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Handwritten notes:
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N.Y.

Two Park Avenue
New York 16, N. Y.
April 26, 1956.

Dear Mr. Secretary:

I have the honor to submit herewith, as Chairman of the United States Delegation, a confidential report on the Working Level Meetings on the draft Statute of the International Atomic Energy Agency.

The meeting was held in Washington, D. C., from February 27, 1956, to April 18, 1956. At the conclusion, the revised text of the draft Statute of the International Atomic Energy Agency was unanimously adopted by the twelve Delegations present. The text will be submitted to an International Conference to be convened during the latter part of September at United Nations Headquarters in New York.

I recommend the revised Statute as an acceptable basis for continuing negotiations to establish this Agency at an early date. It is based on proposals presented by the United States. It includes provisions for the Agency to function as an atomic "pool" if the principal atomic powers reach agreement on the President's proposal for joint continuing contributions from their stockpiles of fissionable materials. It provides the necessary powers for an active Agency to foster the peaceful uses of atomic energy. It incorporates a system of safeguards which, if effectively applied, will enforce necessary controls over the use and disposition of nuclear materials. The structure of the Agency, while reflecting some compromises, makes possible an efficiently managed and responsible organization in which the United States interests will be protected.

While certain reservations were expressed by the Soviet, Indian, Czechoslovakian and Australian Delegations, I believe that the Statute should find broad acceptance in substantially its present form, and that there is reason to expect it to have the support of those States even if their reservations are not accepted at the September Conference. This revised Statute, if adopted substantially in its present form, should provide a sound basis for the operations of the Agency and for participation of the United States in its work.

Sincerely yours,

Enclosures:

1. The Report of the Chairman of the Delegation.
2. The revised Draft Statute of the IAEA.

/s/ James J. Wadsworth

The Honorable
John Foster Dulles,
Secretary of State.

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Report of the Chairman, United States Delegation to the
Working Level Meeting on the Statute of the
International Atomic Energy Agency
February 27, 1956 through April 18, 1956

Introduction

On January 26, 1956, when you designated me United States Representative for International Atomic Energy Agency negotiations, measures to implement President Eisenhower's proposal for an International Atomic Energy Agency were at an advanced stage.

For almost a year after the President's proposal was made in December, 1953, the United States had sought without success to make progress in direct negotiations with the Soviet Union. In the face of this negative Soviet attitude a draft Statute for this proposed Agency was prepared at United States initiative in consultation with seven other friendly Governments with advanced atomic energy programs or material resources (Australia, Belgium, Canada, France, Portugal, Union of South Africa, United Kingdom).

During the summer of 1955, at the Geneva meeting of the Heads of Governments, the Soviet Union indicated a changed attitude toward the Agency. Premier Bulganin offered to contribute fissionable material when an acceptable agreement had been reached on establishing the Agency. In a note of October 1, 1955, the Soviet Union accepted the initial draft Statute, transmitted to them in July, as a basis for negotiation, but suggested a series of substantial amendments.

On August 22, 1955, the initial draft Statute was circulated for comment to all states which were members of the United Nations or of the specialized agencies.

Plans for the Agency were the subject of extensive debate at the Tenth Session of the General Assembly of the United Nations. To offset criticism that procedures to establish the Agency Statute did not provide adequate opportunity for an exchange of views, the eight sponsoring Governments announced their intention to invite members of the United Nations or of the specialized agencies to a conference on the final text of the Statute. To prepare for this conference, the Governments of Brazil, Czechoslovakia, India, and the Soviet Union were invited to join with the original eight sponsoring governments in a working level meeting to consider the draft Statute in the light of the comments received.

My immediate task was to represent the United States at the 12-nation Working Level Meeting.

This Working Level Meeting convened in Washington on February 27, 1956, with all invited participants in attendance, and completed its labors on April 18, 1956, after eighteen sessions.

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At its last session the Working Level Meeting unanimously adopted a revised text of the Statute of the International Atomic Energy Agency. It also confirmed the previously announced intention to convene an international conference to conclude and open for signature the Statute of the Agency, agreed that this conference would convene during the latter part of September at United Nations Headquarters in New York, and decided that invitations will be issued by the United States on behalf of the 12-nation negotiating group to members of the United Nations or of the specialized agencies.

The measure of unanimity achieved was the result of intensive negotiation and compromise. The views of 48 nations were accommodated: namely, the 12 nations represented at the meetings plus 36 other nations which submitted comments in writing. Despite the reservations on certain particulars entered by Australia, Czechoslovakia, India and the Soviet Union, all 12 Delegations present at the meeting voted in favor of the text of the Statute in its entirety. Most of the separate provisions of the Statute were likewise adopted unanimously. Only a few important provisions were adopted on a split vote, usually a vote of nine to three with India, Czechoslovakia and the Soviet Union making up the minority.

