced to a simple mathematical calculation.

34. The delegation of the German Democratic Republic feared that a change in the mode of representation of the two areas concerned would induce other geographical areas to seek a similar amendment in their favour. It thus remained convinced that the time was not ripe to interfere with the composition of the Board.

35. Mr. CROMARTIE (United Kingdom) said that his country had already made its position clear at the last meeting of the Board, and he associated himself with the statement made by the delegate of the Federal Republic of Germany on behalf of the European Economic Community. He would therefore limit himself to a few comments on the views expressed in the Committee.

36. The United Kingdom delegation believed that the Agency's Statute should not be amended too often or too regularly because the basic regulations which governed the working of an organization should only be changed with restraint

and then only when a consensus existed. An important amendment to Article VI.A.2 of the Statute had already been adopted in 1973. A very convincing case would therefore be needed to justify another change. Such a case had not in his view been made.

37. It was important to distinguish between the number of Members of the Board and the ratio of that number to the number of Member States. An increase in the absolute size of the Board would have the effect of reducing its efficiency. Several speakers, including one of the co-sponsors of the draft resolution before the Committee, had indicated that they regarded the proposed increase as a fore-runner of further increases. It would not be consistent with efficiency to increase the number of seats on the Board so as to restore the original ratio of number of seats to number of Member States. That ratio was already large compared with the ratio in other organizations of the United Nations family, as the delegates of the Federal Republic of Germany and Switzerland had pointed out.

38. The principle of equitable representation of geographical areas mentioned in Article VI.A.2 of the Statute was only one factor that needed to be taken into account, and it did not apply to designated Members, which were chosen on the basis of advancement in the technology of atomic energy (Article VI.A.1). The ratio of elected to designated Members had risen since the establishment of the Agency and the last modification to the composition of the Board had resulted in a delicate balance between the two categories of Members and between the two principles. That balance would be upset, to the detriment of the entire Agency, if the new draft amendment were accepted.

39. Mr. EROFEEV (Union of Soviet Socialist Republics) said that the Soviet position was based on the need to protect the Statute, which was fundamental to all the Agency's activities. At present, there was a political agreement between Member States which resulted in a balanced representation of the various countries with regard to the peaceful uses of nuclear energy and non-proliferation. All groups of States and all geographical areas could be said to be properly represented on the Board.

40. It was clear that if the Board was to carry out its responsibilities in an adequate manner, it could not have almost the same number of Members as the General Conference. Its size corresponded to about one third of the Member States; that fraction could be considered optimal. In terms of the countries which participated effectively in the General Conference, the proportion was 50%.

41. With regard to the proposal to provide extra places for Africa and for the Middle East and South Asia, it should be noted that those two areas already occupied more than one quarter of the places on the Board and that of the 22 seats which were provided under the geographical distribution principle, 21% went to Africa and 23% to the Middle East and South Asia.

42. Adoption of the new proposal would result in a reduction in the relative representation of other areas (- 2% for Latin America, - 1.2% for Eastern Europe, and - 1.5% for Western Europe). That could give rise to claims from those areas, since they might want to have the number of their seats on the Board increased in turn. Certain delegations had in fact already made that point.

43. Moreover, it had been stated that the provision of additional places was only a temporary solution and that the question of the Board's composition might be re-examined at a later date or considered at regular intervals. A period of five years had even been suggested in that connection.

44. The Soviet delegation was strongly opposed to that suggestion because the General Conference could not continually meet in an atmosphere of restless uncertainty and could not devote most of its time to an examination of organizational problems. The Soviet delegation could not therefore accept the proposed amendment to Article VI.A.2 of the Statute.

45. Mr. NAMEK (Egypt) recalled that the Statute had already twice been amended in accordance with Article XVIII in order to apply the principle of equitable geographical representation set out in Article VI.A.2(a).

46. The proposal before the current session of the General Conference was not in any way designed to change Article VI as a whole, but referred simply to the provisions of sub-paragraph A.2(a). It was being submitted on behalf of two areas which were trying to restore the balance of their representation in relation to that of the six other areas listed in the Statute.

47. The original form of Article VI of the Statute had entered into force in 1957 and had undergone its first amendment in 1960 to allow for the fundamental changes which had occurred in the world community as a result of decolonialization. When the Agency had been established, Africa and the Middle East and South Asia had comprised 20 Member States, 16 in the former area and 4 in the latter. Their

representation on the Board at that time had been limited to 4 places, a highly unfair quota when one considered, for example, that Western Europe had then comprised 20 Member States and had occupied 6 places on the Board.

