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### COMMITTEE OF THE WHOLE

#### RECORD OF THE THIRD MEETING

Held at the Austria Center Vienna  
on Wednesday, 1 October 1997, at 10.25 a.m.

Chairman: Mr. STRATFORD (United States of America)

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[\*] GC(41)/28.

Abbreviations used in this record

GRULAC	Latin American and Caribbean Group
MESA	Middle East and South Asia

INTERNATIONAL INITIATIVE FOR THE CHERNOBYL SARCOPHAGUS (resumed)  
(GC(41)/COM.5/6)

1. The CHAIRMAN drew attention to the draft resolution contained in document GC(41)/COM.5/6, the adoption of which had been deferred at the previous meeting.
2. Mr. KAYSER (Luxembourg), speaking on behalf of the European Union, proposed that the words “have committed” in preambular paragraph (d) be replaced by “are committed to raise”.
3. Mr. SNYDER (United States of America) requested time for consultations on the proposed amendment.
4. It was so agreed.

STRENGTHENING OF THE AGENCY'S TECHNICAL CO-OPERATION ACTIVITIES  
(resumed)  
(GC(41)/14, GC(41)/COM.5/3)

5. Mr. ŠTULLER (Czech Republic) said that, as one of the Committee's Vice-Chairmen, he had presided over a contact group meeting on the draft resolution submitted by Brazil on behalf of the Group of 77 in document GC(41)/COM.5/3. The contact group had had before it a written version of the suggestions made by the Chairman at the Committee's previous meeting and a number of further suggestions. Agreement had been reached on operative paragraphs 2 and 6 of the draft resolution, but further consultations were needed on preambular paragraphs (g) and (h).

ARTICLE VI OF THE STATUTE  
(GC(41)/11 and Add.1-2, GC(41)/23, GC(41)/24, GC(41)/COM.5/12, GC(41)/COM.5/14)

6. Mr. MACKINNON (Canada), speaking on behalf of the Chairman of the Board of Governors, reviewed the deliberations that had taken place at the September session of the Board on the Article VI issue. There were two reports before the General Conference, one by the Board (GC(41)/23) in response to resolution GC(40)/RES/20 and

the other by the Chairman of the Board (GC(41)/24) in response to a presidential statement concerning the composition of regional groups (decision GC(40)/DEC/14).

7. There had been intensive discussions at both the June and the September session of the Board with a view to meeting the wishes of the General Conference, but unfortunately no agreement had been reached. The Chairman of the Board had engaged in extensive consultations throughout the year, but had found little scope for agreement. He had concluded that the only way of dealing with the long-standing questions involved was to put together a package of measures which might secure acceptance. The "Chairman's package" had been discussed together with a proposal submitted by Sudan on behalf of the African Group, but no agreement had been reached.

8. Mr. MIŠÁK (Slovakia) recalled that, after approval by the General Conference, any amendment to the Statute had to be accepted by two thirds of the Agency's Member States before it entered into force. It therefore had to be very widely acceptable. In his delegation's view, in order to be very widely acceptable any amendment to Article VI of the Statute would have to offer a fair, long-term and comprehensive solution of the Article VI issue.

9. The Eastern Europe Group was underrepresented in the Board of Governors despite its members' active participation in the work of the Agency and the major nuclear programmes under way in Eastern Europe. In fact, if nuclear activities were taken into account, it was more underrepresented than the African Group and the MESA Group; there were more than three East European countries with either research reactors or power reactors to every seat on the Board assigned to Eastern Europe.

10. The Eastern Europe Group had opened itself up to all new States in its geographical area, and it would like to see the MESA Group doing the same in the interests of co-operation among and the sovereign equality of Member States.

11. Commending the efforts of the African Group and Canada to find a solution to the Article VI issue, he said that the basis of Slovakia's approach to that issue was that every Member State should have a fair chance of becoming a member of the Board. However,

support from all regional groups was a prerequisite for the acceptance of any proposal; a proposal that was incompatible with the views of an entire regional group would run counter to the spirit of co-operation that existed in the Board. Moreover, to be acceptable to all regional groups, a proposal must ensure fair geographical representation in the Board and reflect the level of use of nuclear energy in different parts of the world.