At the start of the meetings, the United States introduced comprehensive revisions of the draft Statute of August 22, 1955, prepared after a careful review of the comments received on the earlier draft. The United States revisions in large measure served as the basis for the negotiations at this meeting. The Statute unanimously adopted by the 12-nation group incorporates the substance of the more important United States proposals.

The new text advances the basic national policy of the United States as expressed in President Eisenhower's proposal of December 8, 1953, to share with the rest of the world, under prudent safeguards, the benefits of the development of the peaceful atom. Since it also incorporates many of the modifications suggested by other Governments not present at the Working Level Meeting, it should enjoy wide support at the forthcoming international conference. The new Statute provides a sound framework for developing an Agency empowered to enforce adequate safeguards and to assume as significant a role in the development of the peaceful uses of atomic energy as its members are willing to entrust to it.

With the foregoing considerations in mind, I recommend the present text as providing an acceptable basis for wholeheartedly continuing the negotiations to establish this Agency at an early date, and ultimately for United States participation in its work.

Major Provisions of the Revised Statute

The draft Statute of August 22, 1955, negotiated by my predecessor, Ambassador Morehead Patterson, provided an excellent basis for these

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negotiations. This draft sought to establish a broad statutory framework within which the Board of Governors and the membership of the Agency would have flexibility to determine the extent of the Agency's operations after it was established. This included the extent to which it would enforce safeguards against the diversion of fissionable materials to military uses.

In the revised draft, the Agency's authorized functions have been both expanded and made more specific. They now include not only the encouragement of research and the securing of technical services for recipient nations, but also the performance of these services by the Agency itself.

Supplies of fissionable materials for the Agency's work will be made available to the Agency at the discretion of members. Provision remains in the revised Statute for the Agency to undertake the safekeeping of quantities of fissionable material siphoned off from weapons stockpiles as proposed by President Eisenhower. Such a pool would be established on a voluntary basis, if the United States, the Soviet Union, and other nuclear powers subsequently enter into an agreement among themselves to deliver quantities of fissionable materials for storage by the Agency.

The Agency would now be charged with the positive responsibility to establish and administer safeguards against diversion of fissionable material to military purposes. The Agency is also authorized, at the request of the parties concerned, to apply its safeguards to any of its members' bilateral or multilateral arrangements for atomic energy assistance not otherwise under the Agency's supervision or control. There was no discussion in the formal meetings of an agreement that all bilateral or multilateral arrangements would be placed under Agency safeguards, but the question was raised privately with Ambassador Zarubin, who requested a written statement of the proposal, which is now being prepared by the Department of State and the Atomic Energy Commission.

Acceptance of the Agency's safeguards is now a precondition of receiving assistance from the Agency. These safeguards incorporate measures deemed essential by the Atomic Energy Commission and include accountability for fissionable materials, control over chemical reprocessing and over disposition of recovered fissionable materials, establishment of a staff of inspectors, and remedial measures in the event of non-compliance.

It is anticipated that the Agency will have a relationship to the United Nations similar to that of a specialized agency, though it will not be formally identified as such. In accordance with the new draft Statute, the agreement entered into with the United Nations will require the Agency to submit reports to the General Assembly, to the Security Council when appropriate, and to the Economic and Social Council and other organs of the United Nations on matters within their fields of competence. The Agency will also consider recommendations from United Nations organs, but will not be obligated to accept direction from them.

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Eligibility for initial membership in the Agency is limited to those states which are members of the United Nations or of the specialized agencies. Once the Agency is established, approval of additional applicants for membership will be given by the Board of Governors and General Conference of the Agency with due consideration to the applicant's ability and willingness to act in accordance with the purpose and principles of the Charter of the United Nations.

In reaching a compromise on the Board of Governors, we reluctantly departed from the initial emphasis on a small board composed mainly of countries contributing materials or technical assistance to the Agency. Under the agreed formula for the Board it will consist of 23 members, 13 of them designated in accordance with criteria combining technical qualifications for membership with the principle of equitable geographic representation. These designations will be made by each outgoing Board. In the case of the first Board these designations will be made by a Preparatory Commission consisting of the 12 participants in the negotiating group plus six additional countries to be elected by the September conference. For the first Board it is anticipated these 13 designated members will be: United States, United Kingdom, Canada, France, Union of Soviet Socialist Republics, Brazil, Union of South Africa, India, Australia, Japan, either Belgium or Portugal, either Czechoslovakia or Poland, and another advanced atomic energy state (probably Scandinavian) selected as a supplier of technical assistance. The other ten members will be elected at large by the membership of the Agency on the basis of equitable geographic representation. It is anticipated that geographic distribution on the first Board as a whole will be along the following lines:

North America.....	2	Africa and the Middle East.....	3
Latin America.....	4	Eastern Europe.....	3
Western Europe.....	5	Southeast Asia and the Pacific..	2
Far East.....	2	South Asia.....	<u>2</u>

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In spite of the large size, the orientation of the majority of this Board for the foreseeable future can be considered to be pro-Western for all important political and technical decisions. At the very minimum, 13 members (United States, United Kingdom, Canada, France, Union of South Africa, Australia, Japan, Belgium or Portugal, Brazil, three additional countries from Latin America, the Western European country elected at large, and the country designated as a supplier of technical assistance) can be counted on to work with the United States.

