

ARTICLE 22

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TEXT OF ARTICLE 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

INTRODUCTORY NOTE

1. The General Assembly has established a large number of subsidiary organs which differ considerably in types of function, membership, duration and other respects. An attempt has therefore been made in the General Survey to give an over-all view of the different types of subsidiary body established by the Assembly. Since this view must necessarily be cursory, because of the number of organs and their many differences, a list of the subsidiary organs, classified in certain broad categories, is annexed to this study.
2. The Main Committees of the Assembly are not dealt with in this study. The question of whether these Committees should be considered as subsidiary organs or as an integral part of the Assembly is dealt with in this Repertory under Article 7.
3. Relatively few questions would appear to have arisen which directly concern the application of Article 22; the constitutional questions raised in connexion with the establishment of subsidiary organs in general related more closely to the application of other Articles of the Charter than to Article 22 itself. Such questions as have arisen related, broadly speaking, on the one hand to the scope of the powers of the Assembly in their bearing on the establishment of subsidiary organs and, on the other hand, to the scope of the powers to be given to the subsidiary organs themselves. As the two questions are closely connected, they have often been discussed together. The Analytical Summary of Practice devotes two of its three sections to these questions. The third section deals with the relationship of the subsidiary organs to other organs.

I. GENERAL SURVEY

4. The General Assembly, during its first eight regular and its two special sessions, has established almost a hundred subsidiary organs. They have varied considerably in the kinds of functions assigned to them, their duration, their type of membership, the method of appointing their members and the extent of the powers defined in their terms of reference. A list of these organs, with indications of the broad categories into which they fall in the foregoing respects, is annexed to this study.
5. Most of the subsidiary organs dealt with here have been established directly by resolution of the General Assembly. In certain instances, however, the Secretary-General has been requested or authorized to establish the organ; for example, at the first part of the first session the Assembly resolved ^{1/} that an "International Civil Service Commission shall be established by the Secretary-General". The resolution authorized him to appoint an advisory committee to draft a statute for an administrative tribunal and recommended that he appoint two advisory groups of experts. ^{2/} In another instance, a subsidiary organ of the General Assembly, the

^{1/} G A resolution 13 (I), para. 6.

^{2/} G A resolution 13 (I), paras. 11 and 18 and G A resolution 14 (I), para. 4.

Peace Observation Commission, was requested 3/ itself to establish a subsidiary body, a Balkan sub-commission, and the authority to be delegated to that subsidiary body was specified in the resolution of the Assembly.

6. Whereas the method of establishment has been, in nearly every case, by resolution of the General Assembly, the method of determining the membership of the subsidiary organs has been less uniform. In the cases of the Atomic Energy Commission and the Disarmament Commission, 4/ for example, the category of States designated for membership was stated in the resolution of the Assembly. In other cases, the Assembly has decided separately on the actual States or individuals to be members, on the proposal of the President or on the recommendation of a Main Committee, frequently adopted on the proposal of its Chairman. This has been the method followed for the majority of subsidiary organs the membership of which consists of States; it was also used in the first appointment 5/ of members of the United Nations Commission on the Racial Situation in the Union of South Africa, the membership of which consisted of individuals. In yet other instances, as in the case of the Conciliation Commission for Palestine, 6/ the Assembly has taken a decision on the appointment of the members of a body after having previously set up a committee to make a proposal concerning membership. As regards the membership of bodies composed of individuals, the Assembly has generally used a system of nomination and election, as in the case of the International Law Commission 7/ and of the Advisory Committee on Administrative and Budgetary Questions; the members of the latter are appointed by the Assembly on the recommendation of the Fifth Committee, following elections held in that Committee. In one instance, that of the Special Committee on the representation of China, 8/ the elective process was applied to States. In some cases, notably in those of the United Nations Commissioners in Libya and Eritrea, 9/ the elections were held on the basis of nominations made by a committee of the Assembly specially created for the purpose.

7. Sometimes the appointment of members of subsidiary bodies has been made indirectly; thus the General Assembly has asked that the appointments be made by its President (for example, in the case of its Negotiating Committees for Extra-Budgetary Funds appointed at successive sessions), 10/ by a committee of its members (in the case of the United Nations Mediator in Palestine) 11/ or by the Secretary-General (in the case of the United Nations Tribunals in Libya and Eritrea). 12/ The members of some bodies are appointed by other indirect means: for example, the members of the United Nations Joint Staff Pension Board are appointed by the United Nations Staff Pension Committee and the staff pension committees of the member organizations participating in the staff pension scheme. 13/

8. Sometimes a combination of the different methods of appointment has been used. For example, the various committees on information transmitted with regard to

3/ G A resolution 508 (VI).

4/ G A resolutions 1 (I) and 502 (VI).

5/ G A (VII), Plen., 411th mtg., p. 530.

6/ G A (III/1), Plen., 186th mtg., p. 1005.

7/ See articles 3-10 of the Statute of the International Law Commission, adopted by General Assembly resolution 174 (II).

8/ G A (V), Plen., vol. I, 321st mtg., p. 608.

9/ G A resolutions 289 B (IV) and 390 B (V).

10/ G A resolutions 393 (V), 410 (V), 571 B (VI), 607 (VI), 693 (VII) and 759 (VIII).

11/ G A resolution 186 (S-2).

12/ G A resolution 388 (V), article X, and G A resolution 530 (VI), article XI.

13/ See article 22 of the regulations for the United Nations Joint Staff Pension Fund, adopted by General Assembly resolution 248 (III).

Non-Self-Governing Territories have consisted of Members transmitting such information and of other members elected by the Fourth Committee on behalf of the Assembly. 14/ The United Nations Staff Pension Committee consists of some members elected by the General Assembly, some appointed by the Secretary-General and some elected by the participants in the Staff Pension Fund. 15/

9. Any classification of the subsidiary bodies of the Assembly according to the functions assigned to them must, to some extent, be arbitrary and admit of exceptions. Both the type of function and the degree of authority delegated to individual organs vary considerably. For convenience, however, these bodies have been divided into the following broad categories.

Study committees

10. The purpose of study committees is to prepare studies to facilitate consideration of certain matters by the General Assembly. Such committees have included the following: the Committees on International Criminal Jurisdiction, 16/ the Special Committee on Admission of New Members 17/ and the Collective Measures Committee. 18/ The Interim Committee falls within this group to the extent that its function has been to "consider and report" to the Assembly. However, certain of its assigned functions have exceeded that of study. Some of these have been general functions in connexion with which it might, within certain limitations, conduct investigations and appoint commissions of inquiry, 19/ request advisory opinions from the International Court of Justice 20/ and utilize the Peace Observation Commission; 21/ others have been particular functions in connexion with which it might be consulted by the Temporary Commission on Korea, 22/ by the Commission on Korea 23/ and by the Special Committee on the Balkans, 24/ and it was to consider the report of the United Nations Commission for Eritrea. 25/

11. The studies and reports are usually to be made to the General Assembly, though in certain cases, as in that of the Atomic Energy Commission, 26/ it was provided that the studies were to be transmitted to other organs or, as in the case of the Ad Hoc Commission on Prisoners of War, 27/ to the Secretary-General for transmission to Members. In some cases the function of study is coupled with the function of making proposals to the General Assembly, or even, as in the case of the Disarmament Commission, 28/ to a conference of States to be convened on the decision of the subsidiary organ.

14/ G A resolutions 66 (I), 146 (II), 219 (III), 332 (IV) and 646 (VII).

15/ Article 20 of the regulations for the United Nations Joint Staff Pension Fund.

16/ G A resolutions 489 (V) and 687 (VII).

17/ G A resolution 620 A (VII).

18/ G A resolution 377 A (V).

19/ G A resolution 111 (II).

20/ G A resolution 196 (III).

21/ G A resolution 377 A (V).

22/ G A resolution 112 B (II).

23/ G A resolution 195 (III).

24/ G A resolution 193 (III).

25/ G A resolution 289 A (IV).

26/ G A resolution 1 (I).

27/ G A resolution 427 (V).

28/ G A resolution 502 (VI).

Political commissions and organs having active political responsibilities

12. These responsibilities are often combined with duties of study and report. The function of these bodies may be primarily that of investigation and report, as in the case of the United Nations Special Committee on Palestine 29/ and of the United Nations Commission to investigate Conditions for Free Elections in Germany. 30/ Again, their primary function may be to furnish assistance in establishing a form of government: in Libya it has included the establishment of a government; 31/ in Eritrea it has been the establishment of a Federation; 32/ and in Korea it has been the observation of elections. 33/ Mediation and conciliation may be a principal function, as it has been for the United Nations Mediator in Palestine 34/ and for the Conciliation Commission for Palestine. 35/ Again, a principal function may be observation as a means of maintaining peace, as for the United Nations Special Committee on the Balkans 36/ and the Balkan Sub-Commission of the Peace Observation Commission, 37/ or arranging and assisting in negotiations between Governments as in the case of the United Nations Good Offices Commission in connexion with the question of the treatment of people of Indian origin in the Union of South Africa. 38/

13. A number of these bodies have been given a certain degree of power to take decisions without being required to refer them back to the General Assembly. For example, the United Nations Commissioner in Libya 39/ was appointed "for the purpose of assisting the people of Libya in the formulation of the constitution and the establishment of an independent Government"; he was authorized to appoint, after consultation, the members of his Advisory Council representing the regions and minorities of Libya. The United Nations Special Committee on the Balkans was authorized 40/ to determine its own procedure and to establish such sub-committees as it thought necessary to perform its functions in connexion with the compliance, by the four Governments concerned, with the recommendations of the Assembly. Subsequently, the Committee was specifically instructed 41/ "to continue to utilize observation groups". The Conciliation Commission for Palestine was instructed 42/ "to take steps to assist the Governments and authorities concerned to achieve a final settlement" of outstanding questions and "to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation". It was specifically authorized to appoint a United Nations

29/ G A resolution 106 (S-1).

30/ G A resolution 510 (VI).

31/ G A resolution 289 Z (IV).

32/ G A resolution 390 A (V).

33/ G A resolution 112 (II).

34/ G A resolution 186 (S-2).

35/ G A resolution 194 (III).

36/ G A resolutions 109 (II), 193 (III), 288 (IV), and 382 B (V).

37/ G A resolution 508 B (VI).

38/ G A resolutions 615 (VII) and 719 (VIII).

39/ G A resolution 289 A (IV).

40/ G A resolution 109 (II).

41/ G A resolution 193 (III).

42/ G A resolution 194 (III).

representative to co-operate with the local authorities with respect to the interim administration of the Jerusalem area, as well as to appoint such subsidiary bodies and to employ such technical experts as it deemed necessary.

Organs of administrative assistance

14. Organs of administrative assistance were established by the Assembly to assist it in carrying out its functions relating to financial, budgetary and administrative matters. Examples of such organs are: the Advisory Committee on Administrative and Budgetary Questions, ^{43/} the Committee on Contributions ^{44/} and the Negotiating Committee for Extra-Budgetary Funds. ^{45/} Such committees as the Headquarters Advisory Committee, ^{46/} set up to advise the Secretary-General in the exercise of certain of his administrative functions, may also be placed in this category.

15. The main function of most of these organs is to study, to advise and to report, but in some cases they have the power to take final action. Thus, the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions is required for the transfer of credits between sections of the budget and, in certain instances, for withdrawals from the Working Capital Fund, and for commitments entered into by the Secretary-General to meet unforeseen and extraordinary expenses. ^{47/} The United Nations Joint Staff Pension Board has power to take final decisions regarding the admission of participants and the granting of benefits under the pension scheme; it may, moreover, delegate these powers, with the exception of the power to certify the payment of benefits, to the United Nations Staff Pension Committee and the staff pension committees of the member organizations. ^{48/}

Operational agencies

16. The purpose of operational agencies is to administer relief, rehabilitation and assistance programmes financed by voluntary contributions outside the regular budget of the United Nations. Such agencies include ^{49/} the United Nations Children's Fund (UNICEF), ^{50/} the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), ^{51/} the United Nations Korean Reconstruction Agency (UNKRA) ^{52/} and the Office of the United Nations High Commissioner for Refugees. ^{53/}

17. The operational agencies have several distinctive features in respect of organization and structure, functions and powers, and financing.

^{43/} G A resolution 14 (I).

^{44/} Ibid.

^{45/} G A resolutions 393 (V), 410 (V), 571 B (VI), 607 (VI), 693 (VII), and 759 (VIII).

^{46/} G A resolution 182 (II).

^{47/} See, for example, G A resolutions 787 (VIII) and 788 (VIII).

^{48/} G A resolution 248 (III).

^{49/} The Technical Assistance Board (TAB) should also be classified as an operational agency. Having been established by the Economic and Social Council, the TAB is dealt with in this Repertory under Article 68.

^{50/} General Assembly resolution 57 (I) established this agency as the United Nations International Children's Emergency Fund; the title was changed by resolution 802 (VIII).

^{51/} G A resolution 302 (IV).

^{52/} G A resolution 410 (V).

^{53/} G A resolution 428 (V).

18. As regards organization and structure, each of these agencies has a secretariat consisting of an executive head and his staff, and a governmental committee or board empowered to give directives or advice to the executive head in the performance of the agency's duties.

19. The Executive Director of UNICEF, the Director of UNRWA and the Agent General of UNKRA are appointed by the Secretary-General in consultation with the appropriate organ of the agency concerned. ^{54/} The High Commissioner for Refugees is elected by the General Assembly on the nomination of the Secretary-General. The staffs are appointed by, and report to, the executive head of the respective agency.

20. As regards the responsibility of the executive heads in the administration of the agencies' programmes, it was expressly provided in General Assembly resolutions 302 (IV) and 410 (V) respectively that the Director of UNRWA and the Agent General of UNKRA are responsible to the General Assembly. The High Commissioner for Refugees is required to follow policy directives given to him by the General Assembly or by the Economic and Social Council, and to report annually to the Assembly through the Council. ^{55/} The Executive Director of UNICEF is required to act in accordance with the policies laid down by the Executive Board ^{56/} but is generally under the administrative supervision of the Secretary-General.

21. The role and composition of the governmental committee or board varies with each agency. The Executive Board of UNICEF consists of the Governments of the States represented on the Social Commission of the Economic and Social Council and the Governments of eight other States, not necessarily Members of the United Nations, designated by the Council. ^{57/} Under resolution 57 (I), the Executive Board has been empowered to establish the policies of UNICEF, including the determination of programmes and the allocation of funds, in accordance with such principles as may be laid down by the Economic and Social Council and its Social Commission.

22. The Advisory Commission of UNRWA, consisting of not more than nine Members ^{58/} was established to advise and assist the Director in the execution of the programme of aid to Palestine refugees.

23. With respect to UNKRA, the General Assembly, by resolution 410 (V), conferred upon a second organ, the United Nations Commission for the Unification and Rehabilitation of Korea, consisting of seven Members, certain supervisory and advisory powers, and established an Advisory Committee, consisting of representatives of five Member States, to advise the Agent General of UNKRA.

24. The Statute of the Office of the High Commissioner for Refugees authorized the Economic and Social Council to establish an advisory committee, and by resolution 393 (XIII) the United Nations High Commissioner's Advisory Committee on Refugees, with a membership of fifteen States, was established by the Council. At its 837th meeting on 31 March 1955 (nineteenth session), the Council adopted a resolution whereby the Advisory Committee was reconstituted as the United Nations Refugee Fund (UNREF) Executive Committee, consisting of twenty Members. That Committee was

^{54/} The Executive Board for UNICEF, the Advisory Commission for UNRWA and the Advisory Committee for UNKRA.

