

International Atomic Energy Agency

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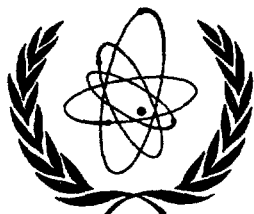
Thirty-second regular session
Item 18 of the provisional agenda
(GC(XXXII)/834)

REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE

1. On 15 September 1988, the Board of Governors agreed to the transmission to the General Conference of the appended report of the informal working group to examine different proposals on the revision of Article VI of the Statute as a whole established by the Board in September 1987 pursuant to General Conference resolution GC(XXXI)/RES/484.
2. The summary records of the Board's discussions under this item since the Conference's 31st regular session are also appended.

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International Atomic Energy Agency

GENERAL CONFERENCE

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Appendix 1
Attachment

GC

GC(XXXI)/806
24 August 1987

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Thirty-first regular session
Item 16 of the provisional agenda
(GC(XXXI)/799)

REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE

Report by the Board of Governors

1. In October 1986, the General Conference, in resolution GC(XXX)/RES/467, required the Board "to establish, with no financial implications, an informal working group open to all Member States in order to examine different proposals on the revision of Article VI of the Statute as a whole with a view to preparing a report to be submitted through the Board to the General Conference at its next regular session".
2. The report by the Chairman of the working group is attached, together with the summary record of the Board's discussion under this item in June.

REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE

INFORMAL WORKING GROUP TO EXAMINE DIFFERENT PROPOSALS
ON THE REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE

Report of the working group

Background

1. In September 1987, pursuant to General Conference resolution GC(XXXI)/RES/484, the Board of Governors re-established "an informal group open to all Member States in order to continue to examine different proposals on the revision of Article VI of the Statute as a whole". In February 1988, the Board's Chairman informed the Board that he had asked the Resident Representative of Brazil, Ambassador Proença Rosa, to chair the working group and that Ambassador Proença Rosa had accepted.
2. During the period March–September 1988 the group held nine meetings, and representatives of over 30 Member States took part in its deliberations.
3. The climate in the working group – which took as the starting point for its discussions the report of Ambassador Cuevas Cancino on the deliberations of the working group which met under his chairmanship in 1987 (see document GC(XXXI)/806, a copy of which is attached) – was constructive, and there was a wide-ranging exchange of opinions.
4. The only formal proposal for a revision of Article VI as a whole before the working group was that made by Italy, Belgium, Portugal, Spain and Sweden in 1986 (see Annex 1 to Attachment 1 to document GC(XXXI)/806). In addition, three informal papers were submitted to the working group (they are annexed to

the present report, together with the text of the oral report presented by Ambassador Proença Rosa to the Board in June).

5. From the working group's discussion on the issue of expanding the Board, three considerations emerged as being of over-riding importance: (a) the political balance within the Board; (b) the equitable representation of Member States; and (c) the effectiveness and efficiency of the Board. This discussion is described in paragraph 10 below.

6. The principal focus of the working group's subsequent deliberations was initially on Article VI.A.1 and later on Article VI.A.2: as regards Article VI.A.1, the main issues addressed in the working group were the consequences of applying Article VI.A.1 as presently worded, the principle of designation of Board members and the criteria for designation; as regards Article VI.A.2, the main issues addressed were the issue of equitable representation and that of eligibility or non-eligibility for immediate re-election. Subsequently, the working group discussed the areas referred to in Article VI.

7. Finally, the working group considered the possibility of making more extensive use of open-ended Board committees.

8. The working group's discussions on these issues are described in paragraphs 9-21 below.

Issues

Expansion of the Board

9. With regard to this issue there were two different schools of thought. On one hand, the sponsors of the formal proposal for revising Article VI as a whole (see paragraph 4 above), supported by some other members, reaffirmed their conviction that the proposal represented the only feasible and balanced

way of meeting the long-standing and justified wish of an increasing number of States to participate fully in the work of the Board. On the other, some members stated that a significant expansion of the Board might well reduce the Board's effectiveness and efficiency – particularly as regards the reaching of decisions by consensus.

10. Some members stressed that the present political balance within the Board and also the balance between – on one hand – technical advancement in the nuclear field and – on the other – geographical representation should not be disturbed. Some other members did not share that view.

The application of Article VI.A.1

11. Some members felt that Article VI.A.1 as presently worded gave rise to uncertainty – for example, (a) there were no clear criteria for applying it and (b) it could produce fluctuations in the number of designated Board members and hence in the size of the Board. Some other members considered that the risk of such fluctuations was largely theoretical and that Article VI.A.1 as presently worded – although not perfect – had worked satisfactorily.

The principle of designation

12. The principle of the designation of some Member States for membership on the Board (embodied in Article VI.A.1 of the Statute and implicit in all relevant formal and informal documentation before the working group) was not generally contested; in fact, it was widely considered that the designation of Member States for membership on the Board had benefited the Board's operation. At the same time, the view was expressed that there should be no bodies with designated members within the United Nations system. In this connection, attention was drawn to the principle of the sovereign equality of all Member States, referred to in Article IV.C.

Criteria for designation

13. This issue was considered to be a very important and complex one, and there was substantial discussion of the phrase "most advanced in the technology of atomic energy including the production of source materials". Regarding the words "most advanced in the technology of atomic energy", differing views were put forward as to how they should be interpreted – for example, it was suggested that they implied "possessing the capacity to build nuclear power plants", or "having mastered all stages of the nuclear fuel cycle, or "advanced in the whole range of peaceful applications of atomic energy", or "capable of making a major contribution to the fulfilment of the Agency's tasks". Regarding the words "the production of source materials", the view was expressed that "advanced in the production of source materials" did not necessarily mean the same as "possessing large reserves of source materials"; however, some members were not of that view.

Equitable representation

14. Differing views were expressed as to the meaning of "equitable representation on the Board as a whole" in Article VI.A.2(a), particularly as to whether the words implied representation proportionate to the number of Member States in the various areas – i.e. that an area with, say, twice as many Member States in it as another area should have twice as many seats on the Board.

15. In this context, the African representatives in the working group reiterated their position that the long-standing under-representation of Africa contradicted the letter and spirit of the Statute. While maintaining the formal proposal – made in 1977 – that three additional seats on the Board be created for Africa and two for the Middle East and South Asia (see document GC(XXI)/584), the African members of the group nevertheless stated that they were not opposed to other proposals for enlarging the Board provided that the

present imbalance was corrected and that Africa was not under-represented in an enlarged Board. At the same time, they reiterated their position that the separate and distinct identity of the agenda item "Amendment of Article VI.A.2 of the Statute" – which has now been before the Board and the General Conference for over a decade – should be retained.

Re-election

16. There was a widespread feeling in the working group that the provision – in Article VI.A.2(a) – that "No member in this category in any one term of office will be eligible for re-election in the same category for the following term of office ..." was unduly restrictive and unnecessary. However, some members felt that the issue needed to be examined further.

The areas referred to in Article VI

17. Some members of the working group felt that, while the division of the Agency's membership into the eight areas referred to in Article VI may have suited the world political situation 30 or so years ago, it was now no longer appropriate; they pointed out that such a division of membership did not exist in any other United Nations organization. Other members were in favour of retaining those eight areas. Other ways of dividing up the Agency's membership were briefly discussed, but no specific proposals were made.