Position of other Delegations

The original amendments proposed by the Soviet Union in these negotiations would, if adopted, have resulted in an Agency whose activities would be minimal. It would have been authorized to handle and store only token quantities of fissionable materials. Its activities would have been

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restricted by setting a ceiling on its budget and a limitation of 15% as the maximum contribution of any one country. It would have been precluded from operating as an atomic pool, and its rights and responsibilities would have been susceptible of severe limitation by a provision requiring that the Agency's activities be carried out with due regard for the sovereign rights of states. The Soviet Union also proposed that the Agency operate under the control and supervision of the General Assembly and Security Council of the United Nations, and that final authority within the Agency itself be vested in a General Conference made up of the entire membership.

During the course of the negotiations the Soviet Delegation withdrew their demand that the Agency operate under the control and supervision of the General Assembly and the Security Council, and supported the new provision sponsored by the United States and India that the Agency submit reports to the General Assembly, to the Security Council when appropriate, and to other organs of the United Nations on matters within their competence. They also accepted the compromise language opening the way for an atomic pool. They registered six reservations on provisions of the revised text. These include (1) membership on the Board of Governors for Communist China, (2) limiting the Agency's authority by requiring it to conduct its activities with due observance of the sovereign rights of states, (3) opening Agency membership to all states, (4) limiting the size of the budget of the Agency, (5) providing that amendments to the Statute require a three-fourths rather than a two-thirds majority, and (6) making decisions of the General Conference binding on the Board of Governors.

The Delegation of Czechoslovakia entered reservations which are identical in substance to those of the Soviet Union.

In addition to supporting the Soviet Union on most of the above points, the Indian Delegation advanced several proposals to weaken the safeguards and control provisions. First they proposed that the right to enforce the safeguards be derived from agreements with recipient countries rather than from the Statute itself. This would have the effect of reducing the bargaining power of the Agency in negotiating such agreements. Second, they objected to including a requirement that recipients of Agency assistance be held accountable for source materials. Third, they objected to the Agency having the right to require that by-product fissionable materials not useful in Agency approved projects be returned to the Agency for safekeeping. The Indian Delegation took the position that a recipient country should have the unqualified right to store such materials within its own territory subject only to Agency accountability procedures. The Indian Delegation entered reservations on all three of the above points. In addition they reserved their position on the Board of Governors because of their contention that the addition of the seat for a supplier of technical assistance would lead to over-representation for Western Europe.

The Australian Delegation reserved its position on the provision of the Statute concerning the referral of disputes to the International Court of Justice. They argued that the language adopted is ambiguous and susceptible

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to a variety of interpretations, and therefore should be replaced with language which makes it absolutely clear that any party can compel another party or parties to take such disputes to the Court. The language adopted is patterned on the constitution of the WHO which the United States regards as providing for the referral to the Court of disputes concerning the interpretation or application of that constitution at the instance of any party without requiring the consent of the respondent party or parties.

Except for ensuring protection of their own interests on the Board of Governors, other delegations participating in this meeting for the most part supported the United States positions. These positions were developed in close consultation with the United Kingdom and Canada.

As was anticipated, the Board of Governors was the most difficult issue to negotiate. India and the Soviet Union from the beginning insisted that more emphasis be given to purely geographic representation. The group of five source material producer states (Australia, Belgium, Brazil, Portugal, and the Union of South Africa) were equally insistent that their position be protected. Our own initial position called for a Board so composed as to ensure a majority of technically qualified responsible members. Numerous formulae and proposals were put forward officially and in private consultations. The meeting adjourned (from March 21 until April 18) to permit the private consultations to continue. Finally India produced a proposal combining the principles of technical qualifications and geographic representation which, with two important amendments, was considered acceptable to the United States and eight other delegations (Australia, Belgium, Brazil, Canada, France, Portugal, Union of South Africa, United Kingdom) and is the basis of the formula finally adopted. The amendments considered necessary called for the addition of two seats on the Board, one for a supplier of technical assistance designated by the outgoing Board (which for the next few years would presumably be filled by a Western European country) and another seat to be filled by election by the General Conference (presumably by a Latin American country). In opposing these amendments India argued that the addition of these two seats disturbed the balanced and equitable geographic representation provided for in the original Indian proposal. The Indian Delegation voted against the seat for a supplier of technical assistance, and abstained in the voting on the additional elected seat. They also abstained in the vote on the formula for the Board of Governors in its entirety.

