



Sixteenth session  
Agenda item 77

## ENLARGEMENT OF THE INTERNATIONAL LAW COMMISSION

Report of the Sixth Committee

Rapporteur: Mr. E. USTOR (Hungary)

Introduction

1. By a letter dated 18 July 1961 addressed to the Secretary-General (A/4805), the Acting Permanent Representative of the United States of America to the United Nations requested that the following item should be included in the provisional agenda of the sixteenth session of the General Assembly: "Enlargement of the International Law Commission".
2. The General Assembly, at its 1014th plenary meeting on 25 September 1961, placed the item on the agenda of its sixteenth session and at its 1018th plenary meeting on 27 September referred it to the Sixth Committee.
3. The Committee considered the item from its 689th to 700th meetings held between 4 and 20 October 1961.

Proposal and amendment

4. The Sixth Committee had before it a draft resolution (A/C.6/L.481 and Add.1) submitted by Cameroun, Colombia, India, Japan, Liberia, Nigeria, Sweden and the United States of America, whereby article 2, paragraph 1, and article 9, paragraph 1, of the Statute of the International Law Commission would be amended in order to increase the membership of the Commission from twenty-one to twenty-three members.
5. Ethiopia, Ghana, Indonesia, Iran, Lebanon, Libya, Senegal and Thailand submitted an amendment (A/C.6/L.483 and Add.1) to the joint draft resolution with a view to increasing the membership of the Commission to twenty-five members.

6. The sponsors of the joint draft resolution accepted the amendment.
7. A statement regarding the financial implications of the proposed amendments to articles 2 and 9 of the Statute was submitted by the Secretariat (A/C.6/L.482).

#### Debate

8. Representatives taking part in the debate were in general agreement with the idea of increasing the membership of the Commission. They stressed the fact that since 1956 when the membership of the Commission was increased from fifteen to twenty-one members, the size and composition of the United Nations had changed significantly. Twenty-one new States had achieved independence and become Members, including nineteen from the central and southern part of Africa. However, no person from that African area was presently a member of the Commission, a deficiency which obviously should be corrected.
9. There were, however, differences of opinion as to the number of additional seats required, and as to the need of a possible redistribution of all seats.
10. Several representatives were in favour of increasing the membership of the Commission from twenty-one to twenty-three seats, the two additional seats being allocated to African countries south of the Sahara. In the view of most of those representatives no further arrangement was to be made concerning the distribution of the twenty-one seats. In this respect, the "gentlemen's agreement" arrived at in 1956 at the eleventh session of the General Assembly<sup>1/</sup> should continue in effect.
11. Some representatives, while not opposed to increasing the membership of the Commission, stated that the main problem was that of the distribution of seats in the Commission. In their view, the "gentlemen's agreement" of 1956 should not apply to the 1961 election, either on the ground that owing to changed circumstances it had ceased to exist or because it had become unsatisfactory and therefore should be revised. They thought that, in the course of redistribution, more seats should be allocated to African, Asian and Socialist countries.
12. Many representatives thought that twenty-five seats would be a more adequate number. As to the four additional seats, some representatives would allot them to

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<sup>1/</sup> See General Assembly Official Records, Eleventh Session, Annexes, agenda item 59, document A/3427, para. 13.

Africa, others to Africa and Asia. Some of those favouring a new distribution of seats held that ten out of the twenty-five seats were due to Africa and Asia.

13. Some representatives, although not opposing an increase in the membership, were of the opinion that the creation of too large a body would be liable to impede the work of the Commission.

14. Other representatives considered that if the need arose, the Commission might establish sub-commissions.

15. In the course of the discussion, agreement was achieved to the effect that the membership of the Commission be increased to twenty-five.

#### Voting

16. At its 698th meeting, on 18 October, the Sixth Committee adopted unanimously the draft resolution, submitted by Cameroun, Colombia, India, Japan, Liberia, Nigeria, Sweden and the United States of America (A/C.6/L.481 and Add.1) as modified by the amendment submitted by Ethiopia, Ghana, Indonesia, Iran, Lebanon, Libya, Senegal and Thailand (A/C.6/L.483 and Add.1).

#### Recommendation of the Sixth Committee

17. The Sixth Committee accordingly recommends that the General Assembly adopt the following draft resolution:

#### ENLARGEMENT OF THE INTERNATIONAL LAW COMMISSION

The General Assembly,

Recalling its resolution 1103 (XI) of 18 December 1956, by which the membership of the International Law Commission was established at twenty-one members,

Noting that the membership of the United Nations has increased substantially since the adoption of that resolution,

1. Decides to amend as follows article 2, paragraph 1, of the Statute of the International Law Commission:

"The Commission shall consist of twenty-five members who shall be persons of recognized competence in international law";

2. Decides, as a consequence, to amend as follows article 9, paragraph 1, of the said Statute:

"The twenty-five candidates who obtain the greatest number of votes and not less than a majority of the votes of the Members present and voting shall be elected".

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