Open-ended committees

18. The working group examined the first sentence of Article VI.I in the light of a legal opinion provided by the Legal Division and came to the conclusion that, as the Board is master of its own procedures, it could make committees such as the Technical Assistance and Co-operation Committee (TACC) and the Administrative and Budgetary Committee (A&BC) open-ended (or change

their composition in some other way) without there being any amendment of the Statute. However, several members of the working group stressed that making TACC and/or the A&BC open-ended could be no substitute for revising Article VI.

19. Differing views were expressed regarding the advisability of making TACC and the A&BC open-ended. The conclusion of the working group was that there should be no difficulties about the wider participation of Member States in meetings of TACC and the A&BC when it is simply a matter of attendance and the expression of views, but that there might well be difficulties if Member States which are not "full members" of those committees wish to participate in the decision-taking process, even if the decision is to be taken by consensus (rather than by voting).

20. While appreciating that the question of the widening of participation in the meetings of Board committees lay outside its mandate, the working group suggests that the Board examine this question as – in the working group's opinion – the wider participation of Member States in such meetings could well benefit the Agency. In this connection, the working group took note of the legal opinion (see paragraph 5 in Annex 2) that "A different composition of TACC and/or the A&BC could simply be effected by the adoption of a new decision by the Board ...".

21. Options for achieving wider participation in the work of TACC and the A&BC include the following: (i) to make these committees open-ended (i.e. to allow all interested Member States to participate in their work as full members with equal rights); (ii) to expand each of them by a given number of seats and, at the same time, to facilitate attendance and the expression of views by non-members; (iii) to constitute TACC and the A&BC with memberships (fixed in terms of numbers) which differ from each other and also from the membership of the Board; and (iv) to facilitate attendance and the expression of views by non-members at meetings of TACC and the A&BC as they are at present constituted.

Conclusion

22. On most of the issues discussed, a wide range of – sometimes conflicting – opinions was expressed, and the working group concludes that, while its discussions have helped to clarify many points, it is not in a position to make any recommendations to the Board regarding the amendment of Article VI.

23. At the same time, the working group believes that a continuation of the discussions which it has had, perhaps within the framework of a successor working group, could prove to be extremely useful. It therefore suggests that the Board consider recommending to the General Conference that it request the Board to establish such a successor working group.

"EQUITABLE REPRESENTATION" UNDER IAEA STATUTE ARTICLE VI:
SOME FACTORS FOR ASSESSMENT

The long-standing debate over IAEA Board composition has reflected a high degree of "subjectivity" concerning which countries or groups of countries might be considered to be "under-represented" in this body. Recognizing that perfect "objectivity" is unattainable, it nevertheless may be useful to analyze certain factors which might bear on the statutory concept of "equitable representation".

It is clear that some factors which might seem relevant to some member states would draw objections from others. This is only to be expected in an organization whose membership reflects wide political, economic and technological diversity. However, such a "factor assessment" might provide some evidence as to whether the current Board composition so fails to reflect any rational pattern of "representation" that it must be discarded.

A note on methodology may be in order. The following analysis is based on the IAEA's current eight geographic regions (plus China). A rearrangement of these areas would be possible; but in view of the nature of this exercise, it was not thought necessary to abandon long-standing and accepted practice in this regard. Also, the analysis is based on the current size of the Board (35 members) to provide the clearest comparative view of different options for Board composition.

(A) Apportionment by Number of Member States

Some advocates of Board expansion have argued that the current assignment of seats fails to reflect the quantitative size of various regions. If this reasoning is accepted, the following composition might be advanced as the most accurate reflection of the "number of states" principle:

<u>Area</u>	<u>Members</u>	<u>Percent*</u>	<u>Seats</u>
(1) NA	2	1.77	2/3
(2) LA	20	17.70	6 1/3
(3) WE	23	20.35	7
(4) EE	11	9.73	3 1/2
(5) AF	27	23.89	8 1/2
(6) MESA	15	13.27	4 2/3
(7) SEAP	7	6.19	2
(8) FE	7	6.19	2
China	1	0.88	1/3

*Percentage of each geographical area of total IAEA membership--113 states.

However, caution may be necessary in using the foregoing figures. Some might argue that the "nominal" or "formal" membership of certain regions could be misleading. Looking behind the "nominal" or "formal" membership statistics, a different picture might emerge. For example, if one seeks to determine "active" or "genuine" participation in the IAEA, the numerically largest area (Africa) could actually be ranked second (behind WE). Africa typically has only 20-22 members represented at the IAEA's annual General Conference; and maintains about 10 diplomatic missions in Vienna to follow IAEA actively (in contrast to 21 for WE, 15 for LA and 9 for MESA).

Further, some might question the complete adequacy of the "number of states" argument in view of the great differences in the size, economic status and nuclear programs of various IAEA members. Thus, it may be appropriate to look at additional factors.

(B) Apportionment by Population

Since member states, after all, represent individual human beings, "equitable representation" might include an assessment of population. Such an analysis would produce the following result:

<u>Area</u>	<u>Percent of Population</u>	<u>Seats</u>
(1) NA	5.5	2
(2) LA	8.4	3
(3) WE	8.5	3
(4) EE	8.7	3
(5) AF	10.1	3 1/2
(6) MESA	24.6	8 1/2
(7) SEAP	5.8	2
(8) FE	6.5	2
China	21.9	8

The approximately 5 billion persons represented by IAEA member governments do not, however, have an equal individual (or even collective) interest in the Agency's activities. The founders of the IAEA thus sought to incorporate the concept of advancement in the technology of atomic energy into their assessment of Board composition. Since this analysis is not evaluating the system of designated seats, an attempt to evaluate the concept of "nuclear development" on a more objective basis may prove interesting.

(C) Apportionment by Level of Nuclear Power Development

There are many ways to evaluate the level various IAEA members have attained in exploiting the potential of nuclear power for electricity production, an important (though not determinative) measure of a nation's civil nuclear development. The IAEA publication "Nuclear Power Reactors in the World" (document IAEA-RDS-2/7) provides some figures on estimated electrical production for the year 1990 in megawatts/electric (MW(e)). Using this analysis, Board composition would look like this:

<u>Area</u>	<u>Percent of IAEA Capacity*</u>	<u>Seats</u>
(1) NA	33.46	12
(2) LA	0.63	1/6
(3) WE	34.98	12
(4) EE	17.52	6
(5) AF	0.53	1/6
(6) MESA	0.49	1/6
(7) SEAP	0.00	0
(8) FE	10.89	4
China	1.49	1/2

*Percentage of total estimated nuclear power capacity of all IAEA member states (about 350,000 MW(e) in 1990).

However, a factor assessment which deprives an existing geographical area of any Board representation whatsoever would be regarded as seriously flawed by most IAEA members. Further, nuclear electricity production is only one aspect of nuclear development. Therefore, additional factors should also be weighed.