^{55/} Statute of the Office of the High Commissioner for Refugees adopted by General Assembly resolution 428 (V).

^{56/} G A resolution 57 (I).

^{57/} G A resolution 417 (V).

^{58/} G A resolution 720 B (VIII).

empowered to give policy directives to the High Commissioner with respect to the UNREF programme, and to advise the High Commissioner, at his request, in the exercise of his functions under the Statute.

25. So far as functions and powers are concerned, the operational agencies have been entrusted with the task of executing programmes of relief, rehabilitation and other forms of assistance by furnishing supplies and services to Governments or directly to the peoples concerned. In carrying out their mandate, these subsidiary organs have the authority to make final decisions within their terms of reference. Their legal powers include the authority to enter into contracts, to sue, to acquire, hold and transfer property, and to take any other legal action required in the performance of their functions. 59/

26. The operational agencies are financed by voluntary contributions from Governments (and, in the case of UNICEF and of the Office of the High Commissioner for Refugees, from other sources as well) and not by assessments under the regular budget of the Organization. 60/

27. The authority of these agencies to take final action in administering the relevant programmes includes broad powers for the disposition of funds. The Executive Board of UNICEF has the power 61/ to allocate the resources of UNICEF as well as to determine its programmes. The Agent General of UNKRA is authorized 62/ to use contributions in kind or services, at his discretion, for the programme of relief and rehabilitation and for administrative expenses connected therewith. The United Nations High Commissioner for Refugees is authorized 63/ to administer any funds, public or private, which he receives for assistance to refugees, and to distribute them among the private and, as appropriate, public agencies which he deems best qualified to administer such assistance. With regard to UNRWA, the General Assembly has set the over-all limits of the programme for given periods 64/ and has specified the amounts to be made available for sub-programmes of direct relief for Palestine refugees, work projects and reintegration. The Agency has, however, been authorized to transfer funds between the sub-programmes, and at the sixth session the Assembly specifically authorized it "to transfer funds allocated for relief to reintegration".

Judicial bodies

28. Three judicial bodies have been established by the General Assembly: the United Nations Tribunals in Libya and Eritrea, and the Administrative Tribunal. The terms of reference of the Tribunals in Libya and Eritrea 65/ are, broadly speaking, to

59/ The legal powers of UNICEF have been expressly set forth in paragraph 2(a) of General Assembly resolution 57 (I). Although no similar provision is contained in the resolutions concerning UNRWA, UNKRA and the High Commissioner for Refugees, those agencies have, in fact, exercised similar powers.

60/ With the exception of the administrative expenses of the Office of the High Commissioner for Refugees, which are included in the regular budget of the United Nations.

61/ G A resolutions 57 (I) and 417 (V).

62/ G A resolution 410 (V).

63/ G A resolution 428 (V).

64/ G A resolutions 302 (IV), 393 (V), 513 (VI), 614 (VII) and 720 (VIII).

65/ G A resolution 388 A (V), article X, and G A resolution 530 (VI), article XI.

give to the authorities concerned, upon their request, such instructions as may be required to give effect to the relevant General Assembly resolution and to decide all disputes between those authorities regarding the interpretation and application of the resolution. It was specified that the decisions of both Tribunals should be final and binding and might be taken by majority vote. In the case of the Tribunal in Eritrea, it was further specified that it was to have "exclusive competence on matters falling within its functions".

29. The United Nations Administrative Tribunal was established 66/ with competence to hear and to pass judgement upon applications alleging non-observance of contracts of employment of staff members of the United Nations Secretariat or of their terms of appointment. In the event of any dispute as to whether the Tribunal has competence, the Statute of the Tribunal provides that the matter is to be settled by decision of the Tribunal. By special agreement the competence of the Tribunal may be extended to the specialized agencies. The Statute provides that the judgements of the Tribunal shall be final and without appeal and shall be taken by majority vote. There is a specific provision that the Statute may be amended by decision of the General Assembly.

Other organs

30. Some of the subsidiary organs of the Assembly do not fall readily into any of the five categories listed above. For example, the International Law Commission, a "study committee" in that it considers and recommends to the General Assembly topics within the realm of international law for codification, has, under its Statute, 67/ wide powers in respect of the progressive development of international law. The Ad Hoc Committee on the United Nations Relief and Rehabilitation Administration (UNRRA), 68/ though it may be described as an administrative assistance organ, was established primarily to obtain additional contributions to a body outside the United Nations, namely UNRRA.

Membership of subsidiary organs

31. The subsidiary bodies vary also in their type of membership. Where the membership consists of States, it may include all Member States, as in the case of the Interim Committee, or a certain category of States, as in the case of the Disarmament Commission, or certain States named in the resolution establishing the subsidiary organ, as is the case in the majority of instances. Alternatively, the subsidiary bodies may be composed of experts, serving in an individual capacity, as in the case of the International Law Commission, or may consist of a single individual, for example, the United Nations Mediator in Palestine and the United Nations Commissioners in Libya and Eritrea.

32. In the case of experts, it is frequently specified that particular considerations are to be taken into account in their selection, such as geographical distribution, as in the cases of the Advisory Committee on Administrative and Budgetary Questions and the Conciliation Commission for Palestine; or that particular qualifications are to be borne in mind, as in the cases of the International Law Commission and the United Nations Tribunals in Libya and Eritrea. In some cases, where the membership of a subsidiary body has consisted of states, these have been requested to designate specially qualified representatives - as with the Special Technical Committee on

66/ G A resolution 351 (IV).

67/ G A resolution 174 (II).

68/ G A resolution 6 (I).

Relief Needs after the Termination of UNRRA 69/ and the Special Committee on a United Nations Guard. 70/

Duration of subsidiary organs

33. The subsidiary organs of the Assembly have sometimes been established on a "permanent" or standing basis; such are the Advisory Committee, the Board of Auditors 71/ and the International Law Commission. In some cases, they have been established for an indefinite period, for example, the United Nations Commission for the Unification and Rehabilitation of Korea and the United Nations Korean Reconstruction Agency. More often, such bodies have been established for a specified period or for the accomplishment of a particular task of limited duration. In the latter case, the subsidiary organs have, as a rule, been asked to report to the next or to a succeeding session of the General Assembly. In some instances, as in that of the Committee on the draft Convention on Freedom of Information, 72/ a date on which the Committee was to transmit its report was specified; in others, for example, that of the Ad Hoc Committee on Factors (Non-Self-Governing Territories), 73/ the date on which the Committee was to begin its work was prescribed.

34. As regards the termination of these bodies, the Assembly has sometimes, as in the cases of the Atomic Energy Commission 74/ and the United Nations Special Committee on the Balkans, 75/ dissolved the body concerned specifically by resolution. In other cases, as in that of the United Nations Mediator in Palestine 76/ and the United Nations Temporary Commission on Korea, 77/ the Assembly has replaced the earlier organ by another. In some instances, the Assembly appears to have considered an organ to have automatically ceased to exist upon the fulfilment of the particular purpose for which it was created.

35. The practice of the Assembly in continuing organs established for a particular purpose or for a limited period has also not been uniform. Sometimes, as in the case of the United Nations Special Committee on the Balkans 78/ and of the Headquarters Advisory Committee, 79/ it has continued the same body in existence from session to session; at other times, as in the case of the Negotiating Committees for Extra-Budgetary Funds 80/ and the earlier Committees on Information Transmitted under Article 73 e, 81/ it has established new committees with similar terms of reference at successive sessions.

69/ G A resolution 48 (I).

70/ G A resolution 270 (III).

71/ G A resolution 74 (I).

72/ G A resolution 426 (V).

73/ G A resolution 567 (VI).

74/ G A resolution 502 (VI).

75/ G A resolution 508 A (VI).

76/ General Assembly resolution 194 (III), establishing the United Nations Conciliation Commission for Palestine, which was "to assume, in so far as it considers necessary in existing circumstances, the functions given to the United Nations Mediator ... by resolution 186 (S-2)".

77/ General Assembly resolution 195 (III), establishing the United Nations Commission on Korea which was to "be regarded as having superseded the Temporary Commission".

78/ G A resolutions 193 A (III), 288 A (IV) and 382 B (V).

79/ G A resolutions 242 (III), 350 (IV), 461 (V) and 589 (VI).

80/ G A resolutions 393 (V), 410 B (V), 571 B (VI), 607 (VI), 693 (VII) and 759 (VIII).

81/ G A resolutions 66 (I), 146 (II), 219 (III) and 332 (IV).

Place of meeting of subsidiary organs

36. As a rule, the place of meeting of the subsidiary bodies of the Assembly has not been specified in the resolutions creating them; it appears to have been assumed that they would normally meet at United Nations Headquarters. This was actually laid down in some cases, as in those of the Interim Committee on Korea, 82/ the Committee on the draft Convention on Freedom of Information 83/ and the 1953 Committee on International Criminal Jurisdiction. 84/ Sometimes a body which was to meet at Headquarters has also been authorized to meet elsewhere: the International Law Commission, according to its Statute, 85/ may meet elsewhere than at Headquarters after consultation with the Secretary-General; the Advisory Committee to the Agent-General of the United Nations Korean Reconstruction Agency 86/ may also meet elsewhere if it deems it essential to the proper performance of its work. Two bodies were established with headquarters or meeting place in Geneva: the Office of the United Nations High Commissioner for Refugees, 87/ and the 1953 Committee on International Criminal Jurisdiction. 88/

37. In a number of cases, it has been specifically provided that the headquarters or place of meeting of subsidiary bodies, particularly those of a political nature, should be in the areas with which they are concerned. Such cases include: the United Nations Special Committee on the Balkans, the United Nations Commission for Eritrea, the United Nations Commission on Korea and the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration. 89/ The Tribunals for Libya and for Eritrea were to have their seats in those territories. 90/ In some instances, although no place of meeting or headquarters was specified, as in the case of the United Nations Mediator in Palestine, 91/ it was clear from the resolution that the subsidiary organ concerned was to operate in the field.

38. Sometimes it has been specifically stated that the Secretary-General should determine the place of the meeting, for example, in the case of the Special Committee on Information Transmitted under Article 73 e of the Charter, established by resolution 219 (III).

Method of reporting

39. The majority of the subsidiary bodies of the Assembly have been requested or recommended to report direct to the Assembly. In some instances, however, they have been asked to report to other organs or to the General Assembly through other organs. Thus, the Atomic Energy Commission was directed to report 92/ to the Security Council, which, "in appropriate cases", was to transmit these reports to the Assembly, to Members of the United Nations and to other organs; the Disarmament Commission and

82/ G A resolution 376 (V).

83/ G A resolution 426 (V).

84/ G A resolution 687 (VII).

85/ G A resolution 174 (II), Article 12 of the Statute annexed thereto.

86/ G A resolution 410 A (V).

87/ G A resolution 428 (V), para. 19 of the Statute annexed thereto.

88/ G A resolution 489 (V).

89/ G A resolutions 109 (II), 289 A (IV) and 195 (III).

90/ G A resolutions 388 A (V), article X and 530 (VI), article XI.

91/ G A resolution 186 (S-2).

92/ G A resolution 1 (I).

the Collective Measures Committee were to report 93/ both to the Security Council and to the General Assembly. The Committee on the draft Convention on Freedom of Information and UNICEF were to report 94/ to the Economic and Social Council and the United Nations High Commissioner for Refugees was to report 95/ to the Assembly through the Council. The Special Rapporteur on the question of establishing a special United Nations fund for economic development was to report 96/ both to the Assembly and to the Economic and Social Council. The Sub-Committee on the Questionnaire formulated by the Trusteeship Council was to report 97/ to the Trusteeship Council.

40. On various occasions, subsidiary organs have been asked to report to the Secretary-General, as in the case of the United Nations Commissioner in Libya, 98/ or to the Secretary-General for transmission to Members, as in the case of the Conciliation Commission for Palestine and the Ad Hoc Commission on Prisoners of War, 99/ or to the General Assembly through the Secretary-General, as in the case of the Agent General of UNKRA. 100/

41. Sometimes the Secretary-General has been requested to report personally on the work of the subsidiary organ, as in the case of the Standing Committee on the Repatriation of Greek Children. 101/

42. In some instances, as in the case of the United Nations Mediator in Palestine and the United Nations Commission to investigate Conditions for Free Elections in Germany, 102/ where the reports were to be considered by other authorities (in the former case, by the Security Council and in the latter, by the four Powers involved), these reports were to be transmitted to the Secretary-General "for the information of Members". At other times, for example, in the case of the Special Committee on Measures to Limit the Duration of Regular Sessions of the General Assembly, 103/ the Secretary-General was requested to transmit the report to Members for comment prior to its consideration by the General Assembly.

43. Sometimes an organ, for example the United Nations Commission on Korea or the United Nations Commission for the Unification and Rehabilitation of Korea, 104/ has been asked to render "such interim reports as it may deem appropriate" to the Secretary-General for transmission to Members, in addition to its annual report to the General Assembly.

93/ G A resolutions 502 (VI) and 377 A (V).

94/ G A resolutions 57 (I) and 426 (V).

95/ G A resolution 428 (V), para. 11 of the Statute of the Office of the High Commissioner for Refugees, annexed thereto.

96/ G A resolution 724 B (VIII).

97/ G A resolution 751 (VIII).

98/ G A resolution 289 A (IV).

99/ G A resolutions 194 (III) and 427 (V).

100/ G A resolution 410 (V).

101/ G A resolution 382 C (V).

102/ G A resolutions 186 (S-2) and 510 (VI).

103/ G A resolution 689 (VII).

104/ G A resolutions 195 (III) and 376 (V).

44. In the case of certain organs, no provision has been made for reporting. This would seem to have occurred principally in connexion with three kinds of bodies: (1) those which are mainly advisory in character and are concerned with matters on which another organ or the Secretary-General is to report, for example, the Headquarters Advisory Committee, originally established under resolution 100 (I); (2) judicial bodies; and (3) certain standing bodies and panels which may or may not be called upon to function, such as the Peace Observation Commission and the Panel for Inquiry and Conciliation.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The question of the scope of the powers of the General Assembly

45. The limits on the power of the General Assembly to establish subsidiary organs have been discussed in various connexions. Among the principal questions at issue have been: (1) whether the General Assembly possessed the functions in furtherance of which the subsidiary organ was to be established; (2) whether the Charter, in conferring powers to principal organs other than the General Assembly, set limits on the powers which could be assigned to a subsidiary organ of the latter; and (3) whether the Assembly, with a view to discharging its responsibilities under the Charter, could establish subsidiary organs to perform functions not specifically assigned to the Assembly.

1. *The Interim Committee*

46. During the discussions in the First Committee at the second session, ^{105/} objections were raised to the establishment of the Interim Committee on the ground that the functions proposed for it were those which properly belonged not to the General Assembly but to the Security Council, which, it was held, the Committee was intended to supplant; the Charter did not confer the right to establish subsidiary organs encroaching on the functions of the principal organs. It had been proposed that the Interim Committee should be entitled to consider and make recommendations on its own initiative concerning situations falling under Articles 11 and 14. But, it was contended, Article 11 provided that when definite measures for the solution of a problem were to be taken the matter was to be submitted to the Security Council, if necessary, even before it had been discussed, and the use of the Interim Committee as a substitute for the Council would be contrary to that provision of the Charter. It had also been proposed that the Interim Committee should be empowered to conduct investigations and to appoint commissions of inquiry within the scope of its duties, if it considered this useful and necessary. It was, however, objected that this was a function of the Security Council, and even the Council could only investigate disputes or situations with a specific aim, namely, to establish whether these disputes or situations were likely to endanger the maintenance of international peace and security.

