

GENERAL
ASSEMBLYASSEMBLEE
GENERALEA/AC.10/14
12 May 1947

ORIGINAL: ENGLISH

SUGGESTIONS BY THE UNITED STATES ON ITEM 3 (a)
OF THE PROVISIONAL AGENDA OF THE COMMITTEE ON
THE PROGRESSIVE DEVELOPMENT OF INTERNATIONAL
LAW AND ITS CODIFICATION

(Document A/AC.10/1 - 5 May 1947)

1. Item 3 (a) of the Provisional Agenda is as follows:

"Study of the methods by which the General Assembly should encourage the progressive development of International Law and its eventual codification".

2. The basic consideration in the choice of these methods should be the recognition of the prime importance of the task of encouraging the progressive development of international law and its codification.
3. The first step which should be taken to achieve this end is the creation of an effective instrument for the continuation of the work.
4. The continuation of the work should be entrusted primarily to a United Nations Commission of Experts on International Law. Such a Commission should be established by the General Assembly for a period of three years at the end of which time the situation should be re-examined with a view to determining whether the Commission should be continued on a permanent basis or whether some new form of organization should be provided by the General Assembly in the light of experience. Consideration may also be given to the continuation by the General Assembly of the present Committee on the Progressive Development of International Law and its Codification or of a similar committee of government representatives which could serve as a general programming and policy group to assist the Commission of Experts.
5. The Commission of Experts should be composed of persons of outstanding competence in the field of international law. The Commission should be so established and so constituted as to create a body of great prestige

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consonant with the importance of the task which is to be entrusted to it. With this end in view, the term of office of members of the Commission and their compensation should be such as to attract persons of the highest prominence and attainments. A term of three years would seem to be appropriate.

6. In order to insure the selection of the most competent experts, they should be elected by the General Assembly and the Security Council through a procedure comparable to that now provided for the election of judges of the International Court of Justice. Consideration may be given to the question whether the nominations should be made by a procedure comparable to that prescribed in Articles 5 and 6 of the Statute of the Court or directly by governments.

7. The task of the Commission should be envisaged as falling into two distinct parts: first, the progressive development of international law and second, its codification. These two parts should be understood as contemplating, first, the preparation of drafts upon such subjects as may be referred to the Commission by the General Assembly, or upon such other subjects as the Commission might determine to be in need of this type of treatment; and second, the scientific restatement of existing rules and principles of international law.

8. The procedures to be utilized by the Commission should envisage a series of stages:

(a) The determination by the Commission of the project upon which work is to be undertaken.

(b) Co-operation with such other expert groups, whether governmental or non-governmental, as might be found appropriate in each instance with a view to enlisting universal support and assistance in the development of each project.

(c) The elaboration of a draft text prepared by the Commission in the light of such suggestions as might be received through the co-operation indicated in the preceding paragraph.

/(d) The submission

(d) The submission of the draft through the Secretary-General to the governments of all Members of the United Nations with a view to the transmission of comments and suggestions for the elaboration of which adequate time should be provided.

(e) Reconsideration of the draft text by the Commission in the light of the observations of the governments.

(f) Transmission of the revised text to the General Assembly with recommendations for action thereon either by resolution of the General Assembly; by the adoption of a convention to be submitted to governments for ratification; or by simple authorization of the publication of the report.

9. The General Assembly might, in its discretion, refer a report of the Commission to its Sixth Committee for recommendations. It might also, in the interest of facilitating more deliberate study than would be possible during its session, provide for previous examination of a report of the Commission by a small group, composed of representatives of governments, which might be considered as in the nature of a special sub-committee of the Sixth Committee.

10. In all stages of its work, the Commission should be able to draw upon the expert services of the Secretariat. It should moreover be authorized to enlist the assistance of individual experts of special competence in particular topics under consideration. It should be envisaged that in most cases the Commission would provide for preliminary investigation and drafting by rapporteurs assisted by a small committee composed of members of the Commission or of other persons selected by the Commission or of both. There may also be many instances in which it will be found advantageous to prepare conventions, especially on subjects of a technical nature, through international conferences convoked for that purpose by an organ of the United Nations, by a specialized agency or by a government. The Commission should be prepared to render expert assistance in the preparation and work of such conferences.