(D) Apportionment by Nuclear Research Capability/Experience

Research into the civil uses of nuclear energy, even without nuclear power development, should be reflected in the search for "equitable representation". Finding an objective measurement could generate a complex debate. For example, one might attempt quantification of the uses of isotopes in medicine, agriculture, industry, hydrology, and the like. However, there are so many ways to measure these uses; and the weight to be assigned to each is difficult to calculate. Thus, a focus on research reactor experience may be more manageable. The IAEA has again come to the rescue with its useful publication "Nuclear Research Reactors in the World" (document IAEA-RDS-3/1). The measure used is total years of operating experience with nuclear research reactors. Unfortunately, the data in RDS-3/1 is not complete

(particularly with regard to activities in one very large nuclear state). However, educated estimates give the following general results:

Area	Percent of IAEA Experience**	Seats
(1) NA	40.8	14 1/3
(2) LA	3.9	1 1/3
(3) WE	28.3	10
(4) EE	14.8	5
(5) AF	1.1	1/3
(6) MESA	2.2	2/3
(7) SEAP	1.6	2/3
(8) FE	6.4	2 1/3
China	0.9	1/3

**Percentage of total estimated years of experience by IAEA members with civil research reactors.

(E) Apportionment by Level of Source Material Production

One factor in determining advancement in the nuclear field which receives explicit mention in the IAEA Statute is source material production. There are major difficulties in obtaining absolutely accurate and up-to-date statistics in this regard. For example, the OECD "Red Book" does not cover uranium production for the so-called "centrally-planned economies". Perhaps it is only possible to draw some general conclusions, as follows:

- North America's representation would increase if the "source material" factor is weighed heavily, since Canada is currently the world's largest producer, with the U.S.A. also a major uranium supplier.
- The large production of South Africa and Namibia, and to a lesser extent, Niger and Gabon would make Africa the area having second largest source material production.
- Australia's production of uranium would support a SEAP claim for expanded representation.
- WE also has sufficient past and future uranium production experience to be a positive factor.
- Further information in capacity of EE and China is needed for an adequate assessment.
- The relatively lower level of production in LA, MESA and FE would probably weigh against increased representation for these areas.

(F) Assessed Contribution to IAEA

A final factor which might be considered is the financial support given to the Agency by members in various regions. Although it might not be appropriate to adopt a "one schilling/one vote" principle, neither would it be irrational to argue that those who contribute most toward the Agency's resources should have a greater voice in deciding on how those resources should be used than those who contribute least. If the Agency's assessed contributions were used as a factor for assessing Board membership, the following arrangement would follow:

<u>Area</u>	<u>Percent of Total Assessment</u>	<u>Seats</u>
(1) NA	28.03	10
(2) LA	4.06	1 1/2
(3) WE	34.00	12
(4) EE	15.36	5 1/2
(5) AF	1.40	1/2
(6) MESA	2.94	1
(7) SEAP	2.10	1/2
(8) FE	11.33	4
China	0.78	1/2

Conclusion

The foregoing analysis demonstrates the futility of adopting any single factor as the "touchstone" for achieving an ideal composition for the IAEA Board of Governors. Each of the factors analyzed above produces unacceptable distortions in the Board's membership.

The current assignment of seats has developed in an evolutionary way over the three and a half decades of the Agency's existence. That assignment may not be "perfect", but it has proved efficient and broadly representative of all major interests reflected in the IAEA's membership. As others have said, it also reflects the "delicate political balance" necessary for the effective functioning of the Board.

Therefore, to answer the question posed at the beginning of this paper, it is submitted that this factor-assessment does not support the argument that the Board's current structure and membership is "unrepresentative". It illustrates the difficulty in selecting criteria for changes in the Board's composition which would improve its functioning in any significant manner.

Composition of the Technical Assistance and Co-operation Committee
(TACC) and the Administrative and Budgetary Committee (A & BC):
Legal opinion requested by the informal Working Group on the
Revision of Article VI of the Statute as a Whole

1. At the meeting, on 29 June 1988, of the Informal Working Group on the Revision of Article VI of the Statute as a whole, the Group requested the Legal Counsel to provide legal advice on what decision(s) the Board would need to take in order to achieve broader representation in the Technical Assistance and Co-operation Committee (TACC) and the Administrative and Budgetary Committee (A & BC).

Statutory authority

2. Article VI.I of the statute states inter alia that "[t]he Board of Governors may establish such committees as it deems advisable". Rule 57 of the Provisional Rules of Procedures of the Board of Governors further states:

"The Board may establish such committees and other subsidiary bodies... as it may deem desirable".

Board interpretation of its statutory authority

3. A survey of the practice of the Board with regard to the composition of its committees makes it clear that the Board has interpreted its statutory mandate to comprise the authority to establish committees with membership from outside the Board's own membership. Precedents in this regard are many. Thus, the Board, in 1969, adopted a Resolution in which, it decided "To establish an ad hoc committee, under a chairman to be designated by the Board", and invited "all interested Members of the Agency wishing to do so, to participate in the work of the ad hoc committee"; (Committee on the Use of Nuclear Explosions for Peaceful Purposes) ^{1/}. Also, in 1970, the Board adopted a Resolution in which it decided "to establish a committee, on which any Member State

^{1/} GOV/DEC/57(XII), No. 17.

may be represented if it so desires" (Safeguards Committee (1970)) ^{2/}. Furthermore, in 1980, the Board adopted a Resolution in which it, decided "to establish a committee open to all Member States"; (Committee on Assurances of Supply) ^{3/}.

Establishment of the Technical Assistance and Co-operation Committee (TACC)
and the Administrative and Budgetary Committee (A & BC)

4. The Board has over the years taken a number of decisions relevant to the establishment and composition of the TACC and A & BC. On 19 January 1959 the Board "Decided to set up a Technical Assistance Committee, composed of the Chairman, or in his absence or disability one of the Vice-Chairmen, and those members of the Board as had informed the Secretariat by 16 February 1959 of their wish to be represented on it" ^{4/}. On the same day the Board also "Decided to set up an Administrative and Budgetary Committee, composed of the Chairman, or in his absence or disability, one of the Vice-Chairmen, and such other Members of the Board as the Chairman might designate after appropriate informal consultations" ^{5/}.

On 28 September 1976, however, the Board "Decided that for 1976/77, as an experiment, the Administrative and Budgetary Committee and the Technical Assistance Committee should be constituted as committees in which any Members of the Board could participate without formal application" ^{6/}. That decision was confirmed by the Board on 30 September 1977, when it "Decided that for 1977/78 the Administrative and Budgetary Committee and the Technical Assistance Committee should continue to be constituted as open-ended committees of the Board in which all Members of the Board could participate without prior notification" ^{7/}, and again, on 25 September 1978, when the Board "Decided that for 1978-79 the Administrative and Budgetary Committee and the Technical Assistance Committee should continue to be constituted as open-ended committees of the Board" ^{8/}. Since that time, however, no other

^{2/} GOV/DEC/61(XIII), No 23.

^{3/} GOV/DEC/107(XXIII), No 33.

^{4/} GOV/DEC/10(II), No 52.

^{5/} GOV/DEC/10(II), No 53.

^{6/} GOV/DEC/91(XX), No 5.

^{7/} GOV/DEC/95(XXI), No 5.

^{8/} GOV/DEC/101(XXII), No 5; see also GOV/DEC/115(XXV), No 8, which changed the name of the Technical Assistance Committee to the "Technical Assistance and Co-operation Committee".

decisions were adopted by the Board concerning the composition of either of these two Committees. It may be assumed that each subsequent Board has implicitly endorsed the decision of the 1978 Board relating to the composition of these two Committees.

Decisions by the Board necessary to achieve broader representation in TACC and the A & BC

5. The Board is the master of its own procedures. A different composition of the TACC and/or the A & BC could simply be effected by the adoption of a new decision by the Board which will remain in force unless and until superseded by another Board decision.