47. On the other hand, the view was expressed that the Assembly, as well as the Security Council, had certain functions in relation to the maintenance of international peace and security and the Assembly was entitled to create a subsidiary organ to assist it in performing these functions. As regarded the powers of investigation to be given to the Interim Committee, the Assembly was entitled to apprise itself of the facts before making recommendations on the questions brought before it.

48. In order to meet some of the objections raised during the discussions in the First Committee, certain additional limitations were inserted in a draft resolution which the Committee recommended for adoption by the Assembly. It was adopted by the Assembly as resolution 111 (II). It was specified therein that a dispute or situation to be considered by the Interim Committee had to be proposed by Member States for inclusion in the agenda of the Assembly or brought before the Assembly by the Security Council, and that the Interim Committee must previously determine the matter to be both important and requiring preliminary study. Except in the case of matters referred to the Committee by the Security Council, this determination was to be made by a majority

^{105/} G A (II), Plen., vol. II, 110th mtg., pp. 753-804; 111th mtg., pp. 805-822; *ibid.*, 1st Com., 74th-78th mtgs., pp. 129-179; 94th-97th mtgs., pp. 307-336.

of two thirds of the Members present and voting. A two-thirds majority was also to be required for decisions to conduct investigations and appoint commissions of inquiry. It was further provided that an investigation or inquiry elsewhere than at United Nations Headquarters was not to be conducted without the consent of the State or States in whose territory it was to take place. In addition to the provision that, in discharging its duties, the Interim Committee was at all times to take into account the responsibilities of the Security Council under the Charter for the maintenance of international peace and security, a provision was added that the Committee was not to consider any matter of which the Security Council was seized.

49. Those Members which had chiefly opposed the creation of the Interim Committee, however, stated that they would be unable to take part in its activities because it was an illegal body, designed to usurp the functions of the Security Council and to undermine the principle of the unanimity of the permanent members of that Council. 106/

50. Similar objections concerning the Interim Committee were raised at the third and fourth sessions. 107/

2. The Peace Observation Commission and the Collective Measures Committee

51. During the discussions at the fifth session 108/ on the agenda item "United action for peace", objection was again made, as in the case of the establishment of the Interim Committee, that the Assembly was seeking to arrogate to itself powers which properly belonged to the Security Council. In favour of the arrangements proposed in a draft resolution 109/ submitted under the item, it was argued that it was necessary for the Assembly, faced with a situation in which the Security Council appeared unable to fulfil its primary function of maintaining peace and security, to exercise its "residual power of recommendation" in this field.

52. However, there was general agreement 110/ on the question of the establishment of the Peace Observation Commission. It was stated, in this connexion, that the Assembly had the right, under Article 22, to establish such subsidiary organs as it deemed necessary. The power of the Assembly to engage in observation, including investigation through special commissions, was implied in its power to make recommendations. The Commission, it was considered, would serve as an effective instrument for keeping the Assembly informed on any incidents imperilling peace which might occur. In regard to the proposed membership of the Commission, it was stressed, nevertheless, that it should be representative and should not be dominated by a particular group of States. A draft resolution, 111/ providing that the functions of observation and of the co-ordination of resources for collective action should be undertaken by the Interim Committee, was withdrawn.

106/ G A (II), 1st Com., 97th mtg., p. 335.

107/ G A (III/1), Plen., 168th and 169th mtgs., pp. 663-682; Ad Hoc Pol. Com., 2nd-5th mtgs., pp. 4-52; G A (IV), Plen., 250th mtg., pp. 304-312; Ad Hoc Pol. Com., 16th-20th mtgs., pp. 67-93.

108/ G A (V), Plen., vol. I, 299th-302nd mtgs., pp. 292-347; 1st Com., 354th-371st mtgs., pp. 63-174.

109/ G A (V), Annexes, a.i. 68, pp. 4-6, A/C.1/576.

110/ G A (V), 1st Com., vol. I, 354th-362nd mtgs., pp. 63-124; 365th and 366th mtgs., pp. 137-142.

111/ G A (V), Annexes, a.i. 68, pp. 3 and 4, A/C.1/575.

53. The establishment of the Collective Measures Committee 112/ was, on the other hand, opposed as illegal and as encroaching on the jurisdiction of the Security Council and the Military Staff Committee under the Charter. In favour of its establishment, the need for the Assembly, failing action by the Security Council, to be prepared to recommend measures for collective action was stressed. During the discussions, some doubts were expressed concerning the functions to be assigned to the Committee; these, it was felt, were not defined with sufficient precision to ensure that the Committee did not become involved in activities contrary to its objective and which might even impede United Nations efforts for peace.

54. The draft resolution was modified 113/ to take into account various amendments 114/ defining more precisely the terms of reference of the Committee.

3. *The Panel of Field Observers and the Panel of Military Experts*

55. During the discussions 115/ on the establishment of these two panels, the view was again expressed that the Assembly was acting contrary to the Charter, since the panels were designed to fulfil functions which came within the sphere of the Security Council. It was also maintained that the appointment of such bodies fell outside the competence of the Secretary-General. In favour of the establishment of these bodies, it was maintained that the Assembly and, in the case of the Field Observers, the Secretary-General had the authority to take steps to fulfil their functions in relation to the maintenance of peace.

4. *The Committees on Information from Non-Self-Governing Territories*

56. The questions which have arisen concerning these committees relate more closely to the application of Article 73 e than to the application of Article 22, and are dealt with in this Repertory under Article 73 e. In so far as the views expressed during the discussions 116/ have a bearing on the application of Article 22, they are summarized below.

57. Certain of the Administering Authorities maintained that the Assembly did not have the power to establish a committee such as that proposed. They stated that the obligations undertaken under Article 73 e provided only for the transmission to the Secretary-General of certain data "for information purposes". This did not give the Assembly the right of supervision over the administration of Non-Self-Governing Territories such as it possessed in the case of Trust Territories; the establishment of a committee such as that proposed would be a modification of the Charter. To establish

112/ G A (V), 1st Com., vol. I, 354th-362nd mtgs., and 367th mtg., pp. 147-152.

113/ G A (V), Annexes, a.i. 68, pp. 6-8, A/C.1/576/Rev.1.

114/ G A (V), Annexes, a.i. 68, pp. 8 and 9, A/C.1/578 and A/C.1/581.

115/ G A (IV), Plen., 252nd mtg., pp. 329-334; *Ad Hoc* Pol. Com., 21st-24th mtgs., pp. 94-119. G A (V), Plen., vol. I, 299th-312th mtgs., pp. 292-347; 1st Com., vol. I, 354th-362nd mtgs., pp. 63-124, 366th and 367th mtgs., pp. 142-147.

116/ G A (I/2), 4th Com., 21st mtg., pp. 124-127, Plen., 64th mtg., pp. 1357-1369, (G A resolution 66 (I)); G A (II), 4th Com., 35th-37th and 42nd mtgs., pp. 28-45 and 76-78, Plen., vol. I, 108th mtg., pp. 732-744, (G A resolution 146 (II)); G A (III/1), 4th Com., 52nd-57th and 59th mtgs., pp. 4-63 and 69-79, Plen., 155th mtg., pp. 380-393, (G A resolution 219 (III)); G A (IV), 4th Com., 120th-122nd mtgs., pp. 157-172, Plen., 262nd and 263rd mtgs., pp. 449-461, (G A resolution 332 (IV)); G A (VII), 4th Com., 264th-267th mtgs., pp. 105-112 and 116-128, Plen., 402nd mtg., pp. 342-355, (G A resolution 646 (VII)).

it on a permanent basis, as was later proposed, and to give it certain of the functions suggested from time to time would be tantamount to the creation of a permanent organ of control, which would be a violation of Article 2 (7) and would be contrary to the objective of Article 73 e. The only functions which the committee could usefully and legally perform were, it was stated, procedural ones. Examination by a committee between sessions of the Assembly, of the information transmitted by the Administering Authorities would introduce political considerations which were not intended by the Charter.

58. In opposition to these views, it was maintained that the Assembly had the right to utilize the information transmitted by the administering Powers and, under Article 10, had itself the right to consider this information; in accordance with Article 22 it might establish a subsidiary organ to assist it in this regard. Moreover, Article 73 e should be read in the context of the whole of Article 73 under which the administering Powers had undertaken certain obligations to promote the interests of the people of the Non-Self-Governing Territories under their administration. Therefore, the Assembly had the right and the duty to consider this information with a view to ascertaining that these obligations were fulfilled. Some machinery was necessary to assist the Assembly in discharging this duty and, since the obligations of the administering Powers would exist as long as Non-Self-Governing Territories remained, there would be need for continuing machinery to consider this information.

59. The decisions of the Assembly have reflected, in general, a compromise between these two points of view.

5. The United Nations Palestine Commission

60. Under the Plan of Partition with Economic Union for Palestine, 117/ discussed at the first part of the second session of the General Assembly, the following functions were assigned to the United Nations Palestine Commission: (1) to take over the administration of Palestine from the Mandatory Power; (2) to carry out measures for the establishment of the frontiers of the Arab and Jewish States and the City of Jerusalem; (3) to select and establish in each State a Provisional Council of Government, to exercise general direction over it and progressively to transfer to it responsibility for the administration of the State; (4) to exercise political and military control over the armed militia in each State; and (5) to approve the election regulations for each State drawn up by the Provisional Council of Government.

61. In the discussions prior to the adoption of resolution 181 (II), the principal constitutional question which emerged related to whether the General Assembly was acting within its constitutional powers and functions in taking decisions concerning the future government of Palestine. This question is referred to in this Repertory under Articles 10 and 14. A subsidiary question was, however, whether the Assembly was acting within its powers in establishing a subsidiary organ to exercise the functions of government.

62. It was objected that the Assembly, in granting executive, legislative and administrative powers to the Commission, would be exceeding its powers under the Charter; legislative powers properly belonged to the authorities which represented the people, and the Commission, in controlling the life of Palestine, would be granted greater powers than the General Assembly itself possessed. On the other hand, it was maintained that the competence of the Assembly to establish the Commission and to assign the particular functions to it stemmed legally from its power under Articles 10 and 14, to

117/ G A resolution 181 (II).

discuss and to make recommendations on any questions or matters within the scope of the Charter, including those affecting peace, and its power to assist the inhabitants of a mandated territory to establish themselves. 118/

63. The Plan of Partition, including the provisions relating to the functions of the United Nations Palestine Commission, was adopted by the General Assembly under resolution 181 (II) by 33 votes to 6, with 13 abstentions. 119/

6. The question of establishing an international criminal court

64. In connexion with the proposed establishment of an international criminal court, the question was raised whether the General Assembly might legally establish a subsidiary body to perform functions which were not specifically assigned to the Assembly itself.

65. The question of the establishment of an international criminal court arose in connexion with the consideration by the Assembly, at its third session, of the Convention on the Prevention and Punishment of the Crime of Genocide. The Assembly by resolution 260 B (III), invited the International Law Commission to study the desirability and possibility of establishing "an international judicial organ for the trial of persons charged with genocide or other crimes over which jurisdiction will be conferred upon that organ by international conventions".

66. In its report to the General Assembly at its fifth session, 120/ the International Law Commission stated that one of its special rapporteurs had first raised the question whether the judicial organ mentioned in the resolution was to be created as an organ of the United Nations and had stated that, in that case, an amendment of the Charter of the United Nations would be necessary.

67. In this regard several of the members of the Commission held that Article 7 of the Charter merely enumerated the principal organs of the United Nations and that it did not preclude the possibility of creating new subsidiary organs; therefore, the creation of an international judicial organ would not require an amendment of the Charter. The problem would be the same whether the organ was created within the framework of the United Nations or outside the Organization. The Commission decided by 7 votes to 3, with 1 abstention, that the establishment of an international judicial organ was possible.

68. After considering the report of the Commission at its fifth session, the General Assembly, by resolution 489 (V), decided to establish a committee on international criminal jurisdiction to prepare one or more preliminary draft conventions and proposals relating to the establishment and the statute of an international criminal court, bearing in mind that a final decision on the question could not be taken except on the basis of concrete proposals.

69. This Committee considered alternative methods of establishing such a court. In its report to the General Assembly at its seventh session 121/ it stated that the view

118/ G A (II), Plen., 124th-126th mtgs., pp. 1324-1379, Ad Hoc Com. on the Palestinian Question, 24th-31st mtgs., pp. 147-195.

119/ G A (II), Plen., vol. II, 128th mtg., p. 1425.

120/ G A (V), Suppl. No. 12 (A/1316), p. 16.

121/ G A (VII), Suppl. No. 11 (A/2136), para. 18.

had been expressed that the most satisfactory course would be to establish the court as a principal organ of the United Nations by an amendment of the Charter but, recognizing that this was out of the question at the present stage of international relations, the Committee had considered the problem of whether the court should be established by resolution of the General Assembly or by a convention to be concluded between the States which wished to become parties.

70. The establishment of the court by resolution of the General Assembly, while having certain advantages, would, it was felt, have serious disadvantages in the opinion of some members of the Committee. In the report of the Committee it was stated that:

"Under the Charter, the court could only be established as a subsidiary organ. The principal organ would presumably be the General Assembly, but a subsidiary organ could not have a competence falling outside the competence of its principal, and it was questionable whether the General Assembly was competent to administer justice. Furthermore, the court would become subordinate to the Assembly, which in many respects was undesirable, and its continued existence would be made subject to shifting political currents, in so far as it might always be dissolved by a resolution of the Assembly." 122/

71. The Committee decided by 8 votes to 3, with 2 abstentions, against recommending the establishment of the court by resolution of the General Assembly, and, by 6 votes to 2, with 6 abstentions, in favour of establishing the court by a convention.

72. During the discussion of the report of the Committee on International Criminal Jurisdiction in the Sixth Committee at the seventh session of the General Assembly 123/ the question of the power of the Assembly to establish the court as a subsidiary organ under Article 22 was raised again.

73. Some representatives considered that that Article did not empower the Assembly to establish the court as a subsidiary organ since, under the Article, it was only entitled to create subsidiary organs to assist it in the performance of its functions. The functions of the Assembly did not include the exercise of criminal jurisdiction over individuals and it could not, therefore, delegate such functions to a subsidiary organ. Nor was the work which the court would be called upon to perform in any way accessory to that of the General Assembly. Moreover, if the Assembly created a subsidiary organ it would be subordinate to the Assembly; a court so established would lack the necessary authority and independence. The Assembly had powers of recommendation only and the jurisdiction of the court could not be based on a recommendation to Member States which they might or might not accept. The question was also raised whether the concept of the responsibility of States, on which the United Nations was based, was compatible with the principle of the responsibility of individuals on which the draft Statute was based.

74. Some representatives, on the other hand, considered that the General Assembly was entitled to establish the court by resolution as a subsidiary organ under the broad powers of the Assembly to promote international peace and security. The question was not whether the Charter contained provisions giving the Assembly jurisdictional functions which it could delegate to a subsidiary organ; the Assembly had previously created subsidiary organs to fulfil such functions as observation and conciliation,

122/ G A (VII), Suppl. No. 11 (A/2136), para. 21.

123/ G A (VII), 6th Com., 321st-328th mtgs., pp. 95-140.

which it could not carry out itself. The existence of an international criminal jurisdiction would help the Assembly in its function of promoting international peace. In regard to the subordination of the court to the General Assembly, it was stated that there was no reason to fear that the General Assembly would first establish and later abolish the court, nor that it would interfere in the work of the court so long as the principle of the independent exercise of the judicial power was recognized.