48. Between 31 January and 1 June 1973, the number of Member States from Africa and the Middle East had increased from 16 to 31 and their number of places on the Board had been raised to 4. In the same period, the number of Member States from South Asia had increased to 5 but no change had been made in their representation on the Board. The two areas together had thus included 36 Member States, represented by 6 Board Members. Such a situation had not been able to last, and in 1968 the Conference of Non-Nuclear-Weapon States had decided that the Board of Governors did not correctly reflect the Agency's composition^{2/}; moreover, the General Assembly of the United Nations had invited the Agency to study the question and report on the subject^{3/}. After long debates, the 1973 amendment had come into force, though it had not provided a just solution, because, for example, Western Europe had gained 2 extra places on the Board, thus obtaining a total of 8, whereas its number of Member States had increased from 20 in 1957 to only 23 in 1973 (as in 1978). In contrast, Africa had had 23 Member States in 1973 and comprised 25 in 1978, and the Middle East and South Asia had had 13 in 1973 and comprised 15 in 1978. That gave a total of 40 Member States for the two areas. Each was represented on the Board by one designated Member and four (Africa) or two (Middle East and South Asia) elected Members, plus a ninth Member designated in accordance with Article VI.A.2(c). By comparison, Western Europe had 8 places on the Board for 23 Member States. Such a situation was far from equitable and difficult to accept.

49. During the previous 15 months, no delegation in the Board had contested the principle of equitable geographical representation or the need for that principle to be applied. There had, however, been a repetition of the debates that had taken place on the same point in 1960-1961 and 1970-1973. Certain delegations had claimed that an increase in the number of places would have an adverse effect on the Board's efficiency, although it was clear to everyone that neither of the two previous changes had had any such result.

50. It had also been maintained that it was unwise to change Article VI again, just five years after the previous amendment. In fact, the Statute did not set any limits in that respect and only circumstances could justify an amendment such as the one which had been proposed at the current session of the General Conference.

^{2/} See United Nations document A/7277.

^{3/} See United Nations General Assembly Resolution 2456(XXIII).

51. It had been claimed that it was necessary above all to maintain the delicate balance which existed on the Board, although the delegations which supported an amendment to Article VI found it difficult to accept that the balance should be preserved at the expense of the Member States from Africa and the Middle East and South Asia.

52. The Egyptian delegation hoped that the General Conference would accede to a rightful request in conformity with the principles which guided the international community.

53. Mr. FONTANA GIUSTI (Italy) associated himself with the statements of the delegation of the Federal Republic of Germany. Geographical and political considerations should not divert attention from the level of technical development achieved by Member States or the size of their contributions to the Agency's aims.

54. The Italian delegation was anxious to maintain the efficiency of the Board and to avoid the possibility of similar claims from other areas; it wished to express its opposition to the increases in the number of Member States sitting on the Board as they had been proposed.

55. Mr. KIRK (United States of America) said that his Government was not convinced of the need to make another change in the Statute so soon after the previous amendment. While recognizing that the number of Member States from any particular area was one factor to be taken into consideration when deciding the representation of that area on the Board, the United States delegation believed that other considerations also entered into the matter, as provided for in fact by the Statute. Those included, for example, the level of technical development, financial and material participation in the Agency's activities and contributions to its technical assistance programme. Seen in that light, the composition of the Board correctly reflected the relative weights of the different areas.

56. The Board of Governors was one of the largest executive bodies among United Nations institutions. An increase in size, however small, could only have an adverse effect on the way it operated.

57. The United States delegation thus remained firmly opposed to any amendment of Article VI.A.2. An amendment ought to result only from a consensus, and none seemed to exist.

58. Mr. ABU-EID (Kuwait) said it was high time that immediate satisfaction be given to the two areas which were most seriously under-represented on the Board, although no decision to that end should prejudice an eventual reconstruction of the Board to allow for changes in the international situation.

59. Mr. KHAN (Pakistan) said that it appeared that the problem of the amendment of Article VI.A.2 of the Statute required further informal consultations, which might result in a proposal acceptable to everyone.

The meeting rose at 12.30 p.m.