**"NON-PAPER" FOR THE INFORMAL WORKING GROUP ON THE
REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE**

**Division of the present membership of the Board of Governors
into five groups according to United Nations classification**

In response to a request made at the informal working group's 29 June meeting, the Secretariat shows below the present membership of the Board divided into five groups which are generally recognized within the United Nations: (a) Africa, (b) Asia, (c) Western Europe and Others, (d) Latin America and (e) East European Socialist. The classification is based on the Annex to United Nations General Assembly resolution 2904 adopted on 26 September 1972 and document IDB/S.2/3 dated 20 June 1988 of UNIDO's Industrial Development Board (it should be noted, however, that African and Asian countries are combined in a single group in both of these; also, Yugoslavia appears in that group).

<u>(a) Africa</u>	<u>(b) Asia</u>	<u>(c) Western Europe and Others</u>	<u>(d) Latin America</u>
Egypt	China	Australia	Argentina
Libyan Arab Jam.	India	Canada	Brazil
Madagascar	Indonesia	France	Chile
Nigeria	Iraq	Germany, Fed. Rep. of	Colombia
Senegal	Korea, Rep. of	Ireland	Cuba
	Kuwait	Japan	Venezuela
	Saudi Arabia	Spain	
	Thailand	Sweden	
	Yugoslavia	Switzerland	
		Turkey	
		United Kingdom	
		United States	
<u>(e) East European Socialist</u>			
Bulgaria			
Hungary			
USSR			

The full membership of the Agency is shown below in the same grouping:

(a) <u>Africa</u>	(b) <u>Asia</u>	(c) <u>Western European and Others</u>	(d) <u>Latin America</u>
Algeria	Afghanistan	Australia	Argentina
Cameroon	Bangladesh	Austria	Bolivia
Côte d'Ivoire	Burma	Belgium	Brazil
Egypt	China	Canada	Chile
Ethiopia	Dem. Kampuchea	Cyprus	Colombia
Gabon	Dem. People's	Denmark	Costa Rica
Ghana	Rep. of Korea	Finland	Cuba
Kenya	India	France	Dominican Rep.
Liberia	Indonesia	Germany, Fed. Rep. of	Ecuador
Libyan Arab Jam.	Iran, Isl. Rep. of	Greece	El Salvador
Madagascar	Iraq	Holy See	Guatemala
Mali	Israel	Iceland	Haiti
Mauritius	Jordan	Ireland	Jamaica
Morocco	Korea, Rep. of	Italy	Mexico
Namibia	Kuwait	Japan	Nicaragua
Niger	Lebanon	Liechtenstein	Panama
Nigeria	Malaysia	Luxembourg	Paraguay
Senegal	Mongolia	Monaco	Peru
Sierra Leone	Pakistan	Netherlands	Uruguay
South Africa	Philippines	New Zealand	Venezuela
Sudan	Qatar	Norway	
Tunisia	Saudi Arabia	Portugal	
Uganda	Singapore	Spain	
United Rep. of Tanzania	Sri Lanka	Sweden	
Zaire	Syrian Arab Rep.	Switzerland	
Zambia	Thailand	Turkey	
Zimbabwe	United Arab Emirates	United Kingdom of Great Britain and Northern Ireland	
	Vietnam	United States of America	
	Yugoslavia		
 (e) <u>East European Socialist</u>			
Albania			
Bulgaria			
Byelorussian Soviet Socialist Republic			
Czechoslovakia			
German Dem. Republic			
Hungary			
Poland			
Romania			
Ukrainian Soviet Socialist Republic			
Union of Soviet Socialist Republics			

Oral report to the June 1988 Board by
Ambassador Proença Rosa, Chairman of the working group on
the question of revising Article VI of the Statute as a whole

May I start this progress report by expressing my appreciation to the members of the working group for the trust and confidence which they placed in me in agreeing that I should report to the Board on their behalf. My report will- I hope - be found to be factual and non-controversial.

The working group met five times during the past three months, and its meetings were well attended - by the representatives of over 30 Member States.

The climate of the discussions in the working group was most positive and constructive, and there was a wide-ranging and extremely useful exchange of opinions on the question of revising Article VI of the Statute. The working group had before it not only the report of the working group which considered this question last year, under the able chairmanship of Ambassador Cuevas Cancino, but also the formal proposal for amending Article VI made in 1986 by a number of West European countries, the representatives of which pointed out, among other things, that the proposed amendment of Article VI as a whole, while increasing the number of seats for some areas not adequately represented (Africa, Western Europe, MESA and Latin America), had the advantage of not altering the existing political balance in the Board. In addition, various informal proposals were presented and discussed, along with background papers submitted in the past and during the group's recent meetings.

In the working group's discussions, three considerations were regarded as being of over-riding importance: (a) the political balance within the Board; (b) the equitable representation of Member States and (c) the effectiveness and efficiency of the Board.

The principal focus of the working group's deliberations was initially on Article VI.A.1 and later on Article VI.A.2. As regards Article VI.A.1, the main issues addressed in the working group were the principle of designation of Board members, the number of designations and the criteria for designation. As regards Article VI.A.2, the main issues addressed were the issue of equitable representation and that of eligibility or non-eligibility for immediate re-election. The issue of the geographical areas referred to in Article VI was discussed in connection with both of these paragraphs.

Considerable attention was paid to the question of the representation of Africa, and in this context the African representatives in the working group reiterated their position that the long-standing under-representation of Africa contradicted the letter and spirit of the Statute. While maintaining the proposal - made in 1977 - that three additional seats on the Board be created for Africa and two for the Middle East and South Asia, the African members of the group nevertheless stated that they were not opposed to other proposals for enlarging the Board provided that these were based on the principle of equitable geographical representation. At the same time, they reiterated their position that the separate and distinct identity of the agenda item "Amendment of Article VI.A.2 of the Statute" - which has now been before the Board and the General Conference for over a decade - should be retained.

The working group discussed the various proposals and ideas which have been "on the table" for some time, and also the new proposals and ideas put forward for consideration. For example, the possibility of making more extensive use of open-ended committees was touched upon, and paragraph I of Article VI was mentioned in this connection.

Thanks to the positive and constructive climate in which the group's discussions took place, many points were clarified and the participants in the group's work have come a long way in understanding and appreciating one another's positions. A great fund of goodwill exists within the group, but there is still a gap which has to be bridged. I think that, in the time remaining until the General Conference's next session, we in the group can narrow that gap a little further. This statement does not imply that the group will be able to make a specific recommendation on amending Article VI as a whole at the next Board session; what the statement is intended to imply is that further exchanges of views on the main issues should prove useful for future deliberations in the Board on this matter.

Accordingly, at the working group's last meeting, on 24 May, I suggested — and the group agreed — that I recommend to the Board at its June session that the Board request the working group to continue its efforts, with a view to its presenting to the Board in September — just before the start of the General Conference's next session — a report based on a more complete exchange of views among the group's members.

If the Board does request the working group to continue its efforts, I visualize two or three meetings of the group between now and September.

In conclusion, I should like to use this opportunity to thank all those who have been participating in the working group's meetings for their active co-operation and the contributions which they have made to the group's deliberations.

7 June 1988

Summary records of the discussions under the item
"Revision of Article VI of the Statute as a whole"
at meetings of the Board of Governors held
in February, June and September 1988

RECORD OF THE 690th MEETING (held on 25 February 1988)

REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE (GC(XXXI)/RES/484)

99. The CHAIRMAN recalled that, in resolution GC(XXXI)/RES/484, adopted in September 1987, the General Conference had requested the Board to re-establish, with no financial implications, an informal working group open to all Member States, with a view to continuing the examination of various proposals on the revision of Article VI of the Statute as a whole and to preparing a report to be submitted through the Board to the General Conference at its thirty-second regular session.