75. The question of possible amendment of the Charter was also raised and, in this connexion, it was stated that it might be possible to amend Article 22 more easily than other Articles, or than to add a new Article providing for the establishment of new United Nations organs which would be neither subsidiary nor principal organs. It was also suggested that the court might be established by a General Assembly resolution and the statute of the court then opened for signature.

76. The Sixth Committee recommended 124/ that further consideration of the matter be postponed until Governments which had not yet done so could present their observations. The Assembly, however, adopted an amended text 125/ providing that another committee be appointed to study the various methods by which such a court might be established and to report at the ninth session.

77. In regard to the powers of the Assembly to establish the court as a subsidiary organ, the 1953 Committee on International Criminal Jurisdiction stated in its report 126/ that some representatives

"believed that the legal powers of the General Assembly under the Charter were not sufficient to enable it to establish a court by resolution. Under Article 22 of the Charter, the General Assembly might establish only such subsidiary organs as it deemed necessary for the performance of its functions, and to try individuals was not a function of the Assembly. Moreover, since international criminal jurisdiction, far from being a factor in the maintenance of peace, might often impair the possibilities of peace by interfering with the process of political conciliation, Article 22 in juxtaposition with Article 11 did not apply... The tribunals already established by the General Assembly which were considered by some members as constituting useful precedents for an international court (the Administrative Tribunal and the United Nations Tribunals in Libya and Eritrea), furnished no adequate precedent. The creation of these tribunals was based either on the Assembly's powers under the Charter as regards the Secretariat staff, or on the very exceptional and very broad powers given it by the Italian Peace Treaty.

"In favour of the power of the General Assembly to establish the court by resolution it was said that, under Article 22 of the Charter, the Assembly could establish subsidiary organs to assist it in performing its functions; under Article 11, the Assembly was given functions with regard to the maintenance of international peace and security. The existence of an international criminal jurisdiction would be a factor in the maintenance of peace, since it would strengthen the moral opinion of the world against international crimes. Therefore, nothing in the Charter prevented the General Assembly from creating an international criminal court as a subsidiary organ. Such a subsidiary organ might well be entitled to do things which the General Assembly itself could never perform, provided that its activity was in the interest of the maintenance of peace."

124/ G A (VII), Annexes, a.i. 52, pp. 20-23, A/2275.

125/ Ibid., pp. 23-24, A/L.119; G A resolution 687 (VII).

126/ G A (IX), Suppl. No. 12 (A/2645), paras. 39 and 40.

78. At its ninth session, the General Assembly decided, by resolution 898 (IX), to postpone consideration of the question of an international criminal jurisdiction until it had taken up the report of the Special Committee on the question of defining aggression and had taken up again the draft Code of Offences against the Peace and Security of Mankind.

B. The question of the scope of the powers of subsidiary organs

1. *Relation of the powers of subsidiary organs to the functions and powers of the General Assembly*

79. The question has been raised as to the extent to which a subsidiary body may perform the functions of the General Assembly itself, or whether the role of a subsidiary organ should be confined to assisting a principal organ. The question of the extent of the control to be exercised by the General Assembly over a subsidiary organ has also been raised. The discussions on these questions are illustrated by the following examples.

a. THE INTERIM COMMITTEE

80. During the discussions in the First Committee at the second session of the General Assembly ^{127/} concerning the establishment of the Interim Committee, the view was expressed that the functions proposed for that body would make it a principal rather than a subsidiary organ. Certain functions to be assigned to the Committee, for example, the right to study and to investigate situations which might arise in connexion with the maintenance of international peace and security, the responsibility of following through on recommendations of the Assembly and the inception of the work necessary to enable the Assembly to make recommendations on the general principles of co-operation in the maintenance of international peace, were functions of the Assembly itself. Subsidiary organs, however, were meant to assist the Assembly and could not have independent functions. The Charter nowhere provided that the General Assembly could delegate its own powers to a subsidiary body. The role of a subsidiary body, it was maintained, should be confined to that of assisting the principal body, for instance, by undertaking the examination of specific questions and by presenting reports on them.

81. In addition, the suggested composition and continuous character of the Interim Committee would debar it from being a subsidiary organ. It was to consist of all the Members of the United Nations and would therefore be a replica of the Assembly. It had been proposed that the Interim Committee should be in permanent session, but the Charter provided that the Assembly -- as distinct from the Security Council which was to meet in continuous session -- was to meet in regular annual sessions and in such special sessions as were required; it did not authorize the Assembly to establish a permanent replica of itself. Nor did the Charter authorize the Assembly to establish permanent organs as was the case with the Economic and Social Council and the Military Staff Committee.

82. Other representatives, while agreeing that the functions of a subsidiary organ were to assist the principal organ, maintained that the proposed Interim Committee would, in fact, be a legally constituted subsidiary organ since it was to be established to assist the Assembly by undertaking a preliminary study of questions to be considered by it and by completing the consideration of questions with which the

^{127/} G A (II), Plen., vol. II, 110th and 111th mtgs., pp. 753-822;
G A (II), 1st Com., 74th-78th and 94th-97th mtgs., pp. 129-179 and 307-336.

Assembly did not have adequate time to deal. The proposed Committee was to make its recommendations to the Assembly and might not make recommendations direct to the Security Council or to Member States. The limiting amendments inserted by the Committee in the original draft resolution were aimed, in general, at meeting the objection that the Committee would infringe the functions of the Security Council (see paragraph 48 above).

83. At the third session, 128/ during the discussions on the re-establishment of the Interim Committee for a further experimental year, doubts were expressed specifically in regard to the proposal to authorize that body to request advisory opinions of the International Court of Justice. It was held that Article 96 stated that "other organs" and specialized agencies which were authorized by the General Assembly might request such opinions. That implied that only principal organs, and not subsidiary organs, should have this authority. The advisability of granting such power to a temporary body was also questioned. Other representatives supported the proposal, maintaining that Article 96 could apply to subsidiary as well as to principal organs. A proposal to delete the relevant paragraph from the draft resolution was rejected in the Ad Hoc Political Committee by 27 votes to 14, with 9 abstentions.

84. The delegation of power to the Interim Committee to receive reports from and to give "advisory opinions" to the special committees and commissions set up by the General Assembly was also criticized 129/ as being a violation of the essential principles of the Charter.

b. THE INTERNATIONAL LAW COMMISSION

85. The Committee on the Progressive Development of International Law and its Codification stated in its report 130/ to the Assembly at its second session that it had considered two methods for the selection of the members of the proposed International Law Commission: (a) appointment by the International Court of Justice; or (b) election by the Assembly. A large majority of the Committee had favoured the latter alternative.

86. The Committee, by a majority, also recommended that the Commission should be authorized to consider projects and draft conventions recommended by Governments, other United Nations organs, specialized agencies or other international bodies interested in the field of international law. Certain members of the Committee had, however, felt that the initiative for undertaking studies and making recommendations in this field lay with the Assembly under the terms of the Charter, and that the Commission was therefore constitutionally precluded from making recommendations to the Assembly on projects other than those referred to it by the Assembly itself.

87. During the discussions 131/ in the Sixth Committee, the majority of representatives agreed that the International Law Commission should be a subsidiary body of the General Assembly and that its members should be elected by that body. The initiative of the Commission would, of course, it was stated, always be subject to the directions of the Assembly. Certain representatives supported the view expressed by the minority of the Committee on the Progressive Development of International Law and its Codification that the Commission should not be authorized to undertake studies not

128/ G A (III/1), Ad Hoc Pol. Com., 5th mtg., pp. 45-50.

129/ G A (III/1), Ad Hoc Pol. Com., 3rd mtg., p. 23.

130/ G A (II), 6th Com., p. 173, annex 1 (A/331), paras. 5 and 9.

131/ G A (II), 6th Com., 37th and 38th mtgs., pp. 4-16.

specifically referred to it by the General Assembly. A series of amendments, 132/ designed to maintain the prerogative of the Assembly of assigning tasks to the Commission and to limit the Commission's powers of initiative, was rejected in the Sixth Committee. 133/

C. THE ADMINISTRATIVE TRIBUNAL

88. At the fourth session, the question of the extent of the delegation of powers to the Administrative Tribunal, both in relation to the powers of the Assembly and to those of the Secretary-General, was raised during the discussions in the Fifth Committee 134/ on the draft Statute of the Tribunal.

89. Two general positions were taken during the debate in the Committee: one was based on the desire to emphasize the completely independent position of the Tribunal as a final court of appeal, so as to afford staff members a sense of security if they felt that the terms of their contracts had been violated; and the second on the desire to safeguard the rights of the General Assembly and the position of the Secretary-General as the chief administrative officer of the Organization.

90. In regard to the powers of the Secretary-General, there was some discussion whether the competence of the Tribunal should be confined to questions of alleged breaches of contract or whether it should also extend to disciplinary matters. The latter view had been expressed by the Staff Committee, 135/ but the Secretary-General 136/ and the Advisory Committee on Administrative and Budgetary Questions 137/ had considered that this would infringe the administrative responsibilities of the Secretary-General. To deal with the matter, the Secretary-General had proposed the creation of new machinery within the Secretariat. Some representatives considered that the Tribunal's competence should cover disciplinary matters since the proposed new Secretariat committee, as well as the existing Appeals Board, if it were retained, would have only advisory functions and it was necessary that the staff should have a body to which it could appeal; others felt that for reasons of good administration it was necessary to preserve the Secretary-General's final powers in such matters. It was decided that the Tribunal's competence should apply only to alleged breaches of contract.

91. Concerning the Tribunal's relation to the General Assembly, two main trends of thought emerged during the discussions. Some representatives wished to stress the administrative character of the Tribunal and its position as an auxiliary or subsidiary body of the Assembly; others wished to stress its judicial aspects. The decisions taken by the Assembly during its fourth session represented a compromise between the two points of view.

92. Thus, an amendment 138/ to change the name of the Tribunal to "Staff Claims Board", submitted on the ground that this was a more accurate description of the functions of the body, was rejected by 19 votes to 5, with 13 abstentions. On the other hand, the rejection of an amendment providing that the members of the Tribunal be called "judges" rather than "members" was by 22 votes to 9, with 7 abstentions, and an amendment to replace the term "Executive Secretary" by the term "Registrar" was rejected by 17 votes to 9, with 8 abstentions.

132/ G A (II), 6th Com., pp. 205 and 206, annex I1, (A/C.6/199).

133/ G A (II), 6th Com., 58th mtg., pp. 147-157.

134/ G A (IV), 5th Com., 188th-190th mtgs., pp. 13-31.

135/ G A (IV), 5th Com., Annex, vol. I, pp. 146-156, A/986, annex IV, paras. 4-8.

136/ Ibid., pp. 146 and 147, A/986, para. 7.

137/ Ibid., pp. 156 and 157, A/1003, paras. 8 and 9.

138/ For text of revised draft Statute and amendments submitted thereto, see G A (IV), 5th Com., Annex, vol. I, pp. 165-169, A/C.5/L.4/Rev.2.

93. Concerning the competence of the Tribunal, fears were expressed lest it diminish the authority of the General Assembly to make or to change staff regulations, or that of the Secretary-General to issue staff directives. An amendment was submitted stating that nothing in the Statute would be construed in any way as a limitation on the authority of the General Assembly or of the Secretary-General, acting on the instructions of the General Assembly, to alter at any time the rules and regulations of the Organization. The amendment, however, was withdrawn, since its sponsor interpreted the draft Statute of the Administrative Tribunal as giving full assurances on that point.

94. There was also some discussion concerning the provision that, in the event of any dispute concerning the competence of the Tribunal, the matter would be settled by decision of the Tribunal. The view was expressed that it would be for the General Assembly, as the body which had established the Tribunal, to decide the limits of the latter's competence and not for the Tribunal itself. The principle that a tribunal should be empowered to decide on its own competence was, however, generally accepted and no amendments to this provision were put forward.

95. Similar differences of opinion concerning the position of the Tribunal were reflected in the discussions about the appointment and dismissal of its members. The draft Statute contained a provision under which the members of the Tribunal would have been elected by the International Court of Justice. This provision was supported by various representatives on the ground that it would serve to protect the independent character of the Tribunal. Other representatives considered that the General Assembly, having set up an auxiliary body, should itself elect its members. A compromise suggestion, that members should be elected by the General Assembly on the proposal of the Court, was not formally put forward. An amendment, submitted by the Advisory Committee on Administrative and Budgetary Questions, providing that the members of the Tribunal be appointed by the General Assembly, was adopted by 33 votes to 4, with 2 abstentions.

96. An amendment was also submitted providing that, in the election of the members of the Tribunal, administrative training and experience be given equal weight with legal training and experience and judicial service; the sponsor, however, agreed that the amendment should be inserted rather in the Committee's report than in the Statute.

97. There were differences of opinion regarding the provision for dismissal of members of the Tribunal. The draft Statute provided that a member might not be dismissed "unless in the unanimous opinion of the other members he is unsuited for further service". This was supported by various representatives as necessary to secure the independent status of the Tribunal. Other representatives, however, considered that it was the exclusive right of the General Assembly to decide whether a member should be relieved of his duties. An amendment providing that a member could only be dismissed if the General Assembly, by a two-thirds vote, ruled that he was unsuited for further service was adopted by 16 votes to 14, with 11 abstentions. In plenary meeting, 139/ an amendment 140/ was submitted which reinstated the original text. It was adopted by 27 votes to 15, with 8 abstentions.

139/ G A (IV), Plen., 255th mtg., pp. 360-362.

140/ G A (IV), Plen., Annexes, p. 172, A/1132.

2. Powers of decision conferred upon subsidiary organs

98. The General Assembly has conferred upon its subsidiary organs the power to take final decisions in several respects. This is illustrated below by instances in which the Assembly conferred powers to adopt rules of procedure, to establish subsidiary organs, to convene international conferences, and to enter into independent consultations with Governments, specialized agencies and other organizations.

a. THE POWER TO ADOPT RULES OF PROCEDURE

99. The Assembly has on various occasions specifically authorized its subsidiary organs to adopt their own rules of procedure. Thus, the following organs were authorized to do so: the United Nations Special Committee on Palestine, by resolution 106 (S-1); the United Nations Special Committee on the Balkans, by resolution 109 (II); the United Nations Commission on Korea, by resolution 195 (III); and the United Nations Commission for Eritrea, by resolution 289 A (IV).

100. Sometimes this power has been limited in various respects. For example, resolution 111 (II), establishing the Interim Committee, provided that the rules of procedure of the Assembly were to apply to that Committee as far as they were applicable and that additional rules might be adopted by the Interim Committee provided they were not inconsistent with those of the General Assembly. By resolution 196 (III), which continued the Committee, it was provided that the rules of procedure governing the proceedings of the Interim Committee and of such sub-committees and commissions as it might set up were to be those already adopted by the Committee "with such changes and additions as the Interim Committee may deem necessary, provided that they are not inconsistent with any provision of the present resolution or with any applicable rule of procedure of the General Assembly." Resolution 295 (IV), establishing the Committee on a permanent basis, contained a similar provision without, however, referring to the rules of procedure of the Assembly. By resolution 351 (IV) the Assembly adopted the Statute of the Administrative Tribunal which provided, in article 6, that the Tribunal was to establish its own rules "Subject to the provisions of the present Statute".

101. In one instance, that of the Atomic Energy Commission, it was provided, by resolution 1 (I), that the Commission was to make recommendations for its rules to the Security Council, which was to approve them as a procedural matter.