The Soviet Union made various proposals directed at obtaining a guaranteed fourth seat for Eastern Europe but did not press this point. They also proposed communist China be made a member of the Board, a proposal which was defeated by a vote of 9 in favor and 3 against (Soviet Union, Czechoslovakia, India). They abstained in the vote on the seat for a supplier of technical assistance, and voted in favor of the additional elected seat. They subsequently voted in favor of the formula as a whole but reserved their position on the question of membership on the Board for Communist China. In recording this reservation, the Soviet Delegation made it clear that in spite of their reservation they considered their

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vote in favor of the formula as a whole as an obligation to support that formula at the forthcoming international conference.

Conclusion

The agreed Statute provides, in my judgment, a sound and workable basis for an effective Agency, provided that the powers granted by the Statute are actually exercised. I must point out, however, that despite an open challenge by the Indian delegate, the United States has refrained from undertaking a commitment in advance as to the amount of fissionable materials it will contribute. There is understandable interest among many countries about the extent to which the United States will furnish nuclear materials through the Agency rather than bilaterally, and about the extent to which we will put our bilateral agreements under Agency safeguards. In view of the Indian reservations on control and safeguards, we must continue to reserve this position in order to maintain our bargaining power and protect our own security. At the opening of the September conference, however, we should be prepared to announce an initial substantial commitment. The full measure of our material support of the Agency, as well as our position on putting our bilateral agreements under the Agency safeguards system, cannot be determined until the adequacy of the safeguards and the responsibility and efficiency of the Agency's management are proven.

One outstanding aspect of these negotiations was the spirit of cooperation which prevailed throughout discussion of even the most controversial issues, which led to the final unanimity.

From the very outset, Ambassador Zarubin, Chairman of the Soviet Delegation, exhibited a willingness to be cooperative and to seek agreement. He actively sought consultations with the United States Delegation, and emphasized the importance of achieving unanimity. While he adhered tenaciously to many of the standard Soviet ideological positions, he was apparently given considerable leeway in his instructions to accept compromise, and, in fact, at times to suggest them. He initiated the suggestion that a final vote be taken on the Statute as a whole so that we could announce, despite certain reservations on details, that the Statute had been adopted unanimously. During the final meeting he reaffirmed his Delegation's reservations, but the tone of his statement was restrained and conciliatory and probably can be considered a foreshadowing of the positions the Soviet Union will take at the September conference. This statement suggests that the Soviet Union by its vote on the Statute as a whole has assumed an obligation to support that Statute at the conference in all its particulars except for those points on which it has entered specific reservations.

The Soviet Delegation's show of cooperation should be evaluated in the light of the worldwide approval of the President's proposal, and of the minimal commitments of the major supplier countries such as the United States and the Soviet Union deriving from the present Statute. These do not include

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commitments to furnish fissionable materials, to participate in an atomic pool, to submit bilaterals to Agency supervision, or to accept any form of inspection. The only specific commitment undertaken by adhering to the Statute is the obligation to pay the small assessment required for the administrative budget of the Agency. It seems clear from their conduct at the negotiations that the Soviets have accepted the fact that there will be an international agency in the peaceful uses field and that it would not be in keeping with their present posture to oppose such an agency to which most other countries look with real hope. They apparently intend to take an active role in the operation of the Agency, steering it as far as possible in the directions which best suit their interests and gaining as much propaganda benefit for themselves as possible; at the same time they have tried to make sure that their membership will put them under no obligation to make any substantial sacrifices for the Agency.

In spite of the degree of unanimity achieved, the reservations entered particularly by India and the Soviet Union presage a lively and spirited conference this September. The present text of the Statute, however, represents a sound and reasonable approach which should command widespread support even from the smaller and less developed countries. The safeguards provisions, while adequate, cannot be considered unduly onerous when viewed in the light of the gravity of the security problem or the benefits to be derived therefrom. Representation on the Board of Governors is equitable and quite generous from the point of view of the less developed areas of the world. With appropriate advance preparation and explanation of the U. S. point of view, there is every reason to expect that the September conference will adopt a Statute substantially similar to the present draft.

In closing this report, I should like to pay tribute to the ability, imagination, and energy displayed by the advisers provided me by the Department of State and the Atomic Energy Commission. I am particularly grateful for the understanding and support which I received at all times from you and Admiral Strauss.

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