100. At the meeting of the Board on 28 September 1987, it had been agreed that he would, after engaging in the necessary consultations, nominate a chairman for the group and report to the Board. Such informal consultations had since been held, and he had asked the Resident Representative of Brazil, Ambassador Proença Rosa, to be chairman of the working group, and the latter had accepted.

101. The Board would recall that the informal working group which had been established the previous year, following a request made to the General Conference at its thirtieth regular session, had been chaired by Ambassador Cuevas Cancino of Mexico and that a report had been submitted through the Board to the thirty-first regular session of the General Conference in document GC(XXXI)/806. That report had also contained the text of an amendment to Article VI of the Statute as a whole, proposed by Italy and co-sponsored by Belgium, Portugal, Spain and Sweden.

102. The re-established informal working group would, as set forth in resolution GC(XXXI)/RES/484, have the mandate of continuing the examination of various proposals regarding revision of Article VI as a whole, with a view to formulating a generally acceptable approach. It was understood that the establishment of a group concerned with the revision of Article VI as a whole

would not hamper the independent consideration of the amendment of Article VI.A.2 of the Statute.

103. With regard to the administrative arrangements for the informal group, there would - as in the previous year - be no interpretation or translation facilities, nor would any summary or verbatim records be kept. A note to all Member States announcing the date of the group's first meetings would be circulated in the near future. A report by the chairman of the working group on its examination of the question of the revision of Article VI of the Statute as a whole would then be submitted to the Board later in the year in time for the Board to take it into account when deciding on the content of its report to the session of the General Conference in September.

104. If there were no objections, he would take it that the Board was in agreement with his introductory statement on the re-establishment of the informal working group. It was hoped that the chairman of the working group would be able to submit a report to the Board at its meetings in June or, at the latest, in September, when the Board might also consider the report to be presented to the General Conference at its thirty-second regular session in September.

105. It was so decided.

106. The CHAIRMAN indicated that the item "Revision of Article VI of the Statute as a whole" would accordingly be placed on the provisional agenda for the Board's meetings in June or September, as appropriate.

107. Mr. PROENCA ROSA (Brazil) thanked the Chairman for having nominated him as chairman of so important a working group, and the Board for having accepted his nomination. He proposed that the group's first meeting should be held before 15 March. He would remain in contact with the Secretariat, which would be requested to circulate a note inviting all Member States of the Agency to participate in the group's work.

RECORD OF THE 697th MEETING (held on 9 June 1988)

REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE (GC(XXXI)/RES/484)

120. The CHAIRMAN said that, pursuant to General Conference resolution GC(XXXI)/RES/484, an informal working group open to all Member States was continuing to examine different proposals for the revision of Article VI of the Statute as a whole, with a view to preparing a report to be submitted through the Board to the General Conference at its thirty-second regular session in September.

121. The working group, which was chaired by Mr. Proença Rosa of Brazil, had held a number of meetings since the February meetings of the Board, and he understood that its chairman was ready to make a progress report to the Board on the work done so far.

122. Mr. PROENCA ROSA (Brazil), chairman of the informal working group on the question of revising Article VI of the Statute as a whole, said that the working group had met five times during the past three months, attended by representatives of more than 30 Member States. The climate of discussion had been positive and constructive and there had been a wide-ranging and useful exchange of opinions. The group had had before it the report of the working group which had considered the question in 1987, and the formal proposal for amending Article VI made in 1986 by a number of West European countries. The representatives of those countries had pointed out that the proposed amendment, while increasing the number of seats for some areas not adequately represented (Africa, Western Europe, the Middle East and South Asia, and Latin America), had the advantage of not altering the existing political balance in the Board. Various informal proposals had been presented and discussed along with background papers submitted previously and during the group's recent meetings.

123. Three considerations had been regarded as of overriding importance: the effectiveness and efficiency of the Board; the political balance within the Board; and the equitable representation of Member States. The working group had concentrated initially on Article VI.A.1, discussing the principle of designation of Board members, the number of designations and the criteria for designation; and later on Article VI.A.2, discussing equitable representation and eligibility or non-eligibility for immediate re-election. The issue of the geographical areas referred to in Article VI had been discussed in connection with both paragraphs.

124. Considerable attention had been paid to the question of the representation of Africa. The African representatives had reiterated their position that the longstanding under-representation of Africa contradicted the letter and spirit of the Statute. While maintaining their 1977 proposal that three additional seats should be created for Africa and two for the Middle East and South Asia, they had nevertheless stated that they were not opposed to other proposals for enlarging the Board provided that they were based on the principle of equitable geographical representation. They had reiterated their position that the separate and distinct identity of the agenda item "Amendment of Article VI.A.2 of the Statute" - which had now been before the Board and the General Conference for over a decade - should be retained.

125. The working group had discussed the proposals and ideas of long standing as well as the new ones - for example the possibility of making more extensive use of open-ended committees, in the context of Article VI.I.

126. Many points had been clarified and the participants had come a long way in understanding and appreciating each other's positions. A great fund of good will existed in the group but there was still a gap to be bridged. He felt that, while the group was not in a position to make a specific recommendation, it would be possible to narrow the gap in the time remaining until the coming session of the General Conference. Further exchanges of views on the main issues should prove useful for future deliberations in the Board. He had accordingly suggested - and the group had agreed - that he should recommend to the Board at its present session that it should request the working group to continue its efforts, with a view to presenting to the Board in September, immediately before the start of the General Conference, a report based on a more complete exchange of views among the group's members. If the Board so requested, he would envisage two or three meetings of the group before September.

127. Mr. USTYUGOV (Union of Soviet Socialist Republics) said that his delegation had listened carefully to the interim report of the working group and agreed with what was said in it. Although differences of view had made it impossible at the present stage to produce any kind of agreed recommendation to the Board, the constructive and friendly atmosphere had brought participants considerably closer together - for example, on the idea expressed by a number of participants that a solution might be found through the more active and constructive participation of all interested parties in the various committees of the Board created under Article VI.I.

128. The Soviet delegation had itself earlier put forward a similar idea which would make it possible for all States to take a practical part in formulating the Board's decisions without disturbing the Board's present structure to the detriment of its efficiency and effectiveness.

129. In the circumstances he proposed that the working group's report should be approved.

130. Mr. MORALES PEDRAZA (Cuba) said that the working group had met a number of times in the past few months, but so far there seemed to be no possibility of making firm proposals, since differing positions persisted on how to tackle the problem of the composition of the Board and the representation of the different regions. Nevertheless, a number of ideas had been considered, such as restructuring the geographic areas established by the Statute in accordance with United Nations practice, opening the Board's standing committees to all interested States, and the re-election of members of the Board, all of which his delegation found interesting. His delegation believed that those ideas should be considered jointly, since they were all closely linked to the complete revision of Article VI. Partial measures or decisions would be unlikely to be acceptable to the different Member States.

131. His delegation was particularly interested in the proposal concerning the Board's standing committees - which would not require any change in the Statute - and felt that the working group might reach a firm conclusion on it, if the constructive spirit which had so far prevailed in its debates were maintained.

132. His delegation therefore considered that the working group should continue its work, on the same lines and with the same mandate.