102. During the second session, the General Assembly adopted a rule in its own rules of procedure relating to the rules of subsidiary organs. This rule 141/ states that the Assembly

"may establish such subsidiary organs as it deems necessary for the performance of its functions. The rules relating to the procedure of committees of the General Assembly... shall apply to the procedure of any subsidiary organ, unless the General Assembly or the subsidiary organ decides otherwise."

103. During the discussion 142/ in the Sixth Committee preceding the adoption of this rule, the view was expressed that it was for the General Assembly, and not for the subsidiary organs, to decide what rules to apply. The introduction of the rule would sanction the idea that the General Assembly and the subsidiary organs were on the same

141/ Rule 162 of the rules of procedure of the General Assembly (United Nations Publication, Sales No.: 1954.1.17).

142/ G A (II), 6th Com., 57th mtg., pp. 142-144.

level. It was maintained, on the other hand, that there was no presumption that the rules of procedure suitable for a committee of the General Assembly were also suitable for any subsidiary organ; a subsidiary organ needed latitude to adopt satisfactory rules. An amendment 143/ to delete the reference to subsidiary organs in the last sentence of the rule was rejected by 28 votes to 7.

b. THE POWER TO ESTABLISH SUBSIDIARY BODIES

104. In certain instances, the General Assembly has authorized its subsidiary organs in their turn to establish subsidiary bodies. Thus, for example, the United Nations Special Committee on the Balkans was authorized, by resolution 109 (II), to establish such sub-committees as it deemed necessary; by resolution 193 (III) it was instructed to "continue to utilize observation groups". By resolution 288 (IV) the Assembly continued "the authorization to the Special Committee, in its discretion, to appoint and utilize the services and good offices of one or more persons whether or not members of the Special Committee;".

105. The Interim Committee was authorized by resolutions 111 (II), 196 (III) and 295 (IV) to appoint commissions of inquiry within the scope of the Committee's duties, as it might deem useful and necessary, provided that the decision to conduct such inquiries was made by two thirds of the members present and voting, and that an inquiry away from Headquarters would not be conducted without the consent of the State in the territory of which the inquiry was to take place. The provisions concerning the rules of procedure of the Interim Committee (see paragraph 100 above) referred to "such sub-committees and commissions" as the Interim Committee might set up.

106. The United Nations Conciliation Commission for Palestine was authorized by resolution 194 (III) to appoint a United Nations representative who was to co-operate with the local authorities with respect to the interim administration of the Jerusalem area. It was also authorized, by the same resolution, to appoint such subsidiary bodies and to employ such technical experts, acting under its authority, as it might find necessary for the effective discharge of its functions and responsibilities under the resolution. By resolution 394 (V) the Commission was directed to establish an office which, under the direction of the Commission, was to fulfil certain duties regarding the repatriation and resettlement of refugees and the payment of compensation to them.

107. The Peace Observation Commission was granted authority by resolution 377 B (V) in its discretion to appoint sub-commissions and to utilize the services of observers to assist it in the performance of its functions. It was later requested by resolution 508 (VI), to establish a Balkan sub-commission. At that time the Assembly discussed 144/ the functions to be assigned to the sub-commission. The question of the sub-commission's relations to the Peace Observation Commission was raised, including the question whether the membership of the sub-commission should be restricted to members of the parent body. The view was expressed that the appointment of a sub-commission fell within the terms of reference of the Peace Observation Commission. The question also arose whether the sub-commission could act without the authorization of the Peace Observation Commission and whether it could undertake any specific task without first seeking a precise mandate from the General Assembly or from the Interim Committee when the Assembly was not in session, or from the Security Council. The interpretation of the draft resolution 145/ by its sponsors as empowering the sub-commission to proceed without further authorization was, however, accepted.

143/ G A (II), 6th Com., pp. 273 and 274, annex 4g (A/C.6/186), para. 12.

144/ G A (VI), Ad Hoc Pol. Com., 2nd-6th mtgs., pp. 7-33.

145/ G A (VI), Annexes, a.i. 19, p. 16, A/1984, paras. 8 (c) and 11.

c. THE POWER TO CONVENE INTERNATIONAL CONFERENCES

108. In one instance, a subsidiary organ, the Disarmament Commission, 146/ was given the power to decide when an international conference of States should be convened; in another instance, the Committee on the draft Convention on Freedom of Information was empowered 147/ to recommend the convening of such a conference.

d. THE POWER TO ENTER INTO INDEPENDENT CONSULTATIONS

i. With Governments

109. In a number of instances, subsidiary organs have been authorized to negotiate or to act in consultation with Governments. Examples of subsidiary organs which have been given such authorization are cited below:

Ad Hoc Committee on the United Nations Relief and Rehabilitation Administration, under resolution 6 (I);
United Nations International Children's Emergency Fund (UNICEF), under resolution 57 (I);
United Nations Special Committee on Palestine, under resolution 106 (S-1);
United Nations Special Committee on the Balkans, under resolutions 109 (II), 193 (III), 288 (IV) and 382 B (V);
United Nations Palestine Commission, under the Plan of Partition with Economic Union, under resolution 181 (II);
United Nations Conciliation Commission for Palestine, under resolution 194 (III);
United Nations Commission on Korea, under resolution 195 (III);
United Nations Commissioner in Libya, under resolution 289 A (IV);
United Nations Commission for Eritrea, under resolution 289 A (IV);
United Nations Relief and Works Agency for Palestine Refugees in the Near East, under resolution 302 (IV);
Standing Committee on the Repatriation of Greek Children, under resolution 382 C (V);
United Nations Tribunal in Libya, under resolution 388 (V);
United Nations Commissioner in Eritrea, under resolution 390 A (V);
Negotiating Committees for Extra-Budgetary Funds, under resolutions 393 (V), 410 (V), 571 B (VI), 607 (VI), 693 (VII) and 759 (VIII);
Ad Hoc Commission on Prisoners of War, under resolution 427 (V);
Office of the United Nations High Commissioner for Refugees, under its Statute, adopted by resolution 428 (V);
United Nations Tribunal in Eritrea, under resolution 530 (VI);
Ad Hoc Committee on South West Africa, under resolutions 449 A (V), 570 (VI) and 651 (VII);
United Nations Good Offices Commission on the question of the Treatment of People of Indian Origin in the Union of South Africa, under resolutions 615 (VII) and 719 (VIII).

146/ G A resolution 502 (VI).

147/ G A resolution 426 (V).

11. With specialized agencies

110. A number of resolutions of the General Assembly have provided for consultations between the subsidiary organs of the Assembly and the specialized agencies. The following are examples of subsidiary organs in respect of which such provisions were made:

- Special Committee on Information transmitted under Article 73 e of the Charter, under resolution 146 (II);
- United Nations Mediator in Palestine, under resolution 186 (S-2);
- United Nations Relief and Works Agency for Palestine Refugees in the Near East, under resolution 302 (IV);
- Agent General for Korean Reconstruction, under resolution 410 (V);
- Office of the United Nations High Commissioner for Refugees, under its Statute, adopted by resolution 428 (V);
- UNICEF, under resolution 417 (V).

111. With other organizations

111. The following are examples of subsidiary organs which have been authorized by the General Assembly to enter into direct consultations with other organizations:

- United Nations International Children's Emergency Fund (UNICEF), under resolution 57 (I);
- United Nations Special Committee on Palestine, under resolution 106 (S-1);
- International Law Commission, under its Statute, adopted by resolution 174 (II);
- United Nations Mediator in Palestine, under resolution 186 (S-2);
- United Nations Commission in Libya, under resolution 289 A (IV);
- United Nations Commission for Eritrea, under resolution 289 A (IV);
- Standing Committee on the Repatriation of Greek Children, under resolution 382 C (V);
- Agent General For Korean Reconstruction, under resolution 410 (V); 148/
- Office of the United Nations High Commissioner for Refugees, under its Statute, adopted by resolution 428 (V).

3. *Binding effect of decisions of subsidiary organs*

112. The question of the effect to be given to decisions of subsidiary organs was raised at the eighth session of the General Assembly, when the Fifth Committee, during its discussions of the supplementary estimates, considered 149/ proposed appropriations for the awards of compensation ordered by the Administrative Tribunal in the case of eleven staff members whose appointments had been terminated during 1953.

113. Certain representatives, in opposing these appropriations, expressed the view that the General Assembly had the right to review and to refuse to give effect to the decisions of the Tribunal. The Tribunal, it was argued, had been established not under the Charter, but by decision of the General Assembly. It was not an organ of constitutional origin and independence, but a subsidiary administrative organ of the

148/ The resolution provided that the authorities in Korea with which the Agent General might establish relationship were to be designated by the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK).

149/ G A (VIII), Plen., 471st mtg., pp. 459-461; 5th Com., 420th-423rd mtgs., pp. 281-295 and pp. 299-309; 425th-427th mtgs., pp. 320-326 and pp. 329-340.

General Assembly, established to carry out certain functions assigned under the Charter to the General Assembly. The Assembly was responsible, in co-operation with the Secretary-General, for maintaining a Secretariat which would meet the highest standards, and it had not intended to evade that responsibility by creating the Tribunal; in any event, the powers of the Assembly were inalienable. The Assembly was therefore responsible for the actions of the Tribunal. As a subsidiary organ, the Tribunal was subject to the control of the Assembly, and its decisions, although final in relation to the parties concerned, namely the applicant and the Secretary-General, could not create obligations binding on the Assembly. It would be conceded that the Assembly could abolish the Tribunal or could change its Statute; it could also take the lesser step of reviewing the Tribunal's decisions and could take action to correct the results of those decisions if the Tribunal had exceeded its competence or when errors of fact or law had resulted in a serious miscarriage of justice.

114. In this case, it was maintained, the Tribunal had infringed the jurisdiction of the Secretary-General in that, instead of confining itself to determining whether the Secretary-General's decisions had been taken in accordance with the procedures set forth in the staff regulations and whether he had exercised his judgment arbitrarily, it had substituted its own evaluation of the facts and its own assessment of the gravity of the offence involved for those of the Secretary-General.

115. A further basis for the right of the Assembly to review the Tribunal's decisions, it was stated, was that the funds for the awards had to be appropriated by the General Assembly as part of the United Nations budget, which must be considered and approved by the Assembly. In considering the appropriation, the Assembly was bound to review the decisions of the Tribunal; it was not entitled to relinquish to any subsidiary organ its power to make appropriations.

116. Other representatives stated that the judgements of the Tribunal, when given in accordance with its Statute, were final and without appeal. The text of the Statute was clear on this point. Even if the Tribunal were considered a subsidiary organ, the General Assembly could not set aside the Tribunal's decisions for, in establishing the Tribunal, it had expressly stipulated that those decisions would be final. The General Assembly was bound, in law, to give effect to the Tribunal's decisions and to pay the compensation ordered by that body.

117. This position, it was maintained, also arose from the nature of the Tribunal, which was a judicial body and not an advisory organ. Any dispute concerning its competence was, in accordance with the Statute of the Tribunal, to be settled by the Tribunal's decision. No member of the Tribunal could be dismissed without the consent of the other members. The Tribunal was not called on to report to the General Assembly, and its competence had been extended to cover the specialized agencies. The decisions of a judicial organ were not subject to review by the political and legislative body which had created it. It was further maintained by one representative ^{150/} that the Assembly had not established the Tribunal to assist it in the performance of a function which it could, in principle, perform itself, but had established it because the Assembly could not perform judicial functions. Another representative ^{151/} held that the Tribunal was not a subsidiary organ established under Article 22, but had been established by the Assembly in accordance with its powers and responsibilities in personnel matters and in accordance with those of the Secretary-General.

^{150/} G A (VIII), 5th Com., 421st mtg., para. 16.

^{151/} Ibid., para. 45.

118. The judgements of the Tribunal in the cases in question were, it was maintained, in accordance with its Statute and with the staff regulations and rules in force at the time the judgements were given. The Assembly could amend those regulations and the Statute of the Tribunal, or it could abolish the Tribunal, but it could not review the Tribunal's final decisions. While the power of the General Assembly to approve appropriations was not contested, that could hardly serve as a ground for refusing to meet contractual obligations.

119. During the discussions, various references to the debates in the Fifth Committee 152/ at the time of the establishment of the Tribunal were made in support of both the contentions that the Tribunal was a judicial body, and that it was an administrative subsidiary organ of the General Assembly.

120. Upon recommendation of the Fifth Committee, the Assembly decided 153/ to ask the International Court of Justice for an advisory opinion on the following legal questions:

"(1) Having regard to the Statute of the United Nations Administrative Tribunal and to any other relevant instruments and to the relevant records, has the General Assembly the right on any grounds to refuse to give effect to an award of compensation made by that Tribunal in favour of a staff member of the United Nations whose contract of service has been terminated without his assent?

"(2) If the answer given by the Court to question (1) is in the affirmative, what are the principal grounds upon which the General Assembly could lawfully exercise such a right?"

121. During discussions at the Committee level of the draft resolution containing the above-quoted text, two amendments 154/ were rejected in the Fifth Committee: the first, to delete from the first question the words "on any grounds", was rejected by 28 votes to 19, with 6 abstentions, and the second, to add to the second question the words "do these grounds, whatever they may be, apply to any of the decisions which have led to the request for the appropriation?", was rejected by 22 votes to 15, with 17 abstentions.

122. One representative 155/ voted for the draft resolution in the Fifth Committee on the understanding that the Court should also take into consideration the question whether a subsidiary organ could impose final decisions upon the Assembly, and whether the Assembly was empowered to deal with the form and substance of any appropriation to be included in the United Nations budget.

123. Other representatives criticized the draft resolution on the grounds either that there was no question of the powers of the Assembly or that the Statute of the Tribunal was clear on the questions involved and its findings were final.

124. In its advisory opinion of 13th July 1954, 156/ the Court first considered whether the Administrative Tribunal had been established as a judicial body, or as an advisory organ or a subordinate committee of the General Assembly. The Court found

152/ See II B, paras. 88-97 above.

153/ G A resolution 785 (VIII).

154/ G A (VIII), Annexes, a.i. 38, p. 14, A/C.5/L.267.

155/ G A (VIII), 5th Com., 426th mtg., para. 91.

156/ Effect of awards of compensation made by the U.N. Administrative Tribunal, I C J, Reports 1954, p. 47.

that the terminology used in the Statute 157/ and the fact that the Tribunal had been given the power to issue orders to the chief administrative officer of the Organization, that is to say, for the rescinding of the decision contested or for the specific performance of the obligation invoked, showed that the Tribunal had been established as an independent and truly judicial body pronouncing final judgements without appeal.

125. Having found that the parties to a dispute brought before the Administrative Tribunal were the staff members concerned and the United Nations, represented by the Secretary-General, the Court concluded that the General Assembly, as an organ of the United Nations, was bound by a judgement of the Administrative Tribunal.

126. The Court examined the principal contentions of the Governments which had taken the position that there were grounds which would justify the General Assembly in refusing to give effect to awards of the Administrative Tribunal.

127. One of these contentions had been that the General Assembly did not have the legal power to establish a Tribunal competent to render judgements binding on the United Nations. The Court, while noting that there was no express provision in the Charter for the establishment of judicial bodies and no indication to the contrary, referred to an earlier Opinion 158/ in which the Court had said:

"Under international law, the Organization must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by necessary implication as being essential to the performance of its duties."

128. It was inevitable that there would be disputes between the Organization and staff members as to their rights and duties. As the United Nations had jurisdictional immunities in national tribunals, the Court said that, in its opinion, it would have been hardly consistent with the aims of the Charter that the Organization should afford no judicial or arbitral remedy to its own staff. The Court found therefore that the power to establish a tribunal, to do justice as between the Organization and the staff members, was essential to ensure the efficient working of the Secretariat, and that capacity to do so arose by necessary intendment out of the Charter. Furthermore, as the General Assembly was given the power to establish subsidiary organs under Articles 7 (2) and 22 and to regulate staff relations under Article 101 (1), the Court found that the power to establish an Administrative Tribunal might be exercised by the General Assembly.

