

**GC**GC(40)/20
16 September 1996

International Atomic Energy Agency

GENERAL CONFERENCEGENERAL Distr.
Original: ENGLISH

Fortieth regular session
Item 19(a) of the provisional agenda
(GC(40)/1)

ARTICLE VI OF THE STATUTE**(a) AMENDMENT OF ARTICLE VI**

1. On 9 September 1996, the Board of Governors discussed a report by the Chairman of the Open-Ended Consultative Group on Article VI of the Statute, to which were attached a formal proposal for amending Article VI submitted by Morocco (see Annex 1 to the Attachment hereto) and informal proposals submitted by Pakistan (Annex 2) and Spain (Annex 3). It may be recalled that certified copies of the Moroccan proposal were circulated by the Director General in June 1995 pursuant to Article XVIII.A of the Statute and was discussed at the thirty-ninth regular session of the General Conference.^{*/} The Board agreed that the report, together with the summary records of the Board's discussion on the matter, should be transmitted to the General Conference in response to the request made in resolution GC(39)/RES/21. The report is contained in the Attachment hereto. The summary records of the Board's discussion will be issued as an Addendum to the present document.

2. The Board's observations on the proposal submitted by Morocco which are required under Article XVIII.C(i) of the Statute, are set out in the Chairman's summing-up of the Board's discussion (see the above-mentioned summary records).

^{*/} GC(39)/COM.5/OR.2.

AMENDMENT OF ARTICLE VI OF THE STATUTE

Report to the Board of Governors by the Chairman of the Open-ended Consultative Group on Article VI of the Statute

1. On 22 September 1995, the General Conference of the IAEA adopted without a vote resolution GC(39)/RES/21, which requested "the Board of Governors to continue consultations with Member States through the existing Open-ended Consultative Group and to submit its report and recommendations on proposed amendments to Article VI for approval by the General Conference at its fortieth regular session".
2. The Board, at its meeting on 25 September 1995, decided that the Open-ended Consultative Group should continue its work and that it should report back to the Board at an appropriate time. The Board, at its December session, invited Ambassador Bøjer of Denmark to chair the deliberations of the Open-ended Consultative Group.
3. Meetings of the Open-ended Consultative Group were held on 22 February 1996, on 17 May 1996 and on 4 September 1996. Prior and in addition to these more formal discussions within the Group there has been a series of informal bilateral consultations with a large number of Member States.
4. In its discussions the Group has based itself on the following
 - (a) the comprehensive report by the previous Chairperson of the Open-ended Consultative Group, Ambassador Fügen Ok of Turkey, to the 39th session of the General Conference of the IAEA (GC(39)/21);
 - (b) the amendment of Article VI proposed by the Kingdom of Morocco, which remains the only proposal formally submitted (Annex 1);
 - (c) an informal proposal presented by Pakistan on 17 May 1996 (Annex 2); and
 - (d) informal amendments by Spain to the Moroccan and Pakistan proposals (Annex 3).

5. Despite the very competent work done by previous chairpersons through the last decade, as well as the cooperative spirit and thoughtful contributions of many Member States during and in the margin of the meetings of the Group, it has not been possible to reach an agreement on recommendations on proposed amendments to Article VI for approval by the General Conference at its fortieth regular session. A number of Member States have been reluctant to accept any amendment of Article VI, arguing that the present composition of the Board is adequate and/or, that any decision on enlargement would have to await the evolution of certain other questions, such as the composition of the area groups referred to in Article VI and, possibly the outcome of CTBTO negotiations on organizational matters. A few Member States, however, have given me to understand that their acceptance of any amendment to Article VI would presuppose a resolution of the question of the composition of area groups.

6. The trend, however, seems to be a convergence of opinions towards considering a limited increase in the size of the Board to be justified. Also there seems to be a universally shared assumption that the solution must be reached through consensus.

7. Some Member States argued that the size of any such enlargement should take into account the legitimate demands of different area groups for better representativity as well as keeping the balance between designated and elected members. Other Member States, comprising those reluctant to change in the size of the Board, have argued that the size of any increase is really the key issue. While the former group of countries has stressed the significance of representativity the latter has emphasized the importance of efficiency.

8. If the demands of the countries stressing representativity are to be met, the increase is likely to be around 10 new members. This number has so far not been acceptable to those stressing efficiency. If, on the other hand, the numbers suggested by the countries underlining efficiency are used as a yardstick, the increase will be in the order of 2 or 3 new members. This, however, does not fulfill the demands of those seeking greater representativity of the Board.

9. It has also been proposed to change the number of area groups from the present 8 to 5, as is known in the United Nations General Assembly in New York. It has however been the predominant preference of Member States to maintain the existing grouping.