12. The regrettable failure to reach a consensus in the Board indicated that more consultations were needed among the regional groups. That was the idea underlying the draft resolution contained in document GC(41)/COM.5/12.

13. Mr. EL FADHEL KHALIL (Tunisia), introducing the draft resolution submitted by his country on behalf of the African Group and contained in document GC(41)/COM.5/14, said that it corresponded precisely to the mandate given to the Board by the General Conference at its fortieth session. The African Group was fully behind it as a statement of the right - recognized for over 21 years - of the Agency Member States belonging to the African Group and the MESA Group to increased representation in the Board. It constituted an attempt to rectify the present situation, although it did not completely meet the wishes of the African Group, whose membership within the Agency was likely to increase in the years to come.

14. The African Group was not against a package approach to the Article VI issue and appreciated the efforts which had gone into the creation of the "Chairman's package". In its view, however, the time was not right for the linkage which was such a prominent feature of that proposal. The Board expansion element had been on the table for over 20 years, whereas the other two elements of the package had been on the table for only two years. The Board should be expanded forthwith, in the interests of justice and the rectification of past mistakes.

15. As regards the question of the composition of regional groups, the Board could continue studying it in the light of - for example - developments in the Middle East peace process, but it should be borne in mind that no regional group could be forced to accept a member against its will. That position was supported by information which the United

Nations Office of Legal Affairs had provided to the Secretariat, as mentioned in paragraph 17 of the Attachment to document GC(40)/11 submitted to the General Conference in 1996.

16. Ms. LETTS (Australia), noting that her country was a sponsor of the draft resolution contained in document GC(41)/COM.5/12, expressed support for the statement made by the representative of Slovakia.

17. Her delegation had concluded from the discussions at the September session of the Board, where it had supported the "Chairman's package", that a solution to the Article VI issue was still some way off and that further, wide-ranging discussions were necessary. Accordingly, the draft resolution in document GC(41)/COM.5/12 referred not only to the proposals submitted by Sudan on behalf of the African Group and by Canada but also to the proposal submitted earlier by Morocco. In her delegation's view, the Board needed more time and there was no alternative but to refer the Article VI issue back to it.

18. Mr. WÓJCIK (Poland), expressing support for the draft resolution in document GC(41)/COM.5/12, said that Poland belonged to a regional group whose membership had doubled in recent years and that half of the group's members had nuclear power plants in operation. From the point of view of arithmetical logic, the group's representation in the Board should be considerably enlarged and there should consequently be an increase in the Board's overall membership.

19. That having been said, one had to admit that the Board had been dealing effectively with challenges of crucial importance for the world nuclear community and that the present size of the Board had not adversely affected its ability to reach sound consensus-based decisions.

20. The situation of nuclear power in many countries was a difficult one, and the geography of nuclear power had changed - and was likely to change further. In the present fluid situation, all aspects of the Article VI issue should be considered by the Board with a view to producing a compromise package which reflected the concerns of all regional groups.

21. Ms. KOŠTÁLOVÁ (Czech Republic) said that her country, also a sponsor of the draft resolution in document GC(41)/COM.5/12, had supported the “Chairman’s package” in the Board of Governors and was still convinced that its various elements should be dealt with together. Most - perhaps all - of the Eastern Europe Group’s members took a similar view.

22. Mr. de OURO-PRETO (Brazil), speaking on behalf of the Group of 77, said that the Group had decided, following consultations, to support the draft resolution in document GC(41)/COM.5/14 if the preamble was slightly amended. In its view, the draft resolution responded to the interests of the MESA Group, the African Group and GRULAC.