129. Some Governments had contended that while the General Assembly had implied powers to set up an Administrative Tribunal, this did not enable it to establish a tribunal with authority to make decisions binding on the General Assembly itself. The Court stated that the precise nature and scope of the measures by which the power of creating a tribunal was to be exercised was a matter for determination by the General Assembly alone, and the Assembly had, in fact, decided to invest the Tribunal with

157/ G A resolution 351 (IV), Article 1: "A Tribunal is established by the present Statute to be known as the United Nations Administrative Tribunal";

Article 2, paragraph 1 providing that the Tribunal shall "be competent to hear and pass judgment upon applications";

Article 10 providing that:

"2. The judgments shall be final and without appeal.

"3. The judgments shall state the reasons on which they are based."

158/ Reparation for injuries suffered in the service of the United Nations, I C J, Reports 1949, p. 182.

power to render judgements which would be "final and without appeal", and which would be binding on the United Nations.

130. It had also been argued by some Governments that an implied power to impose legal limitations upon the express power of the General Assembly under the Charter was not legally admissible. The establishment of a tribunal competent to make an award of compensation to which the General Assembly was bound to give effect would contravene the Charter provisions under Article 17 (1), conferring upon the Assembly the power to consider and to approve the budget of the Organization.

131. The Court rejected this contention, and stated that the function of approving the budget did not mean that the General Assembly had absolute power to approve or disapprove the expenditures proposed to it; the General Assembly had no alternative but to honour obligations already incurred by the Organization, and these obligations comprised the awards of compensation made by the Administrative Tribunal in favour of staff members.

132. The Court also rejected the contention that the implied power of the General Assembly to establish a tribunal could not enable the Tribunal to intervene in matters falling within the province of the Secretary-General. The Court found that, by virtue of Article 101, the General Assembly could limit or control the powers of the Secretary-General in staff matters. The Assembly authorized the intervention of the Tribunal to the extent that such intervention might result from the exercise of jurisdiction conferred upon the Tribunal by its Statute. A decision of the Tribunal that an action by the Secretary-General involved a breach of a contract of service did not in any sense constitute intervention in a power of the Secretary-General under the Charter, because the Secretary-General's legal powers in staff matters had already been limited in this respect by the General Assembly.

133. The view had been put forward that the Administrative Tribunal was a subsidiary, subordinate, or secondary organ and that, accordingly, the judgements of the Tribunal could not bind the General Assembly which had established it. The Court noted that this view assumed that, in adopting the Statute of the Administrative Tribunal, the General Assembly had established an organ which it deemed necessary for the performance of its own functions. In the opinion of the Court, however, the Charter did not confer judicial functions on the General Assembly. By establishing the Administrative Tribunal, the General Assembly had not delegated the performance of its own functions; it had exercised a power which it had under the Charter to regulate staff relations. In regard to the Secretariat, the Charter conferred upon the General Assembly the power to make regulations, but not the power to adjudicate upon, or otherwise deal with, particular instances.

134. The Court considered the argument that an authority exercising the power to make regulations was inherently incapable of creating a subordinate body competent to make decisions binding upon the body creating it. The Court stated that the contention could not be justified by analogy to national laws, since it was common practice in national legislatures to create courts with the capacity to render decisions legally binding on the legislatures which brought them into being.

135. For these reasons, the Court held "that the General Assembly has not the right on any grounds to refuse to give effect to an award of compensation made by the Administrative Tribunal of the United Nations in favour of a staff member of the United Nations whose contract of service has been terminated without his assent." The second question submitted by the General Assembly to the Court was therefore not considered.

136. The question of the effect of decisions of the Administrative Tribunal was discussed again at the ninth session of the General Assembly, in connexion with the agenda item entitled "Awards of compensation made by the United Nations Administrative Tribunal; advisory opinion of the International Court of Justice."

137. A draft resolution 159/ was submitted to the Fifth Committee by the United States and Argentina, containing amendments to the Statute of the Administrative Tribunal, including a proposal to establish a board of judicial review with power to review the judgements of the Administrative Tribunal.

138. The representative of the United States, introducing the draft resolution, 160/ stated that his Government, while respecting the authority and competence of the Court, disagreed with the opinion of the majority of the Court, and that neither the Charter nor the Statute of the Administrative Tribunal provided that the judgements of an organ, established by the General Assembly to adjudicate matters concerning the powers of the Assembly and of the Secretary-General with regard to the staff, should be binding on the General Assembly itself.

139. In support of this position, he said that Judge Alvarez, in his dissenting opinion, had stated that the General Assembly was bound to give effect to the Tribunal's decisions only in cases in which the Tribunal had acted within the limits of its competence. Judge Hackworth, in his dissenting opinion, had stated that the Administrative Tribunal was not an organ created by the Charter but a subsidiary organ of the General Assembly, and that an award by the Tribunal did not, ipso facto, create an obligation for the United Nations or a vested right for the staff member. Judge Carneiro, in his dissenting opinion, had said that, if not subject to control by the General Assembly, the decisions of the Administrative Tribunal, a subsidiary organ, would be binding on two principal organs (the General Assembly and the Secretary-General), even in matters within their own competence.

140. The representative of the United States also referred to the statement of the Court that, in order to subject judgements of the Administrative Tribunal to review by any body other than the Tribunal itself, it would be necessary that the Statute of the Tribunal, or some other legal instrument governing it, should contain an express provision to that effect. The Court had noted that the General Assembly had the power to amend the Statute of the Administrative Tribunal by virtue of article 11 of that Statute, and to provide for means of redress by another organ. Accordingly, the joint draft resolution proposed amendments to the Statute which would establish appropriate machinery for the review of judgements of the Administrative Tribunal.

141. The representative of Argentina said 161/ that, despite the advisory opinion of the International Court of Justice, his Government maintained the position that the General Assembly had the right to review, confirm or reverse decisions of a subsidiary organ set up by the Assembly itself. The Charter did not authorize the General Assembly to establish an organ with powers wider than its own. The General Assembly had been placed above all other organs by Article 10 of the Charter, which empowered it to discuss any questions or any matters, except as provided in Article 12.

142. The International Court of Justice had stated that the parties to a dispute before the Administrative Tribunal were the staff members concerned and the United Nations, represented by the Secretary-General. No Article of the Charter provided

159/ A/C.5/L.317.

160/ G A (IX), 5th Com., 474th mtg., paras. 50-55.

161/ G A (IX), 5th Com., 476th mtg., paras. 1-7.

that the Secretary-General acted on behalf of the Organization. The only organ which acted on behalf of the United Nations was the General Assembly, and the parties to a dispute before the Administrative Tribunal were the Secretary-General and the staff members concerned.

143. The Financial Regulations provided that no expenditure could be incurred until the General Assembly had made the necessary appropriations. The fact that no exceptions had been made in the case of the Administrative Tribunal showed that it had not been the intention of the Assembly to consider itself bound by the judgements of the Tribunal.

144. Under Article 15 (2) of the Charter, the General Assembly received and considered reports from the other organs of the United Nations. It could, therefore, reject or amend the decisions of those organs, including the judgements of the Administrative Tribunal.

145. Some delegations, besides the co-sponsors of the draft resolution, stated that, while respecting the advisory opinion of the International Court of Justice, they disagreed with the conclusions reached by the Court. Other delegations expressed agreement with the advisory opinion. 162/

146. The General Assembly, at its 515th meeting on 17 December 1954, adopted resolution 888 (IX) by which the Assembly accepted, "in principle", judicial review of judgements of the Administrative Tribunal, and established a Special Committee composed of eighteen Member States "to study the question of the establishment of such a procedure in all its aspects and to report to the General Assembly at its tenth session;".

C. Relations of subsidiary organs to other organs

147. As mentioned in the General Survey (see paragraphs 39-44 above), subsidiary organs established by the Assembly have been asked to report to other organs, or to report to the General Assembly through other organs, or to report to the General Assembly and to other organs. In some instances, they have been instructed to receive directions from other organs. This practice has seldom given rise to constitutional discussion.

1. *Organs reporting to or receiving directions from the Security Council*

148. Subsidiary organs which have been asked to report to and/or to take directions from the Security Council are, in the order of their establishment, the Atomic Energy Commission, the United Nations Palestine Commission, the United Nations Mediator in Palestine, the United Nations Conciliation Commission for Palestine, the Peace Observation Commission, the Collective Measures Committee and the Disarmament Commission.

a. THE ATOMIC ENERGY COMMISSION

149. During the discussions at the first part of the first session 163/ on the establishment of the Atomic Energy Commission, some differences of view were expressed concerning a draft resolution 164/ recommending that it should be set up by the General Assembly and report to the Security Council.

162/ G A (IX), 5th Com., 474th-480th mtgs., pp. 270-307.

163/ G A (I/1), Plen., 17th mtg., pp. 257-267; 1st Com., 2nd and 3rd mtgs., pp. 6-13.

164/ G A (I/1), 1st Com., pp. 29 and 30, Annex 1 (A/C.1/2).

150. In favour of this draft resolution, it was stated that the general interest of all countries in the solution of the problem of atomic energy should be recognized through the establishment of the Commission by the General Assembly. But in view of the security aspect of the problem, the Commission should present its reports and recommendations to the Security Council. The importance of the role of the Assembly in setting up the Commission was also emphasized; its establishment by the Assembly meant, for instance, that its work would not be subject to the veto. The Commission, by virtue of its constitution, had the right to call on Members of the Assembly for help and advice, being itself an "emanation of the General Assembly".

151. On the other hand, the view was expressed that it was anomalous that the Commission should report to the Security Council, which had practically the same composition; matters would be expedited if the Security Council were to be assigned the whole problem, which fell within its jurisdiction.

152. Moreover, it would be difficult to establish the Commission's responsibility to the Assembly since it was the Security Council which would decide whether or not reports were to be forwarded to the Assembly or to other organs of the United Nations; if the Assembly were to be granted the power to establish the Commission, it should retain control over it.

153. With regard to the Commission's relations with other organs, the draft resolution provided that it was not to infringe the responsibilities of any organ of the United Nations, but should present recommendations for the consideration of those organs in the performance of their tasks under the terms of the Charter.

b. THE UNITED NATIONS PALESTINE COMMISSION

154. According to the Plan of Partition with Economic Union, adopted by resolution 181 (II), the United Nations Palestine Commission, in its administration of Palestine, was to "act in conformity with the recommendations of the General Assembly under the guidance of the Security Council." If a Provisional Council of Government for either of the two States proposed in the Plan could not be selected or carry out its functions by the specified date, the Commission was to "communicate that fact to the Security Council for such action with respect to that State as the Security Council may deem proper,". It was further provided that the Commission was to be guided in its activities "by the recommendations of the General Assembly and by such instructions as the Security Council may consider necessary to issue." The measures taken by the Commission, it was provided, were to "become immediately effective unless the Commission has previously received contrary instructions from the Security Council." The Commission was to render periodic monthly or more frequent progress reports to the Council and was to make its final report to the next regular session of the Assembly and to the Security Council simultaneously.

155. Under this resolution, the Assembly also requested that the Security Council take the necessary measures provided in the Plan for its implementation. If, during the transitional period, the Council decided that the situation in Palestine constituted a threat to the peace, in order to maintain international peace and security, the Security Council, it was provided, "should supplement the authorization of the General Assembly by taking measures, under Articles 39 and 41 of the Charter, to empower the United Nations Commission, as provided in this resolution, to exercise in Palestine the functions which are assigned to it by this resolution;" In connexion with the fact that the Commission would be under the direction of the Security Council, it was emphasized by some representatives 165/ that the powers conferred on that

165/ G A (II), Plen., vol. II, 124th mtg., p. 1325, and 125th mtg.

Council were in line with its responsibilities under the Charter (see also paragraphs 60-63 above).

C. THE UNITED NATIONS MEDIATOR IN PALESTINE

156. The United Nations Mediator in Palestine, appointed under resolution 186 (S-2), was instructed to render progress reports monthly, or more frequently, as he deemed necessary, to the Security Council and to the Secretary-General for transmission to the Members of the United Nations. He was also directed to conform in his activities with such instructions as the General Assembly or the Security Council might issue. In addition, he was empowered to co-operate with the Truce Commission for Palestine established by the Security Council on 23 April 1948.

157. As regards the relations of the Mediator with the Security Council, it was stated, 166/ in support of the draft resolution providing for the appointment of the Mediator, that it sought to unify the work of the various organs of the United Nations and that the action of the Assembly would supplement the measures being taken by the Security Council. It was, however, objected that, as the Security Council had adopted a resolution on a truce in Palestine and had appointed the Truce Commission in that connexion, there was no need to establish another authority which, in fact, was to deal with similar problems.

158. The draft resolution 167/ before the First Committee had provided that the Mediator should receive instructions only from the Security Council. An amendment 168/ to provide that he should also receive instructions from the General Assembly was adopted by the First Committee by 26 votes to 6, with 16 abstentions. In support of the amendment, it was stated that the original wording seemed to imply that the Assembly would surrender its powers of direction, whereas it was quite likely that the Assembly might wish to take up the Palestine problem at a future session.

159. A further amendment 169/ to provide that a commission rather than an individual should be appointed was rejected by 28 votes to 1, with 22 abstentions. In support of this amendment, it was stated that, as a subsidiary organ of the Assembly, a commission would possess the necessary authority to deal with the Truce Commission established by the Security Council, with which it would have to co-operate closely, whereas an individual might be subject to the orders of the Truce Commission.

d. THE CONCILIATION COMMISSION FOR PALESTINE

160. Under General Assembly resolution 194 (III), the Conciliation Commission was to carry out, in addition to the specific functions given to it by that resolution, such additional functions and directives as might be given to it by the General Assembly or by the Security Council. It was to undertake, upon the request of the Security Council, any of the functions "now assigned" to the United Nations Mediator in Palestine or to the United Nations Truce Commission by resolutions of the Security Council. It was further provided that "upon such request to the Conciliation Commission by the Security Council with respect to all the remaining functions of the United Nations Mediator on Palestine under Security Council resolutions, the office of the Mediator shall be terminated;". The Commission was instructed to report

166/ G.A. (S-II), 1st Com., 140th and 141st mtgs., pp. 242-262.

167/ G.A. (S-II), Annex to vol. I and vol. II, pp. 42-45, A/C.1/299.

168/ A/C.1/301.

169/ A/C.1/SC.9/2.

immediately to the Security Council, for appropriate action by that organ, any attempt by any party to impede access to Jerusalem. It was also instructed to render progress reports periodically to the Secretary-General for transmission to the Security Council and to the Members of the United Nations.

e. THE PEACE OBSERVATION COMMISSION AND THE
COLLECTIVE MEASURES COMMITTEE

161. Resolution 377 (V), "Uniting for peace", which established these two bodies, provided, with respect to the Peace Observation Commission, that the Security Council might utilize the Commission in accordance with its authority under the Charter. General agreement was expressed with this provision on the ground that this would be of assistance to the Security Council in fulfilling its responsibilities under the Charter (see paragraph 52 above).