10. Several Member States have argued in favour of allowing for immediate re-election to the area seats of the Board. As proposed, this possibility would be restricted to only two consecutive terms of office. There has been little, if any, opposition to this proposal.

11. From the deliberations of the Open-ended Consultative Group so far, there seems to be a consensus among Member States that any amendment to Article VI should resolve the issue of representation for the foreseeable future and should include an agreement not to re-open the issue for an agreed period, for example ten years.

12. A possible compromise would therefore most likely include the following elements:

- a small numerical increase in the number of designated members of the Board of Governors,
- no change in the number of the area groups, as set out in Article VI of the Statute,
- possibility of immediate re-election to the area seats of the Board,

a gentlemen's agreement that the issue of amendment of Article VI is put to rest for a 10 year period after the adoption of any change in the composition of the Board by the General Conference.

13. In conclusion, it has not yet been possible to reach a consensus on changing the size and composition of the Board. There has, however, been some progress in reconciling the views of many Member States.

14. It is therefore my view that good prospects exist for a consensus on amendments to Article VI, but that the objective of reaching such consensus can only be realized if a little more time is allowed for the process of negotiations.

AMENDMENT TO ARTICLE VI OF THE STATUTE
PROPOSED BY THE KINGDOM OF MOROCCO

Replace sub-paragraphs 1 and 2 of Article VI.A. by the following:

"A. The Board of Governors shall be composed as follows:

1. The outgoing Board of Governors shall designate for membership on the Board the ten members most advanced in the technology of atomic energy including the production of source materials, and eight (8) additional members more advanced within their regions in the technology of atomic energy including the production of source materials so that the total number of the designated seats will be distributed among the under-mentioned areas as follows:

(1) North America	2
(2) Latin America	1
(3) Western Europe	5
(4) Eastern Europe	2
(5) Africa	2
(6) Middle East and South Asia	2
(7) South East Asia and the Pacific	1
(8) Far East	3

2. The General Conference shall elect to membership of the Board of Governors twenty-seven 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 six representatives of the area of Latin America, four representatives of the area of Western Europe, three representatives of the area of Eastern Europe, six representatives of the area of Africa, four representatives of the area of the Middle East and South Asia, two representatives of the area of South East Asia and the Pacific, and two representatives of the area of the Far East. A member in this category can be eligible for immediate re-election in the same category to the regional seats on the Board within the limitation of two terms."

On behalf of the Director General of the International Atomic Energy Agency, I, Wouter W. Sturms, Director of the Legal Division of the Secretariat, hereby certify that the foregoing is a true copy of the text of an amendment to Article VI of the Statute of the Agency which is proposed, pursuant to Article XVIII.A of the Statute, by Morocco.

INFORMAL PROPOSAL PRESENTED BY PAKISTAN

17 May 1996

The Pakistan delegation would like to present an informal proposal for the consideration and support of the Informal Consultative Group on the Amendment of Article VI.

PROPOSAL

The proposal consists of two parts, one pertaining to Article VI.A.1, and the other to VI.A.2.

VI.A.1

This entire section may be replaced by the following:

"The out-going Board of Governors shall designate for membership on the Board 19 members on the basis of advancement in the technology of atomic energy including the production of source materials. The designated seats will be distributed among the under-mentioned areas as follows:

North America	..	..	..	..	..	2
Latin America	..	..	..	..	..	2
Western Europe	..	..	..	..	..	5
Eastern Europe	..	..	..	..	..	2
Africa	..	..	..	..	..	2
Middle East and South Asia	..	..	..	..	..	2
South East Asia and the Pacific	..	..	..	..	..	1
Far East	..	..	..	..	..	3."

VI.A.2

The last sentence in section VI.A.2(a) may be replaced by the sentence:

"A member in this category of office will be eligible for re-election in the same category for two consecutive terms".

RATIONALE

The thoughts which have gone into this proposal are as follows:

- 1) All the presently designated members retain their designation.
- 2) Membership of the Board should be about 1/3rd of the total membership of IAEA.
- 3) Due account is taken of the under-presentation of the regions of Africa and MESA as mentioned in General Conference Resolution 389 and re-affirmed in subsequent resolutions.
- 4) Due account is taken of the technical and political changes that have taken place in the world after the last expansion of the Board, in particular the technological advancement of several Member States and the increase in the number of Member States in Eastern Europe and MESA following the break-up of the former Soviet Union.
- 5) The efficiency of the Board is promoted through the addition of Member States with active nuclear programmes. At the same time, the opportunities for election are increased due to the increase in designated members.
- 6) The distinction between globally and regionally designated members has been eliminated, in line with the current practice of the Board.

