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## ELECTION OF THE MEMBERS OF THE INTERNATIONAL LAW COMMISSION

Letter dated 23 September 1981 from the Permanent Representative of  
Denmark to the United Nations addressed to the Secretary-General

With reference to the letter of 12 September 1981 from the Permanent Representative of Honduras in his capacity as Chairman of the Latin American Group to the Secretary-General of the United Nations (A/36/499) concerning the election of the members of the International Law Commission to be held during the thirty-sixth session of the General Assembly, the Group of Western European and other States wishes to state the following:

In paragraph (b) of the letter, it is asserted that the Group of Western European and other States "insists on its aspiration to eight seats on the International Law Commission". This is not an accurate statement of the position. Prior to 1956, the 15 seats on the Commission were distributed as follows: 5 seats were held by nationals of the permanent members of the Security Council; 2 by nationals from Afro-Asian States; 1 by a national from an Eastern European State; 4 by nationals from Latin American States; and 3 by nationals from Western European States. When the "gentlemen's agreement" was reached with the increase of seats to 21 in 1956, one of the additional seats was allocated to a national from Western Europe and another of the additional seats was allocated, in alternation, to a national from Latin America and a national from the Commonwealth countries not otherwise included in any recognized regional grouping (Australia, Canada and New Zealand). This distribution of seats remained unchanged when the membership of the Commission was increased to 25 in 1961. The Western European allocation thus remained 4 seats.

In 1965, Australia, Canada and New Zealand joined the electoral grouping known as the Group of Western European and other States, bringing with them their entitlement to one seat in alternation with the Latin American Group. Thus the over-all entitlement of the Group of Western European and other States, taking into account the entitlement of the Commonwealth seat, became

4 seats or 5 seats in alternate elections, apart from the seats of the permanent members of the Security Council ordinarily included in the Group, while the respective entitlement of the Latin American Group is 5 seats or 4 seats in alternate elections.

These facts are correctly set out in paragraphs 4, 5 and 6 of document A/36/371 of 24 July 1981, and foot-note 2 describes how the alternating seat has been filled in accordance with the "gentlemen's agreement".

At the last election to the International Law Commission in 1976, the Permanent Representative of Costa Rica, in his capacity as Chairman of the Latin American Group, transmitted the following letter, dated 12 May 1976, to the Group of Western European and other States:

"In accordance with the 'gentlemen's agreement' of 1956, and the exchange of correspondence between the Presidents of the regional groups during the last election in 1971 - which allotted five seats to the Group of Western European and other States and four to the Latin American Group - in the forthcoming elections of the Commission the Latin American Group, by virtue of the 'gentlemen's agreement', expects to occupy its traditional four seats, plus the rotating seat, as agreed.

The Latin American Group in return will abide by the agreement in the elections of 1981 and sponsor only four candidates, letting the Group of Western European and other States occupy the rotating seat."

In this connexion, it will be recalled that, in the election held in 1976, the Group of Western European and other States acquired an extra seat at the expense of the Asian Group and that the distribution of seats was later brought back into conformity with the "gentlemen's agreement" by the replacement of Dr. Hambro (Norway) by Mr. Tabibi (Afghanistan). In this way, the existing agreed arrangements were respected and endorsed.

The Group of Western European and other States trusts that the Latin American Group will honour the commitment in its letter of 12 May 1976, implementing the "gentlemen's agreement".

I would be grateful if Your Excellency could have this note circulated as a document of the General Assembly under agenda item 17 (f).

(Signed) Wilhelm ULRICHSEN  
Ambassador

Permanent Representative of Denmark  
Chairman of the Group of Western  
European and other States