162. With regard to the Collective Measures Committee, the resolution provided that it was to study and make a report to the Security Council and to the General Assembly, not later than 1 September 1951, on methods which might be used to maintain and strengthen international peace and security in accordance with the Purposes and Principles of the Charter, taking account of collective self-defence and regional arrangements. The discussions concerning this body related principally to the question whether the Assembly, in creating it, was infringing the functions and powers of the Security Council (see paragraph 53 above).

f. THE DISARMAMENT COMMISSION

163. The Disarmament Commission, set up under General Assembly resolution 502 (VI), was established "under the Security Council". It was directed to report periodically, for information, to the Security Council and to the General Assembly, or to the Members of the United Nations when the General Assembly was not in session.)

2. *Subsidiary organs reporting to or receiving directions from the
Economic and Social Council*

164. Such organs, in the order of their establishment, are: the United Nations International Children's Emergency Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees, the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK) and the United Nations Korean Reconstruction Agency (UNKRA), the Committee on the draft Convention on Freedom of Information, the Group of Experts on Financing of Economic Development through the Establishment of Equitable Prices, and the Special Rapporteur on the question of establishing a special United Nations fund for economic development.

a. THE UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND

165. General Assembly resolution 57 (I), establishing UNICEF, laid down that it was to be administered under policies established by an Executive Board "in accordance with such principles as may be laid down by the Economic and Social Council and its Social Commission;". In addition to the Governments designated by the General Assembly as members of the Executive Board of UNICEF, other Governments might be designated as members of the Board by the Economic and Social Council on the recommendation of the Executive Board.

166. The Executive Board was to make periodic reports on its operations at such times and in such form as the Economic and Social Council provided. A report was to be submitted to the Council at its fourth session containing a recommended programme and estimate of expenses which were to be subject to the approval of the Council. The

activities of UNICEF were to be reviewed by the General Assembly at its second session upon the basis of a special report from the Economic and Social Council.

167. Resolution 417 (V), continuing UNICEF, provided that the Executive Board was to consist of the Governments of States represented on the Social Commission and of the Governments of eight other States, not necessarily Members of the United Nations, to be designated by the Economic and Social Council, with due regard to geographical distribution and to the representation of the major contributing and recipient countries.

168. Resolution 802 (VIII), which placed UNICEF on a continuing basis, requested the Economic and Social Council to continue to review its work periodically and to make recommendations to the General Assembly as appropriate. It also requested the Secretary-General to report to the Council on the co-ordination of the programmes carried on by UNICEF and the technical assistance programmes of the United Nations and the specialized agencies.

b. THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

169. The Statute of the Office of the United Nations High Commissioner for Refugees, adopted by resolution 428 (V), provided that the High Commissioner was to follow policy directives given him by the General Assembly or by the Economic and Social Council. It stated that he should be entitled to present his views before the General Assembly, the Economic and Social Council and their subsidiary bodies, and that he was to report annually to the General Assembly through the Economic and Social Council.

c. THE UNITED NATIONS COMMISSION FOR THE UNIFICATION AND
REHABILITATION OF KOREA AND THE UNITED NATIONS KOREAN
RECONSTRUCTION AGENCY

170. Resolution 410 (V), establishing the United Nations Korean Reconstruction Agency, authorized the United Nations Commission for the Unification and Rehabilitation of Korea to consider the reports of the Agent General for Korean Reconstruction to the General Assembly and to transmit any comments thereon to the Economic and Social Council and to the General Assembly. The Commission was also authorized to consult from time to time with the Agent General regarding the provisional programme and to make recommendations on it to the Council. The Agent General was directed to submit reports to the General Assembly through the Secretary-General, transmitting copies simultaneously to UNCURK and to the Economic and Social Council. The Council was requested to review the reports of the Agent General and any comments which UNCURK might submit thereon and to make reports and recommendations to the General Assembly.

d. THE COMMITTEE ON THE DRAFT CONVENTION ON FREEDOM OF INFORMATION

171. This Committee, established by resolution 426 (V), was requested to report to the Economic and Social Council at its thirteenth session on the results of its work and to submit recommendations, in particular, with regard to the advisability of convening a conference of plenipotentiaries with a view to the framing and signature of a Convention on Freedom of Information.

e. THE GROUP OF EXPERTS ON THE FINANCING OF ECONOMIC DEVELOPMENT
THROUGH THE ESTABLISHMENT OF EQUITABLE PRICES

172. The report of this group of experts, appointed by the Secretary-General under resolution 623 (VII), was transmitted to the General Assembly together with the views of the Economic and Social Council thereon.

f. THE SPECIAL RAPPORTEUR ON THE QUESTION OF ESTABLISHING A SPECIAL
UNITED NATIONS FUND FOR ECONOMIC DEVELOPMENT

173. Under resolution 724 (VIII), the then President of the Economic and Social Council was appointed to examine, with the assistance of the Secretary-General, the comments of Governments concerning the establishment of an international fund. He was to submit an interim report on his work to the Council and a final report to the General Assembly with his comments.

3. *Organs reporting to or receiving directions from the
Trusteeship Council*

174. Two subsidiary organs established by the General Assembly were instructed to report to the Trusteeship Council: The United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration and the Sub-Committee on the Questionnaire formulated by the Trusteeship Council.

a. THE UNITED NATIONS ADVISORY COUNCIL FOR THE TRUST TERRITORY OF
SOMALILAND UNDER ITALIAN ADMINISTRATION

175. As provided in resolution 209 A (IV), the terms of reference of the Advisory Council were laid down in the Trusteeship Agreement for the Trust Territory of Somaliland under Italian Administration, adopted by General Assembly resolution 442 (V). Article 11 of the Agreement provided that "States members of the Advisory Council, if they are not members of the Trusteeship Council, shall be entitled to participate without vote in the debates of the Trusteeship Council on any question specifically relating to the Territory". The members of the Advisory Council or the majority of the members, acting in the Advisory Council's name, might make to the Trusteeship Council "such oral statements or may submit such written reports or memoranda as they may deem necessary for the Council's proper consideration of any question specifically relating to the Territory".

b. THE SUB-COMMITTEE ON THE QUESTIONNAIRE FORMULATED BY THE
TRUSTEESHIP COUNCIL

176. The Sub-Committee was instructed, under resolution 751 (VIII), to examine the Questionnaire formulated by the Trusteeship Council, to study such changes as might be necessary to adapt it to the special conditions of each Territory, and to submit its conclusions to the Trusteeship Council. The Trusteeship Council was invited to prepare, on the basis of the Sub-Committee's work, separate questionnaires adapted to the particular circumstances of each Trust Territory.

4. *Relations between subsidiary organs*

177. At various times, provisions have been made for co-operation between subsidiary organs. One instance, that of the United Nations Mediator in Palestine and the Truce Commission for Palestine of the Security Council, has already been mentioned. The following are other examples:

a. THE INTERIM COMMITTEE

178. Certain subsidiary organs of the General Assembly have been authorized to report to the Interim Committee. Thus, the Temporary Commission on Korea 170/ was authorized to consult the Interim Committee, the report of the Commission for Eritrea 171/ was to be considered by the Interim Committee as well as by the General Assembly, and the Interim Committee was authorized to utilize the Peace Observation Commission 172/ when the Assembly was not in session if the Security Council was not exercising its functions with regard to the matter in question, and with the proviso that the Commission should only conduct investigations in the territories of States with their agreement.

179. Objections were raised to the provisions of the above-mentioned resolutions on the ground that since the Interim Committee was itself an illegally-established body, it was unconstitutional for other organs to report to it or to permit it to give directions to other subsidiary organs, and that such directions were harmful. 173/

180. With regard to the Peace Observation Commission, the provision for its utilization by the Interim Committee when the General Assembly was not in session was included in a draft resolution 174/ submitted to the First Committee at the first part of the third session in connexion with the agenda item "United action for peace". During the discussions, 175/ various representatives suggested the deletion of this reference, either on the ground that the Interim Committee was itself an illegal or useless body, or that it did not have the confidence of all Member States, and that it was desirable that the new Peace Observation Commission should work under the auspices of the whole of the United Nations. It was also stated that, since the draft resolution provided for calling the Assembly into session at twenty-four hours' notice, if the situation were sufficiently critical to justify instructions to the Interim Committee, they could best be issued by the General Assembly itself rather than by a subordinate body. Other representatives supported the provision on the ground that it would provide for an element of continuity and that its use might avoid the necessity for calling a special session of the Assembly.

181. Two amendments 176/ to the draft resolution were submitted, providing for the deletion of the reference to the Interim Committee. One was rejected 177/ by 44 votes to 8, with 8 abstentions, and the other was thereupon withdrawn. A suggestion 178/ that the Secretary-General rather than the Interim Committee should be authorized to utilize the Peace Observation Commission after consulting with the members of the Security Council was withdrawn when the sponsors of the draft resolution stated that they considered it undesirable to place such a heavy responsibility on the Secretary-General.

170/ G A resolution 112 B (II).

171/ G A resolution 289 A (IV).

172/ G A resolution 377 A (V).

173/ See, for example, with reference to the Temporary Commission on Korea, discussions on the Interim Committee at the third session, G A (III/1), Plen., 168th and 169th mtgs., pp. 663-682. With reference to the Commission for Eritrea, see G A (IV), Plen., 248th mtg., para. 102; 249th mtg., para. 33; 250th mtg., paras. 93 and 108-110.

174/ G A (V), Annexes, a.i. 68, pp. 6 and 7, A/C.1/576/Rev.1. The relevant provision contained in part B of this draft resolution remained the same in the original and the revised versions of the draft resolution.

175/ G A (V), 1st Com., 362nd mtg., para. 10; 365th and 366th mtgs., pp. 137-142.

176/ G A (V), Annexes, a.i. 68, pp. 9 and 10, A/C.1/583, para. 9, and A/C.1/584, para. 4.

177/ G A (V), 1st Com., 368th mtg., p. 157.

178/ *Ibid.*, 365th mtg., para. 46.

- b. THE UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE, THE UNITED NATIONS RELIEF FOR PALESTINE REFUGEES AND THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

182. The Conciliation Commission for Palestine established under resolution 194 (III) was instructed to facilitate the repatriation and resettlement of the refugees and the payment of compensation to them, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees 179/ and, through him, with "the appropriate organs and agencies of the United Nations".

183. By resolution 302 (IV), establishing the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the Agency was directed to consult with the Conciliation Commission in the best interests of their respective tasks, with particular reference to the question of the repatriation and resettlement of the refugees and the payment of compensation to them. The Conciliation Commission, under the same resolution, was instructed to transmit the final report of the Economic Survey Mission, with such comments as it might wish to make, to the Secretary-General for transmission to the Members of the United Nations and the Agency.

- c. THE UNITED NATIONS COMMISSION FOR THE UNIFICATION AND REHABILITATION OF KOREA AND THE UNITED NATIONS KOREAN RECONSTRUCTION AGENCY

184. Resolution 410 (V), under which the United Nations Korean Reconstruction Agency (UNKRA) was established, defined the relationship between that body and the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK). It authorized UNCURK: (1) to recommend to the Agent General of UNKRA such policies concerning the Agency's programme and activities as the Commission deemed necessary for the performance of its own functions; (2) to determine, after consultation with the Agent General, the geographical areas within which the Agency was to operate at any time; (3) to designate authorities in Korea with which the Agent General might establish relationships; (4) to take such steps as might be needed to support the Agent General in fulfilling his task; (5) to consider the reports of the Agent General and to transmit any comments on them to the Economic and Social Council and to the General Assembly; (6) to call for information on those aspects of the work of the Agent General which the Commission considered necessary for the proper performance of its work; (7) to consult with the Agent General regarding the provisional programme adopted for the Agency and to make recommendations on it to the Economic and Social Council.

185. The Agent General was directed to co-ordinate his programme with measures taken by UNCURK to carry out its terms of reference; to commence the operation of the programme at a time agreed upon by the Unified Command, UNCURK and the Agent General; to consult with and generally be guided by the advice of UNCURK on questions concerning its policies, and to be governed by its advice on matters concerning the geographical areas in which the Agency operated and the authorities in Korea with which it established relationships. Copies of the Agent General's reports to the General Assembly were to be transmitted simultaneously to UNCURK.

179/ G A resolution 212 (III).

ANNEX

Classified tabulation of subsidiary organs of the General Assembly
(in the order of their establishment)*Explanatory remarks*

186. As indicated in the Introductory Note, it has seemed desirable to complement the study of Article 22 by an annex listing the subsidiary organs and classifying them in certain broad categories. In view of the wide variations existing among these organs, their classification, even under broad categories, must be qualified. A column entitled "Remarks" has, therefore, been included in the annex which qualifies, as necessary, the categories assigned in the classification to individual organs.

187. The organs are listed according to the resolutions under which they were first established; where an organ was continued or re-established, a note to that effect is provided in the column "Remarks", but where a new organ to take the place of a former one was established, it is listed separately. Those bodies which the Assembly has recommended or authorized the Secretary-General to establish (as distinct from those of its subsidiary organs which it has itself established, with members to be appointed by the Secretary-General) are listed separately at the end, as is also the Balkan Sub-Commission of the Peace Observation Commission, which that Commission was requested to establish.

188. The first column gives the resolution or resolutions establishing the organ and laying down its terms of reference. Where subsequent resolutions have continued an organ or changed its terms of reference, this is indicated in the column "Remarks".

189. The second column classifies the bodies according to the following principal functions: study committees (S); political commissions (P); administrative assistance organs (A); operational agencies (O); and judicial bodies (J). Some of the subsidiary organs of the Assembly do not fall properly within any of these categories; a brief description of the principal discrepancies is given in the column "Remarks".

190. The third column, relating to membership, divides the bodies into three categories: those composed of States (S); those composed of individual experts (E); and those composed of a single individual (I). Where particular considerations or particular qualifications are taken into account in electing the members of these bodies or appointing the representatives to serve on them, this is indicated in the column "Remarks".

191. The fourth column, relating to the method of appointment, covers the following categories: election by the General Assembly (E); decision of the General Assembly (D) - this may relate to either a category of States or the naming of certain States without a formal election; appointment by the President of the Assembly (P); appointment by a committee of the Assembly (C); appointment by the Secretary-General (SG); or appointment by other indirect means (I). Note of such other indirect means is taken in the column "Remarks", as is also appointment by more than one method.

192. The fifth column, relating to duration, divides the organs into three categories: standing or "permanent" bodies (S); those established for an indefinite period (I); and those established for a specific period or for a particular purpose of limited duration (L).

193. The sixth column, relating to method of termination, contains three categories: bodies specifically terminated by resolution of the General Assembly (GA and the resolution number); those replaced by a new subsidiary organ with broadly similar functions (R); and those which are considered to have lapsed with the completion of their mandate (C).

194. The seventh column, relating to seat or place of meeting, lists three categories: Headquarters (H); Geneva (G); or in the field (F). The column only contains those instances where specific provision is made for the meeting place of the organ and not where this may be inferred from the tenor of the resolution. Variations are noted in this respect in the column "Remarks".

195. The eighth column, relating to method of reporting, lists the following categories: direct to the General Assembly (D); to the Security Council (SC); to or through the Economic and Social Council (ECOSOC); to the Trusteeship Council (TC); and to or through the Secretary-General (SG). An indication of any particular qualifications of these categories is given in the column "Remarks".