23. Mr. HALIM MOHAMED (Sudan) said that the Board had failed to find a solution to the Article VI issue and make a recommendation for increasing the Board’s membership because the Open-ended Consultative Group established by it had introduced two extraneous questions. As regards the question of the composition of regional groups, the United Nations Office of Legal Affairs had made it clear that the composition of each regional group was a matter exclusively for the members of that group - and one regional group had decided that the time was not right for its membership to change. The question could not be resolved by the Board in the present political climate.

24. If any progress was to be made on the Article VI issue, the Board expansion question should be dealt with separately. The proposal submitted by Sudan on behalf of the African Group dealt only with that question.

25. Mr. PETROV (Bulgaria) said that, although the present composition of the Board represented a delicate balance and the Board had been functioning effectively for many years, one should not ignore political and geographical realities and the desire of a number of countries to be better represented on the Board.

26. Although the “Chairman’s package” by no means met the legitimate demands of the Agency’s East European Member States for increased representation in the Board, it was realistic and balanced - and Bulgaria was prepared to support it in a spirit of compromise.

27. If agreement could not be reached at the present juncture, consultations should continue in the Open-ended Consultative Group. In that connection, his delegation favoured adoption of the draft resolution contained in document GC(41)/COM.5/12.

28. Mr. TAHER (Libyan Arab Jamahiriya) said that the composition of the Board should be expanded in order to take into account present-day realities. The representation of African countries, in particular, should be increased as envisaged in the draft resolution submitted on behalf of the African Group.

29. Ms. OGNJANOVAC (Croatia) said that, although her delegation could understand the grievances voiced by many Member States, including the African ones, it continued to believe that a package solution was the most realistic approach to the complex Article VI issue.

30. In view of the fact that serious differences of opinion persisted, the best thing the Conference could do at the present juncture was probably to adopt the draft resolution submitted by Australia, the Czech Republic and Slovakia.

31. Mr. TIWARI (India), speaking as Chairman of the MESA Group, said that in General Conference resolution GC(40)/RES/20 the Board had been given a mandate to discuss the question of the Board's size and composition - not other, extraneous matters. During the past six months, however, not enough account had been taken of the legal opinion referred to in paragraph 17 of the Attachment to document GC(40)/11 - namely, that "the composition of the various groups is entirely in the hands of the groups themselves".

32. The African Group and the MESA Group shared the views of the Eastern Europe Group concerning the need for an increase in representation on the Board. However, they had been suffering injustice for longer than the Eastern Europe Group and their demands should therefore have priority.

33. Mr. OTHMAN (Syrian Arab Republic), endorsing the comments made by the representative of India and expressing support for the draft resolution submitted by

Tunisia on behalf of the African Group, said that the question of Board expansion should not be clouded by other, extraneous questions.

34. Mr. SANTER (Luxembourg), speaking on behalf of the European Union, said that it was regrettable that the Board had been unable to find a solution acceptable to all. For its part, the European Union could only accept a solution which provided for - besides an increase in the membership of the Board - a redefinition of the criteria for Board designation and a guarantee that every Member State could belong to the regional group corresponding to its geographical location.

35. Accordingly, although it had been pleased to hear the delegate of Tunisia say that the African Group was not against the package approach to the Article VI issue, it felt that adoption of the draft resolution submitted by Tunisia on behalf of the African Group would - unlike adoption of the draft resolution submitted by Australia, the Czech Republic and Slovakia - render such an approach unfeasible.

36. Mr. FREEMAN (United Kingdom) said that in his delegation's view a solution acceptable to all would have to be on the lines of the "Chairman's package".

37. Mr. SABURIDO (Cuba), expressing support for the statement made by the representative of India on behalf of the MESA Group, said that the regional group composition question should not be allowed to intrude on the question of enlarging the Board.

38. Mr. TITKOV (Russian Federation) said that, in its present form, the Statute represented an important political compromise among the Agency's Member States, reflecting - in a balanced manner - the real situation in the world at large and also the state of affairs with regard to the peaceful utilization of atomic energy and to nuclear non-proliferation.

