

Reallocation without Expansion

As regards the first question concerning whether there could be a reallocation without expansion, it seems clear that this could be done in such a manner as not to fall short of the requirements of Article 8 of the Statute of the International Law Commission.

It will be recalled that this Article provides that the persons to be elected should individually possess the qualifications required and that in the Commission as a whole a representation of the main forms of civilization and of the principal legal systems of the world should be assured.

However, in order to bring about reallocation without expansion so as to ensure that the 21 new members of the United Nations are represented on the Commission, it would be necessary to deprive other groups of states of a percentage of the seats allocated to them under the 1956 "Gentlemen's Agreement". This in turn would present the Commission with the mountainous problem of deciding what yardstick should be used in taking away seats already allocated to other groups of states for reallocation to the candidates of the new members. Each group of states would wish to maintain that its allocation should not be disturbed. Clearly in these circumstances if an attempt were made to have a re-allocation of seats without expansion the result would probably be a complete deadlock. It seems, therefore, that it may simply not be feasible to contemplate a reallocation without expansion and that this course is not open to us in the circumstances.

General Reallocation with Expansion

The question next arises as to whether it would be feasible to have a general reallocation with an expansion. While there seems to be general agreement that an expansion is required, it is the view of the Canadian delegation that a general reallocation would not be practicable however wise it might seem to be in theory.

In support of a general reallocation with expansion the view has been expressed that the overall agreement reached in 1956 was an unsatisfactory one and that a compelling need exists to scrap the 1956 agreement and start again. If there were factors which could be brought forward to show that the 1956 overall agreement was now entirely out of date, and therefore required remodelling, there would then be considerable point to the argument that a new overall agreement should now be drawn up. However, the only relevant development that has taken place since 1956 is that 21 new states, including 19 African states, have joined the United Nations. This development in no way unhinges the basis of the 1956 overall arrangement, it can and should, in the opinion of the Canadian delegation, be dealt with on a separate basis.

If the 1956 agreement is considered carefully, it is difficult to see how an overall reallocation in the context of an expansion would be advisable. Representatives of the Afro-Asian group have stated that there is need for a reallocation because, in their view, their group is under-represented. Similarly claims are being made that the Eastern European group is under-represented. However, who is to judge as to the validity of these claims or as to the validity of similar claims that other groups of states would be well justified to advance were it decided to introduce an overall reallocation of seats even in the context of an expansion?