133. Mr. ORNSTEIN (Argentina) said that, despite the undoubted advantages of the present structure of the Board, which had its roots in the Agency's special technical functions, the structure lacked a rational regulatory basis which would make it possible to deal with any future expansion of the Board. For that reason his delegation had submitted an informal proposal in the working group for a new simplified version of Article VI. His delegation believed that the proposal would give a more rational basis to the rules governing the structure of the Board - even while respecting the special characteristics that distinguished the Board from other similar bodies - and that it would accommodate a large part of the conflicting positions.

134. Ms. TALLAWY (Egypt) said that her delegation agreed with the report just given by the chairman of the working group. The current imbalance in representation of the African continent and South Asia and the Middle East had assumed high priority and must be rectified in the light of the proposal submitted by the Group of 77 for an increase of three members from Africa and two from the Middle East and South Asia.

135. The African group would have no objection to discussing the revision of Article VI as a whole, provided such revision was based on the principle of equitable representation of all regions, in accordance with the Statute, and that it would not increase the current imbalance or the advantages enjoyed by certain regions to the detriment of others.

136. Subject to the foregoing comments, the Egyptian delegation had no objection to accepting the proposal by Ambassador Proença Rosa, chairman of the informal working group, that the group should continue considering the matter and to report its conclusions to the Board in September.

137. Ms. DAJO (Nigeria) said that many issues had been raised in the working group, such as criteria for designation, the definition of "advancement in the technology of atomic energy, including the production of source materials", how regions were designated and so forth - all of which pointed to the fact that Article VI was imperfect and perhaps needed revision. There were still wide divergences of view and approach among the participants.

138. Her delegation was not against an enlargement of the Board provided it were based on equitable geographical representation of all regions and did not perpetuate the current imbalance or increase the already high representation of some regions at the expense of regions such as Africa and the Middle East and South Asia. Her delegation did not agree with the argument that enlarging and democratizing the Board would make consensus difficult to achieve and would make the Board unwieldy and ineffective. Many international organizations had expanded their policy-making organs without impairing their effectiveness.

139. Her delegation would support any proposal that took into account the legitimate concerns of Africa and the Middle East and South Asia. It believed that the working group could achieve its objectives and was therefore ready to join others in supporting the continuation of its work.

140. Mr. YBAÑEZ (Spain) said that, as a member of the working group, he had welcomed the action of the member from Colombia in urging members to consider the interests of the Agency and of other members, rather than concentrate on their own national interests. It was important for the working group to continue its activity. He was confident that it would make progress, provided it continued discussing problems in an open way, facing up to the real problem, namely, how to increase the Board's effectiveness and provide for its decisions to be taken with the widest possible representation. His delegation accordingly fully supported the proposal by the chairman of the working group that the group should continue to meet and to seek a solution that would enable the Board to tackle the question in a spirit of openness.

141. Mr. AL-KITAL (Iraq) said that his delegation accepted the position as expressed by the Governors from Egypt and Nigeria. It would accept any proposal designed to resolve the question of representation on and membership of the Board which entailed a modification of the current representation of Africa and the Middle East and South Asia with a view to achieving equitable representation on the Board. He was in favour of the continuation of the working group.

142. Mr. ALESSI (Italy)[*] reaffirmed his Government's wish for negotiations to continue with all speed with a view to finding an equitable solution to the problem of better representation on the Board. In that connection, the proposed revision of Article VI of the Statute submitted by a number of European countries, including Italy, remained valid.

143. The time was ripe for a decision and a growing number of Member States wanted one. With the necessary political will on the part of States it should be possible to decide on a moderate enlargement of the composition of the Board, thus putting an end to a highly unsatisfactory situation which prejudiced the expectations of a number of countries and in the long run would adversely affect the authority and efficiency of the Board.

144. For those reasons, his delegation supported the proposal by the chairman of the working group that the group should continue its work.

145. The CHAIRMAN said that, since there were no more speakers, he was sure that the Board would wish to express its appreciation of the informal working group's efforts and of the information given by the group's chairman, highlighting the various issues being discussed.

146. It was so agreed.

147. The CHAIRMAN said he assumed that the Board wished to take note of the progress report of the informal working group presented by its chairman, and to request the group to continue its efforts with a view to submitting a report in time for the Board's September meetings, when the Board might consider the report to be presented to the General Conference pursuant to resolution GC(XXXI)/RES/484. An item entitled "Revision of Article VI of the Statute as a whole" would be placed on the agenda for the Board's September meetings.

148. It was so decided.

PROVISIONAL RECORD OF THE 702nd MEETING (held on 15 September 1988)

REVISION OF ARTICLE VI OF THE STATUTE AS A WHOLE (GOV/2364; GC(XXXI)/RES/484)

The CHAIRMAN reminded the Board that, during its June meetings, Ambassador Proença Rosa of Brazil, the chairman of the informal working group on the question of revising Article VI of the Statute as a whole, had presented an oral report on the group's work up to that time. The Board had taken note of that report, and had requested the working group to continue its efforts with a view to submitting a report in time for consideration by the Board during the current meetings, and subsequent presentation to the General Conference pursuant to resolution GC(XXXI)/RES/484. The working group's report was now before the Board in document GOV/2364.

He thanked Ambassador Proença Rosa for the admirable way in which he had guided the working group's deliberations, and for the comprehensive report which had resulted therefrom and invited him to introduce the report.

Mr. PROENÇA ROSA (Brazil) said that the working group had met nine times, and had been able to discuss all major issues relating to the main question of amending Article VI. About 30 to 35 participants had attended. Documentation had been provided by the Secretariat to facilitate discussions of the various issues. Some of the participants had also submitted informal papers.

Paragraph 22 of the report presented the conclusion that, although the discussions had helped to clarify many points, the working group was not in a position to make any recommendations to the Board regarding the amendment of

Article VI. Paragraph 23 expressed the view that the discussions had been extremely useful, and suggested that the Board should consider recommending to the General Conference that it request the Board to establish a successor working group.

The working group had also discussed at length questions relating to paragraph I of Article VI, concerning the composition of Board committees. With regard to that problem, paragraph 21 of the report suggested that the Board should examine the possibility of wider participation of Member States in such meetings and formulate some decision. In that connection, the working group had taken note of the legal opinion contained in paragraph 5 of Annex 2 to the report, to the effect that a different composition of the Technical Assistance and Co-operation Committee (TACC) and/or the Administrative and Budgetary Committee (A&BC) could simply be effected by the adoption of a new decision by the Board.

In conclusion, he expressed thanks to the Secretariat for the support it had given the working group in carrying out its mandate, and to all participants in the group.

Mr. ORNSTEIN (Argentina) thanked the Governor from Brazil for his efforts as chairman of the working group, and for the group's report.

As the report showed, little progress had been made save on one point, that being the widening of participation in the meetings of Board committees, in particular the Administrative and Budgetary Committee and the Technical Assistance and Co-operation Committee, to improve their representativeness and to include Member States which were not members of the Board. Such a move had been proposed to the Board by the Argentine delegation on an earlier occasion, and the interest in that proposal was demonstrated by the fact that four paragraphs of the report were devoted to that question. There seemed to be no fundamental differences of opinion or objections to the proposed change, although there were disagreements as to how it might be implemented, and doubts as to the effects of such a change on the decision-making process. In any case, the idea seemed worth exploring, and he felt that positive and concrete results could be achieved in that area.