39. The effectiveness of the Agency depended entirely on the effectiveness of the Board. So far, the Board had worked very effectively, and in his delegation's view there was consequently no urgent need to make changes in its size and composition.

40. Of the proposals made in recent years for amending Article VI, the "Chairman's package" was in his delegation's view the most interesting; although far from ideal, it provided an acceptable basis for consensus.

41. From the current discussions, however, it was clear that consensus would be extremely difficult to achieve at present; more time was needed for the resolving of differences. His delegation therefore favoured adoption of the draft resolution submitted by Australia, the Czech Republic and Slovakia.

42. Mr. UMER (Pakistan), having expressed support for the draft resolution submitted by Tunisia on behalf of the African Group, said he was disappointed that the present session of the General Conference, which he had expected to mark the culmination of the process of amending Article VI, was in danger of producing no positive results. The Committee should at least attempt to make progress in areas where progress was possible - perhaps through the mechanism of a contact group.

43. Mr. AL-TAIFI (Saudi Arabia), having expressed support for the statement made by the delegate of Tunisia, said that his delegation was prepared to accept the draft resolution submitted on behalf of the African Group if it was amended in the manner envisaged in a letter which the Resident Representative of Saudi Arabia had addressed to the Director General on 29 July 1997.

44. Mr. SARWAT (Egypt), having expressed sympathy for the position of the MESA Group, said that the Article VI issue could not be resolved through the linking of disparate elements.

45. Canada's proposal for expanding the Board did not, in his delegation's view, do enough for Africa, despite the fact that the General Conference had in various resolutions - especially resolution GC(XXV)/RES/389 - recognized the under-representation of Africa. Since the adoption of resolution GC(XXV)/RES/389, in 1981, Africa's situation had deteriorated as a result of the increase in the number of African Member States, and it would deteriorate further as additional African countries joined the Agency. A formula must be found soon for putting an end to the under-representation of Africa and other

under-represented areas - a problem whose solution should not be made dependent on a solution being found to another, far more intractable, problem.

46. Mr. ABRAHAMSEN (Denmark) said it was unfortunate that, despite considerable efforts, a consensus was not emerging on the “Chairman’s package”. Under the circumstances, his delegation favoured adoption of the draft resolution submitted by Australia, the Czech Republic and Slovakia.

47. Mr. POSTA (Hungary), expressing support for the draft resolution contained in document GC(41)/COM.5/12, said that his country was not unhappy with the size of the Board as it stood. In view of the growing support for expansion, however, it had decided to adopt a flexible position and would consider favourably any proposal for a slight expansion which improved the representation of under-represented areas, including Eastern Europe, and took into account the fact that countries with significant nuclear activities should have a greater possibility of participating in the Board’s deliberations. To some extent, the “Chairman’s package” was such a proposal, and his delegation felt that it could provide a good basis for future discussions.

48. Mr. NEDERLOF (Netherlands) said that the failure of the Board to present a consensus proposal to the General Conference did not mean that there had been no progress at all in the past year. All regional groups had acknowledged the need for a small increase in the Board’s membership.

49. A substantial number of Member States, including the Netherlands, believed that the question of Board expansion could not be solved unless solutions were found to two other questions - the regional group composition question and the designation criteria question. To those who challenged that position, pointing out that the Board expansion question had been under consideration for over 20 years, he would point out that the regional group composition question was still unsolved after 40 years.

50. Consensus on the Article VI issue was clearly still some way off, and his delegation therefore favoured adoption of the draft resolution submitted by Australia, the Czech Republic and Slovakia.

51. Mr. ZALKALIANI (Georgia) said that his delegation was in favour of the package approach and consequently supported the draft resolution submitted by Australia, the Czech Republic and Slovakia.