INFORMAL AMENDMENTS BY SPAIN TO
MOROCCO'S PROPOSAL ON ARTICLE VI

1.-Paragraph 1

- Line 3:Replace "eight (8)" by "nine (9)".
- Subparagraph (1):To be deleted.
- Subparagraph (2):Replace "(2)" by "(1)", and "1" by "2".
- Subparagraph (3):Replace "(3)" by "(2)", and "5" by "8", and add "and Others" after "Europe".
- Subparagraph (4):Replace "(4)" by "(3)".
- Subparagraph (5):Replace "(5)" by "(4)".
- Subparagraphs (6), (7) and (8):Replace by "(5) Asia 5".

2.-Paragraph 2

- Line 2:Replace "twenty seven" by "twenty six"
- Line 4:Replace "six" by "five"
- Line 5:Add "and Others" after "Western Europe".
- Lines 7 to 9:Replace "four representatives...Far East" by "and eight representatives of Asia"

The text of the amended Morocco's proposals should read as follows:

"A.-The Board of Governors shall be composed as follows:

1.-The outgoing Board of Governors shall designate for membership for the Board the ten members most advanced in the technology of atomic energy, including the production of source material, and nine (9) additional members more advanced within their regions in the technology of atomic energy, including the production of source material, so that the total number of designated seats will be distributed among the under-mentioned areas as follows:

(1) Latin America	2
(2) Western Europe and Others	8
(3) Eastern Europe	2
(4) Africa	2
(5) Asia	5

2.-The General Conference shall elect to membership of the Board of Governors twenty-six members, with due regard to equitable representation on the Board as a whole of the members in the areas listed¹ in subparagraph 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 representative of the area of Western Europe and Others, three representatives of the area of Eastern Europe, six representatives of the area of Africa, and eight representatives of the area of Asia. A member in this category can be eligible for immediate re-election in the same category to the regional seats on the Board within the limitation of two terms".

IAEA BOARD OF GOVERNORS COMPOSITION

<u>Regions</u>	<u>States</u>	<u>Present</u>			<u>Future</u>			<u>Increase</u>
		<u>Des.</u>	<u>El.</u>	<u>Total</u>	<u>Des.</u>	<u>El.</u>	<u>Total</u>	
Lat.Am	20	1	5	6	2	5	7	1
WEOG	27	7	4	11	8	4	12	1
Eur.Or.	17	1	3	4	2	3	5	1
Africa	28	1	4 1/3	5 1/3	2	6	8	2 2/3
Asia	33	3	5 2/3	8 2/3	5	8	13	4 1/3
<u>Total</u>	<u>125</u>	<u>13</u>	<u>22</u>	<u>35</u>	<u>19</u>	<u>26</u>	<u>45</u>	<u>10</u>

Explanation

1.-There is an increase of 10 seats in the Board, 6 designated and 4 elected. The Board will have 45 seats, 19 designated and 26 elected. There is, therefore, an adequate balance between designated and elected seats

2.-Latin America, WEOG and eastern Europe will have one additional designated seat each. Africa will have one additional designated seats and 1 2/3 additional elected seats, and Asia two additional designated seat and 2 1/3 additional elected seats. In this way, the mandate of resolution GC(XXV)/RES/398. of 26 September 1981, has been fulfilled, since 7 of the 10 additional seats are given to Africa (2 2/3) and Asia (3 1/3), in which MESA has been embodied. The distribution according to the geographical criterion is equitable and more or less proportional to the membership in each of the 5 Groups (unlike the present distribution which is arbitrary and keeps no proportionality with membership in the 8 artificial groups).

3.-WEOG absorbs the North America Group (USA and Canada), plus Australia and New Zealand. The new Group Asia will embody MESA, Far East and South East Asia and the Pacific (with the exception of Australia and New Zealand).

4.-The geographical allocation of seats is simplified since there are no longer fractions. The principle of re-election is maintained, although reduced to one additional term of duty.

INFORMAL AMENDMENT BY SPAIN TO THE INFORMAL DOCUMENT
ON ARTICLE VI SUBMITTED BY PAKISTAN

Paragraph A.1

Replace the second subparagraph by the following text:

(1) Latin America	2
(2) Western Europe and Others	8
(3) Eastern Europe	2
(4) Africa	2
(5) Asia	5

RATIONALE

1) The 8 regional groups, which are constituted in an artificial way, are replaced by the usual distribution in UN practice of 5 regional groups.

2) The same ratio of distribution as in the Pakistani proposal is maintained. Thus, the 8 members of the WEOG correspond to 5 members from Western Europe, 2 Members from North America (USA and Canada) and one member from South Asia and Pacific (Australia). The 5 members of Asia corresponds to the 2 members from MESA and the 3 members from Far East.

Vienna, 5 August 1996