The first sentence of paragraph 20 of the report, suggesting that the widening of participation in the meetings of Board committees lay outside the mandate of the working group, appeared questionable since the mandate, according to paragraph 1 of the report, authorized the working group to examine different proposals on the revision of Article VI of the Statute as a whole, and that obviously included paragraph I of Article VI, which authorized the Board to "establish such committees as it deems advisable". Also, the group had obviously considered the question to be within its mandate in stating, at the end of paragraph 18, that "making TACC and/or the A&BC open-ended could be no substitute for revising Article VI". He therefore suggested that, before the report was submitted to the General Conference, the first part of the first sentence of paragraph 20, up to the words "outside its mandate", should be deleted. The treatment of that topic being the most positive result of the efforts of the working group, it would be lamentable if it were rendered fruitless by an over-restrictive interpretation of the mandate.

Mr. BRADY ROCHE (Chile) said that the report, with its careful analysis of various options and its different perspectives, had helped identify some of the complexities of the problem of the Board's representativeness. His country continued to be sympathetic towards any new ideas which might help find a solution that would satisfy the various interests involved, and considered that although open-ended committees, as pointed out in paragraph 18 of the report, could be no substitute for a revision of Article VI, they would contribute towards improving the level of participation of Member States. The work of the group thus gave some room for hope that a solution would be found at some time in the future, and he therefore supported the idea that the group's mandate should be extended.

Mr. MAHMOUD (Iraq) said that three important guiding principles were brought out quite clearly in the report, namely: political equilibrium in the Board, just representation of Member States, and efficiency and effectiveness of the Board's work. Various opinions had been expressed, and there was a lack of agreement; he would prefer it if further discussions on the subject could take place in a committee in which Board members could

participate on similar terms as in the A&BC and the TACC. Nevertheless, he recommended that the report be accepted and submitted to the General Conference, and that the mandate of the working group be extended.

Mr. ROIG (Cuba) felt that while some of the proposals in the group's report were interesting and could be implemented without amending the Statute, such as the opening up of Board committees, others required further development and analysis. He therefore supported the extension of the group's mandate.

Mr. PABON (Venezuela) said he shared the concerns of several delegations regarding a revision of Article VI of the Statute and the consequences of such revision. He supported any initiative to ensure more equitable participation of Member States in the decision-making processes of the Agency, and most particularly in the administrative and budgetary areas and in technical co-operation and assistance, in the hope that a better balance between regulatory and promotional activities might be achieved thereby. It was for that reason that Venezuela had taken part in the working group. The report reflected well the deliberations of the working group, and he congratulated the Governor from Brazil on the group's work.

He reiterated his country's view that the Board of Governors should be extended, but emphasized that such a move must not result in a decrease in the relative representation of Latin America. The proposals and suggestions submitted to date and their implications, in particular as concerned the technical character of the Agency and the efficiency of the Board's work, should be carefully evaluated. At all events, his country did not agree that the Board's present composition reflected any real political balance which might be upset, and feared, moreover, that the provisions of Article VI.A.1 regarding the composition of the Board and the principle of designation of members were not being applied effectively.

With regard to open-ended committees, he felt that the TACC and the A&BC should be open to all Member States of the Agency, and that account must be taken of the fact that many developing countries could not maintain permanent missions in Vienna.

In conclusion, he recommended that the working group's activities be continued in the hope that at some future date it would be able to formulate a specific proposal for the revision of Article VI.

Mr. MGBOKWERE (Nigeria) considered that the report had clarified and highlighted the complex issues involved in the revision of Article VI, and had clearly revealed that the Statute was far from perfect. Some of the pertinent questions raised in the report were - the criteria for designation, the definition of advancement in the technology of atomic energy, including the production of source material, the designation of regions, equitable representation and eligibility for re-election; all those points demonstrated the need for revision of the Statute and in particular of Article VI. Much controversy remained in those areas despite discussions, and only further discussions would help to narrow the differences.

Nigeria was not opposed to an enlargement of the Board, provided that the imbalance in the representation of Africa was rectified thereby. Some Member States continued to resist any attempt to enlarge and democratize the Board, claiming that such an enlargement would affect the political balance and efficiency of the Board and increase the cost of Board meetings. If the Board was to remain a dynamic and democratic body, it had to be responsive to the changing needs of Member States. Other international organizations had successfully carried out such expansion, and he appealed to Member States to adopt a more constructive and flexible attitude. He supported the reconvening of an open-ended working group to continue discussions aimed at finding an acceptable solution to the question of revising Article VI of the Statute as a whole.

Mr. YBAÑEZ (Spain) expressed his satisfaction with the progress that had obviously been made by the working groups, and the propitious climate for discussion that had been established under the two successive chairmen of the working group, Ambassadors Cuevas Cancino and Proença Rosa. The first working group had proved that there was a problem, which had been progress in itself. The second working group had discovered that there were, in fact, numerous problems and therefore numerous solutions. One proposal in particular had been put forward which deserved consideration, and that was the question of the modification of committees.

Despite the progress that had been made, however, there was a continued reluctance to tackle the problem which had originally led to the formulation of the mandate for the working group, namely that there were some countries which had made substantial progress in the nuclear field, and whose views should therefore be reflected more fully in the Board. It was necessary to try to preserve a balance, but it must not be forgotten that balance was a dynamic concept. That had been the motivation behind the amendment to Article VI of the Statute proposed by Italy, and co-sponsored by Belgium, Portugal, Spain and Sweden, which was to have been examined by the two working groups. As yet, that had not been done.

He endorsed the three guiding principles which the Governor from Iraq had singled out as being important to a discussion of the topic, and hoped that a new working group would be set up with a mandate which would include, in addition to a request that the group examine the aforementioned proposal, instructions that it explore the compatibility of that proposal with those guiding principles. In that way, some progress might be made towards a solution of the problem.

Mr. WILSON (Australia) expressed satisfaction with the report and its conclusions, and endorsed the recommendation that a successor working group be established in 1989 to continue the work done during the current year. He felt that the new working group should be given the same mandate as its predecessor.

Mr. AL-MINAYES (Kuwait) expressed himself in favour of continuing the work of the informal group and analysing the results in the present report with a view to reaching a balanced representation of all geographical groups, particularly the Middle East and South Asia, and Africa.

Mr. FITZGERALD (Ireland) said that although it was not yet possible to resolve the more fundamental issue of Board membership, it should be feasible, and it would be politically desirable, to make some progress on the question of participation by all members on an equal footing in the work of the Board's committees. During the Board's previous meeting, in the discussion relating to the TACC, most members, including Ireland, had emphasized that the authority and responsibility of the Board should not be

undermined, and that had been reflected in the final decision taken. It would therefore be appropriate now to take up the proposals outlined in paragraphs 20 and 21 of the report, to broaden the membership of the committees without prejudice to the more fundamental issue of membership of the Board itself, as that could be achieved without revision of the Statute, since it was within the competence of the Board to do so. The work of the TACC and A&BC affected all Member States, either through their budget contributions or through the content of programmes and activities, and it was therefore only fair and equitable that all interested members should participate in the work of those committees. Such a change would be within the capability of the Board, and a move in that direction would be recognition of the decision taken earlier.

Mr. KENNEDY (United States of America) said that although his Government, together with many others, did not believe that changes in the Board's composition would improve its efficiency or effectiveness, which they considered a primary test for any institutional change in the Agency, he strongly supported the report submitted on behalf of the working group and approved its submission to the General Conference, with the recommendation that its work should be continued by constituting another working group for the coming year.