52. Mr. LABROSSE (France), expressing support for the draft resolution submitted by Australia, the Czech Republic and Slovakia, noted that preambular paragraph (d) of the draft resolution submitted on behalf of the African Group spoke of “the urgent need to implement all relevant General Conference resolutions and decisions relating to the amendment of Article VI” and said he took it that the resolutions and decisions in question were meant to include resolution GC(39)/RES/22 adopted in 1995 and decision GC(40)/DEC/14 whereby the General Conference had in 1996 endorsed a statement made by its President; that resolution and that decision related to the regional group composition question - a question which had existed as long as the Agency and could not be ignored in discussions about amending Article VI.

53. Mr. WERNHOFF (Sweden), expressing support for the draft resolution submitted by Australia, the Czech Republic and Slovakia, said that in his delegation’s view it was important to find a balanced consensus solution to the Article VI issue and the “Chairman’s package” represented the best basis for finding such a solution.

54. Ms. TATIKIAN (Armenia), expressing support for the draft resolution submitted by Australia, the Czech Republic and Slovakia, said that the membership of the Eastern Europe Group had almost doubled in recent years, with the result that the Group was now seriously under-represented on the Board, even though ten East European countries had nuclear power reactors in operation. The Group should have more seats - particularly elective ones - on the Board.

55. Mr. DAHMANI (Algeria) said that the Article VI issue could be resolved only if the legitimate aspirations of the Agency’s developing Member States - especially of those in Africa - were properly taken into account.

56. Mr. KEMPEL (Austria) said that the Agency’s reputation for excellence was undoubtedly due in no small measure to the compactness of the Board. In a changing

world, however, there was a need for an increase in the size of the Board without undermining of that reputation for excellence. Austria's position, therefore, was that any expansion of the Board should be the minimum compatible with adequate representation - and should be such as to lay the Article VI issue to rest for many years to come.

57. In his delegation's view, the "Chairman's package" and the draft resolution submitted by Australia, the Czech Republic and Slovakia pointed in the right direction.

58. Mr. PERRIN (Switzerland) said that his delegation, which had declared its support for the "Chairman's package" in the Board of Governors, was in favour of the Conference's adopting the draft resolution submitted by Australia, the Czech Republic and Slovakia.

59. Mr. SNYDER (United States of America), expressing support for the draft resolution submitted by Australia, the Czech Republic and Slovakia, said that the United States had long opposed any expansion in the membership in the Board. The "Chairman's package" made expansion possible, however, as it offered a way of resolving a long-standing anomaly within the Agency: the fact that some Member States were unable to participate in the work of the Board because they had not been accepted into any regional group. The "Chairman's package" should not be regarded as an obstacle to expansion, but as the means whereby all Member States, including those long opposed to expansion, could envisage it.

60. Mr. BENMOUSSA (Morocco) - having thanked the Chairman of the Board and the Ambassadors of Japan, Turkey and Denmark for their efforts in connection with the Article VI issue - recalled that preambular paragraph (f) of resolution GC(40)/RES/20 adopted by the General Conference in 1996 read: "Taking note with satisfaction of the progress achieved in this regard within the Open-ended Consultative Group, where good prospects exist for a consensus". It was in the light of those "good prospects" that the General Conference had agreed to allow more time for discussion of that issue. His delegation had acquiesced because it had been convinced that the Agency's fortieth anniversary would provide the special momentum necessary for putting an end to the

discussion, which had occupied Member States for over 20 years - compared with the six years which had been necessary for drawing up the United Nations Convention on the Law of the Sea and the seven or eight years which had been necessary for producing the voluminous document on which the World Trade Organization was based.

61. The only explanation for the longevity of the Article VI issue was a lack of good will on the part of some States. A body did not necessarily become less effective by becoming more representative, and it was absurd that countries like Ukraine and the Republic of Korea should not be represented on the Board and that Africa and MESA should be under-represented.

62. The draft resolution submitted by Australia, the Czech Republic and Slovakia was disappointing, and he even objected to operative paragraph 3; the fact that the formal proposal submitted by the Kingdom of Morocco was still before the General Conference was self-evident, and in 1996 the proposal had been "welcomed".

63. Commenting on the "Chairman's package", he said that adoption of the Canadian proposal for amending Article VI - which constituted part of that package - would require a two-thirds majority in the Conference. Its adoption would mean the imposition of a particular arrangement on a certain regional group - something which the members of that group would never accept, whatever the size of the majority in the Conference. It was therefore essential to engage in dialogue.

64. The CHAIRMAN said that after all Committee members who wished to speak under item 20 had done so, he would convene a contact group meeting, leaving Mr. Štuller, Vice-Chairman (Czech Republic), to preside over the Committee.

65. In connection with the draft resolution in document GC(41)/COM.5/14, he said that a number of minor amendments put forward by Brazil on behalf of the Group of 77 would have to be incorporated. As regards operative paragraph 1, which referred to "the proposal ... in document GC(41)/11", the Legal Advisor believed that the paragraph should specify that the proposal was contained in Appendix IV to document GC(41)/11. In addition, the Legal Advisor considered that the wording of operative paragraph 2 should be

changed from “Amends Article VI of the Statute” to something on the lines of “Approves the amendment of Article VI of the Statute set forth in ...”.

66. Mr. EL FADHEL KHALIL (Tunisia) said that preambular paragraph (h) should have referred to Appendices II and IV to document GC(41)/11.

67. Following consultations within the Group of 77, the draft resolution contained in document GC(41)/COM.5/14 was in any case being withdrawn in favour of a draft resolution to be submitted by Brazil on behalf of the Group of 77.<sup>1</sup>

68. Mr. CRONJE (South Africa) said that in his delegation’s view to submit a package in the knowledge that certain elements of it were completely unacceptable to some Member States was tantamount to blocking progress. The elements in the “Chairman’s package” should be addressed separately, and he hoped that the contact group would bear that in mind.

69. Mr. AMIRKHIZI (Islamic Republic of Iran) said that, although his delegation was grateful to the sponsors of the two draft resolutions before the Committee, one of those draft resolutions did not reflect reality as it implied the continued consideration of a package widely deemed to be inappropriate. The Article VI issue would not be resolved on the basis of that package, which linked the Board expansion question to the regional group composition question. Within the Agency, the composition of each regional group was a matter that rested primarily with the group itself, which had the right to accept or reject the membership request of any country.

70. The other draft resolution, submitted on behalf of the African Group and supported by the Group of 77, focused on the Board expansion question, on which the time had come to take a decision after more than 20 years of debate. It was unfair to allow a legitimate request for Board expansion in response to the increased membership of the Agency to become a hostage to a recent request that did not have the backing of the members of the regional group which, if that request were acceded to, would be the most affected.

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<sup>1</sup> This draft resolution was subsequently issued in document GC(41)/COM.5/15.

71. Mr. HERRERA ANDRADE (Mexico) said that, while supporting the draft resolution submitted on behalf of the Group of 77, his delegation believed that one should be sensitive not only to geographical realities but also to technical realities: one geographical reality was that Africa and MESA had a right to increased representation in the Board; one technical reality was that the number of East European Member States with operating nuclear power reactors had grown. Furthermore, political realities had to be taken into account.

72. If, within the Agency, safeguards could be regarded as being linked to technical co-operation, then the Board expansion question could be regarded as being linked to the regional group composition question. However, the latter question had specific aspects that should perhaps be studied by a group devoted only to that question, not to the Board expansion question as well, although the two questions could perhaps be subsequently considered together as part of a package approach.

73. Ms. MOSLEY (New Zealand), expressing support for the draft resolution submitted by Australia, the Czech Republic and Slovakia, said that New Zealand, which was sympathetic to the position of countries which felt that the Board's composition did not meet their needs, could go along with a modest increase in the Board's size, even though it did not consider the Board to be too small as it stood. At the same time, it was convinced that changes to Article VI would be agreed upon only when all Member States felt that the outcome satisfied their national interests. The "Chairman's package" was the only possible basis for a compromise solution, and her delegation fully supported it.

The meeting rose at 12.55 p.m.