Mr. LASERNA-PINZON (Colombia) pointed out that the report of the working group contained no specific recommendations to alter the composition of the Board, but rather a wealth of ideas which would assist in understanding, and perhaps lead to a solution of, the problem which had been under discussion for so many years. The working group had shown that it was possible to carry on a dialogue, thus laying the path for an agreement to be reached.

Mr. LAVIÑA (Philippines)[*] supported the formal proposal for a revision of Article VI of the Statute which had been submitted by five Member States in 1986, as mentioned in paragraph 4 of the report, and

[*] In the summary records for this series of meetings (GOV/OR.699-702) Member States which were not members of the Board of Governors but which were nevertheless invited to take the floor under Rule 50 of the Board's Provisional Rules of Procedure are indicated by an asterisk.

agreed with the arguments advanced at that time. The scale of the proposed increase in Board membership had not been decided, and he urged members to contribute towards finding an acceptable solution. The Philippines was ready to support any proposal that would redress the present political imbalance and inequitable representation on the Board.

The concept of "designation", as provided for in Article VI.A.1, constituted a mere rule for the selection of a special category of members of the Board; it was not a principle. At the same time, the principle of sovereign equality of States could be found not only in the Statute of the Agency, but also in the United Nations Charter and in international conventions, such as the Convention on the Representation of States in their Relations with International Organizations. His delegation was among those subscribing to the view that no United Nations body should have designated or permanent members, except perhaps the Security Council, as the creation of special categories of members with weighted rights was contrary to the principle of sovereign equality of States. Differentiation in membership, such as in the Board of the IAEA, a body which was open to membership of all States, could not be justified. The small group that had originally negotiated the Statute had seen the matter differently, but designation of Board members was nevertheless an undemocratic and anachronistic procedure. The designation criteria were unclear and, as mentioned in the report, could lead to fluctuation in the number of designated members. The working group had observed that some Member States of the Agency which fulfilled the criteria for "advanced technology" or "production of source materials" were not at present members of the Board. The criteria were therefore not strictly applied, and the guideline was tradition, hardly an ideal situation.

An informal paper which had been considered by the working group had mentioned various criteria, including: level of nuclear power development; nuclear research capability/experience; level of source materials; level of population; assessed contributions to the IAEA; and number of States; however, only the last-mentioned criterion appeared to enjoy wide support. That principle could be adopted in the IAEA and its Board, as it had been by all other international organizations.

The argument that the IAEA was a technical organization was not very convincing, as most international organizations were both technical and political. Arguments for special membership in other organizations could lead to ridiculous situations, for example, basing membership of the UNIDO Board on the level of industrialization of Member States.

The working group had found that the present geographical groupings were artificial and did not reflect current practice in the United Nations system; for example, Asia was divided into many sub-groups not found elsewhere. The Philippines, while part of the Far East geographically, was normally included in South East Asia, but that practice was not followed in the Agency. If a distinct group such as North America, composed of two large States, could be created, it would be equally logical to form such a sub-group in the Far East, composed perhaps of China and Japan. Both groups were equally possible as far as Article VI.A.1 was concerned, although such groupings did not best serve the interests of any organization. Consideration of that issue had not yet been completed.

Article VI.A.2 laid down "equitable representation" as a principle, not merely as a rule. He could agree with the interpretation of that principle as "representation proportionate to the number of Member States in the various areas", as mentioned in paragraph 14 of the report. He therefore supported the proposal made in 1977 - referred to in paragraph 15 - that the distribution of seats be reviewed on that basis.

Another important provision of Article VI was contained in its paragraph I. He agreed with the legal opinion, quoted in paragraph 18 of the report, that as the Board was responsible for its own procedures, it could change the composition, size or membership of the Board's committees, including the A&BC and TACC. A definite core membership - whether or not drawn from the Board, or a mixture of Board members and non-members - would be preferable, but the committee should definitely be open-ended, giving full observers all rights of participation, except for the right to vote. Such an arrangement would be more in conformity with the wish of the majority of members of the Agency; it would make for more democratic committees, to be followed, ultimately, by a more democratic Board.

Criteria of "effectiveness and efficiency" had been advanced as arguments for maintaining the present membership of the Board. The Board now had 35 members, but its composition had been amended in the past. Had those past amendments made the Board more or less efficient? The majority of the Board's present members resisted an increase on the pretext that the present membership of 35 ensured efficiency, and hence effectiveness. However, modern technology and modern organizations showed that size need not necessarily be associated with inefficiency. The trend in other international organizations was to increase the number of members on their board or governing council. UNIDO, with 152 Member States, had 53 Board members, and UNCTAD, with 166 Member States, had 124 Board members. A larger membership would definitely be more democratic, and the principle of equitable representation should be given priority.

Finally, he was disappointed that the working group had been unable to make any specific recommendation to the Board for the revision of Article VI. That failure had been attributed to the diverse opinions expressed, but, to be quite frank, the real reason lay in the entrenched opposition of a small number of delegations to any change whatsoever in Article VI. That amounted to a veto, which demonstrated the inadequacy of present procedures. The original small group which had drafted and subsequently negotiated the IAEA Statute had clearly perceived that some interests should be protected. However, having once opened the Agency to membership of all States, those delegations should show greater understanding for the desire of other Member States to be represented on the Board. The majority of members, such as those in the Far East group, found themselves in a situation where they could only have an opportunity of Board membership every 12 years or so, given a system of rotation. Clearly, the political will to find a solution had been lacking in the meetings of the working group, perhaps because some representatives had not had full authority to resolve the issue at that level. His delegation would still support the establishment of a successor working group, but it was no longer optimistic about the results, considering that the issue had been under discussion since 1977 to no avail.

Mr. TALIANI (Italy)[*], while expressing his admiration for the ability, dedication and fairness of the chairman of the working group, noted with regret that the report contained clear evidence of the failure of the working group to tackle the substance of its mandate effectively. The only formal proposal so far submitted to the General Conference on the subject had not even been discussed in depth. He trusted that the new working group to be established would finally come to grips with the issue and be able to submit to the Board and the 1989 session of the General Conference acceptable proposals for the revision of Article VI of the Statute, that would serve the best interests of the Agency and its members. Italy would continue to offer its full contribution to that end and had no doubt that other members would do the same.

With regard to the widening of participation in meetings of the committees, his country did not consider that the mandate of the working group actually covered that issue. Moreover, expansion of the working group as suggested by the Governor from Ireland and others was a matter for the Board to decide. Italy had no objection to continuing discussions on the issue of widening participation in the committees, provided that such discussion did not divert attention from the main issue of concern to the working group, namely, to examine proposals for the revision of Article VI as a whole, which was a different issue altogether. Italy was therefore in favour of establishing a successor working group with the same mandate as its predecessor.

The CHAIRMAN, summing up, said that the Board seemed prepared to establish a further informal working group to continue the wide-ranging discussions which had been taking place during the past year.

He assumed that it was the wish of the Board, pursuant to General Conference resolution GC(XXXI)/RES/484, to transmit to the forthcoming session of the General Conference the report of the informal working group on the question of the revision of Article VI of the Statute as a whole contained in document GOV/2364, together with the summary records of the Board's discussions of that item in June 1988 and during the current meeting, including the reference to the Board's intention to establish a further informal working group of the same kind for the following year.

It was so decided.