Established at the first part of the first session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
1. Atomic Energy Commission	1 (I)	S	S	D	I	GA 502 (VI)	-	SC	
2. <u>Ad Hoc</u> Committee on the United Nations Relief and Rehabilitation Administration	6 (I)	A	S	D	L	GA 47 (I)	-	-	The functions of the Committee were to consult with the States signatory to the UNRRA agreement with a view to eliciting further contributions and to urge United Nations Members which had not done so to join UNRRA. It does not therefore fall exactly within any of the categories of functions in this list.
3. Advisory Committee on Administrative and Budgetary Questions	14 (I) para. 2	A	E	E	S	-	-	D	The Committee was also provided for in the provisional rules of procedure. Resolution 14 (I) provided that it was to be appointed at the second part of the first session. (For appointment, see resolution 72 (I)). The provisional rules of procedure provided that the members of the Committee were to be selected "on the basis of broad geographical representation, personal qualifications and experience", and that no two members

Article 22

Annex

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
3. Advisory Committee on Administrative and Budgetary Questions (continued)									were to be nationals of the same State. These conditions were retained in subsequent revisions of the rules. The members have been elected by the Fifth Committee and the Assembly has accepted that Committee's recommendation.
4. Committee on Contributions	14 (I) para. 3	A	E	E	S	-	-	D	The Committee was also provided for in the provisional rules of procedure. Members were first appointed under resolution 16 (I). The same considerations as for the Advisory Committee were to be taken into account in electing the members. The members have been elected by the Fifth Committee and the Assembly has accepted that Committee's recommendations.
5. Board of Auditors	14 (I) regulation 20 74 (I)	A	E	E	S	-	-	D	Regulation 20 of the provisional financial regulations provided that the Board should "be appointed in a manner to be determined by the General Assembly during the second part of its first session". The functions of the Auditors were

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
5. Board of Auditors (continued)									laid down and the first appointments made by resolution 7 ⁴ (I). A less detailed description of the functions was later incorporated in the provisional financial regulations by resolution 163 (II). Members have been elected by the Fifth Committee and the Assembly has accepted that Committee's recommendations.
6. Committee to assist the Secretary-General in Negotiations with the United States Government regarding the arrangements necessary as a result of the Establishment of the seat of the United Nations in the United States.	22 B (I)	A	S	D	L	C	-	-	Later called "Negotiating Committee" (see resolution 99 (I)).
7. Negotiating Committee on League of Nations Assets	24 (I)	A	S	D	L	C	-	-	The Committee was established "to assist the Secretary-General" in negotiations.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
7. Negotiating Committee on League of Nations Assets (continued)									It was to consist of one representative of the delegations, "if they so desire", of eight Members.
8. Headquarters Commission	25 (I)	S	S	D	L	GA 100 (I) R	-	D	Part of the resolution setting forth the functions of the Headquarters Commission was formally repeated by the Assembly in resolution 100 (I); a new committee was established as an advisory committee to the Secretary-General concerning headquarters questions.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
9. Committee on procedures for the admission of new Members	36 (I)	S	S	D	L	C	-	-	The Committee, together with a committee of the Security Council, was to draft rules which would be acceptable to both bodies, but specific provisions for a report to the Assembly were not included in the resolution.
10. Special Technical Committee on Relief Needs after the termination of the United Nations Relief and Rehabilitation Administration	48 (I)	S	E	I	L	C	-	SG	The Committee was to be composed of experts designated by ten Governments named in the resolution; they were, however, to serve in their individual capacities and not as representatives of the Governments designating them.
11. United Nations International Children's Emergency Fund [UNICEF]	57 (I)	O	S	D/I	I/S	-	-	ESC	The name was changed to "United Nations Children's Fund" but the symbol UNICEF retained by resolution 802 (VIII). Continued by resolutions 417 (V) and 802 (VIII).

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
11. United Nations International Children's Emergency Fund <u>[UNICEF]</u> (continued)									<p>In resolution 57 (I) the States to form the Executive Board of UNICEF were designated by the Assembly; in resolution 417 (V) the Board was re-constituted to consist of the States represented on the Social Commission and eight other States designated by the Economic and Social Council.</p> <p>Resolution 57 (I) provided that the activities of the Fund would be reviewed by the Assembly at its second session; resolution 417 (V) stated that the Assembly would again consider the future of UNICEF at the expiration of three years, with the object of continuing it on a permanent basis; resolution 802 (VIII) reaffirmed the two earlier resolutions "with the exception of any reference to time-limits contained in these resolutions".</p>
12. Ad Hoc Committee on the Transmission of Information under Article 73 e of the Charter	66 (I)	S	S	D/ E	L	R	-	D	<p>The resolution specified that the Committee was to be composed of Members of the United Nations transmitting information and an equal number of Members elected by the Fourth Committee on behalf of the Assembly on as wide a geographical basis as possible.</p>

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
13. United Nations Joint Benefit Committee	82 (I) (annex I, sect. 22)	A	E	I	S	-	-	-	<p>In resolution 248 (III), adopting the definitive regulations for the United Nations Joint Staff Pension Fund, the name was changed (article 22) to United Nations Joint Staff Pension Board.</p> <p>Members are appointed by the Staff Benefit Committee of the United Nations and the other member organizations of the Pension Fund. In resolution 248 (III) the proportion to be elected by the United Nations committee and the committees of the other member organizations was changed, but the method of constituting the Joint Staff Pension Board remained the same.</p>
14. United Nations Staff Benefit Committee	82 (I) (annex I, sect. 20)	A	E	E/I	S	-	-	-	<p>Under resolution 248 (III), the name was changed (article 20) to United Nations Staff Pension Committee.</p> <p>Three members are elected by the General Assembly, three appointed by the Secretary-General and three, who must be participants, are elected by the participants.</p>

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
15. Investments Committee	82 (I) (annex I, sect. 25)	A	E	SG	S	-	-	-	The provisions for the Investments Committee remained the same in the regulations adopted under resolution 248 (III) (article 25). Members are appointed by the Secretary-General after consultation with the Advisory Committee on Administrative and Budgetary Questions, but the appointments are subject to subsequent approval by the General Assembly.
16. Committee on the Progressive Development of International Law and its Codification	94 (I)	S	S	D	L	C	-	D	
17. Headquarters Advisory Committee	100 (I)	A	S	D	L	R	-	-	The Committee was to assist the Secretary-General, who was instructed to report by a certain date.
18. Committee on Procedures and Organization [Of the General Assembly]	102 (I)	S	S	D	L	C	-	D	To be composed of members designated by governments named by the Assembly.

Established at the first special session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
19. United Nations Special Committee on Palestine	106 (S-1)	P	S	D	I	R	F	SG/D	The Committee's report was to be communicated to the Secretary-General so that it might be circulated to Members in time for consideration at the next regular session of the Assembly.
<u>Established at the second session</u>									
20. United Nations Special Committee on the Balkans [UNSCOB]	109 (II)	P	S	D	I	GA 508 (VI) R	F	D/SG	<p>The Committee was originally established "to remain in existence pending a new decision of the General Assembly"; it was continued under resolutions 193 (III), 288 (IV) and 382 B (V) with somewhat expanded terms of reference which do not, however, affect this classification.</p> <p>Resolution 508 B (VI) discontinuing the Committee requested the Peace Observation Commission to establish a Balkan sub-commission.</p> <p>Resolution 109 (II) provided that the Committee should report to the next regular session of the Assembly</p>

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
20. United Nations Special Committee on the Balkans (continued)									and to any prior special session on the matter (the calling of which it was empowered to recommend to Members); it was also to "render such interim reports as it may deem appropriate" to the Secretary-General for transmission to Members. Resolution 193 (III) empowered it to consult the Interim Committee.
21. Interim Committee of the General Assembly	111 (II)	S	S	D	L/I	-	-	D	The Interim Committee was initially established to function until the opening of the third session, when it was re-established for a further year by resolution 196 (III). It was established for an indefinite period under resolution 295 (IV). While the functions assigned to the Interim Committee were primarily to study and to report to the General Assembly on various matters to enable the Assembly to discharge certain of its functions under the Charter, the Committee was also assigned various functions which might be held to go beyond those of a purely "study" committee, that is to say, a limited power of

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
21. Interim Committee of the General Assembly (continued)									conducting investigations (resolution 111 (II)), consultations with the Temporary Commission on Korea (resolution 112 B (II)), with the Commission on Korea (resolution 195 (III)), and with the Special Committee on the Balkans (resolution 195 (III)), reporting to the Assembly on the report of the United Nations Commission for Eritrea (resolution 289 A (IV)). It was also authorized under resolution 196 (III) to request advisory opinions from the International Court of Justice and under resolution 377 A (V) to utilize, with certain limitations, the Peace Observation Commission.
22. United Nations Temporary Commission on Korea <u>[UNTCOK]</u>	112 (II)	P	S	D	L	GA 195 (III) R	F	D	Resolution 195 (III) provided that the United Nations Commission on Korea "shall be regarded as having superseded" the Temporary Commission. Also authorized to consult the Interim Committee.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
23. Special Committee on Information transmitted under Article 73 e of the Charter	146 (II)	S	S	D/E	L	R	-	D	The Committee was to be composed of Members of the United Nations transmitting information and an equal number of Members elected by the Fourth Committee on behalf of the Assembly on as wide a geographical basis as possible.
24. International Law Commission	174 (II)	S	E	E	S	-	H	D	<p>The functions of the International Law Commission go beyond the scope of those of a "study committee" since under its Statute it may, among other things, draft international conventions and undertake the codification of topics approved by the General Assembly.</p> <p>The Statute provides that the Commission is to sit at the Headquarters of the United Nations but may hold meetings elsewhere after consultation with the Secretary-General.</p> <p>Commission drafts are to be circulated to Members through the Secretary-General.</p>

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
25. United Nations Palestine Commission	181 (II)	P	S	E	L	GA 186 (S-2)	F	D/SC	Members of the Commission were to be elected "on as broad a basis, geographically and otherwise" as possible. The Commission was to render periodic progress reports monthly, or more frequently if desirable, to the Security Council; its final report was to be made to the Assembly and the Council simultaneously.
26. Headquarters Advisory Committee	182 (II)	A	S	D	L	C	-	-	The Committee was continued with the same terms of reference under resolutions 242 (III), 350 (IV), 461 (V) and 589 (VI). The Committee was to advise the Secretary General, who was to report to successive sessions of the Assembly.
27. Advisory Committee on the Site of the Third Regular Session of the General Assembly	184 (II)	A	S	P	L	C	-	-	The Secretary-General, in consultation with the Committee, was to choose the site.

Established at the second special session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
28. United Nations Mediator in Palestine	186(S-2)	P	I	C	I	GA 194 (III) R	-	SC/SG	<p>Although it was not specified in the resolution that the Mediator's functions were to be exercised in the field, it is clear from the sense of the resolution that this was intended.</p> <p>The Mediator was to render progress reports monthly "or more frequently as he deems necessary" to the Security Council and to the Secretary-General for transmission to Members.</p>

Established at the first part of the third session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
29. United Nations Conciliation Commission for Palestine	194 (III)	P	S	D	I	-	F	D/SC/ SG	<p>A committee of the Assembly, consisting of five States, was appointed to present for the approval of the Assembly a proposal concerning the names of three States to form the Conciliation Commission. The Assembly voted on and adopted the proposal of the majority of this committee.</p> <p>The Committee was to report to the Assembly detailed proposals for a permanent international régime for the Jerusalem area; it was to report immediately to the Security Council any attempt by any party to impede access to Jerusalem; and it was to render progress reports periodically to the Secretary-General for transmission to the Security Council and to Members.</p>
30. United Nations Commission on Korea <u>[UNCOK]</u>	195 (III)	P	S	D	L/I	GA 376 (V) R	F	D/SG	Resolution 195 (III) provided that the Commission would report to the next session of the Assembly; resolution 293 (IV) continued the Commission "to

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
30. United Nations Commission on Korea <u>[UNCOK]</u> (continued)									<p>remain in existence pending a new decision by the General Assembly". Under that resolution the Commission was given somewhat different terms of reference which do not, however, affect this classification.</p> <p>The Commission was to report to the next session of the General Assembly or to any prior special session called on the question. It was to render "such interim reports as it may deem appropriate" to the Secretary-General for transmission to Members. It was also authorized to consult the Interim Committee.</p>
31. Special Committee on Information transmitted under Article 73 e of the Charter.	219 (III)	S	S	D/ E	L	R	-	D	<p>Composed of Members transmitting information and an equal number of other Members elected by the Fourth Committee on behalf of the General Assembly on as wide a geographical basis as possible.</p> <p>It was to meet at a place to be determined by the Secretary-General.</p>

Established at the second part of the third session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
32. Panel for Inquiry and Conciliation	268 D (III)	P	E	I	S	-	-	-	<p>There is some doubt as to whether a panel consisting of persons who may be chosen to serve on commissions of inquiry and conciliation is a subsidiary organ of the Assembly, properly so called, and the Assembly, in creating it, referred to Articles 13 (1) (a) and 11 (1) of the Charter rather than Article 22.</p> <p>Members were to be deemed fitted by "training, experience, character and standing" for service on commissions of inquiry and conciliation.</p> <p>Each Member State was invited to designate one to five persons.</p> <p>The Panel's articles provide that the Secretary-General shall communicate the Panel and any changes occurring in it to Member States, the Security Council, the General Assembly and the Interim Committee.</p>

Article 22

Annex

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
33. Special Committee on a United Nations Guard	270 (III)	S	S	D	L	C	-	D	The Committee was to consist of "specially qualified" representatives of States named by the Assembly.
34. Special Committee on Methods and Procedures of the General Assembly	271 (III)	S	S	D	L	C	-	D/SG	It was to submit, if possible, a preliminary report direct to the Assembly at the current session. Its final report was to be transmitted to the Secretary-General for circulation to Members and consideration by the Assembly.

Established at the fourth session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
35. United Nations Commissioner in Libya	289 A (IV)	P	I	E	L	C	F	SG	<p>Elected by the General Assembly on the nomination of a committee of the Assembly.</p> <p>The Assembly, in resolution 515 (VI), noted that Libya was established as an independent State and noted the part played by the Commissioner and the Advisory Council in implementing the resolutions of the Assembly.</p> <p>The Commissioner, in consultation with the Advisory Council, was to submit annual reports to the Secretary-General and such other special reports "as he may consider necessary".</p>
36. United Nations Council for Libya	289 A (IV)	P	S	D/I	L	C	F	SG	<p>The Council was to "aid and advise" the Commissioner. It was also provided that the Commissioner, in the discharge of his functions, was to "consult and be guided by" the advice of the members of the Council, it being understood that he might call on different members for advice on</p>

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
36. United Nations Council for Libya (continued)									<p>different regions and subjects.</p> <p>Certain States to appoint representatives were designated by the Assembly. A representative of the people of Libya and a representative of the minorities in Libya were to be appointed by the Commissioner after consultation with the Administering Powers, the representatives of the Governments named by the Assembly and other personalities and organizations in Libya.</p> <p>It was provided that there should be added to the reports "any memorandum or document that the United Nations Commissioner or a member of the Council may wish to bring to the attention of the United Nations".</p> <p>(see also above under Remarks on the Commissioner)</p>
37. United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration	289 A (IV) 442 (V)	P	S	D	L	-	F	TC	<p>Resolution 289 (IV) specified that the precise terms of reference of the Advisory Council were to be determined in the Trusteeship Agreement, which was adopted under resolution 442 (V) (G A (V), Suppl. No. 10).</p>

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
37. United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration (continued)									<p>The Advisory Council was to aid and advise the Administering Authority; the Trusteeship Agreement specified certain questions on which the advice of the Council was to be sought.</p> <p>The States Members of the Advisory Council, if they were not Members of the Trusteeship Council were to be entitled to participate without vote in that Council's debates on questions relating to the Territory. The members of the Advisory Council or a majority acting in the name of the Advisory Council might make oral statements or submit written reports or memoranda to the Trusteeship Council.</p>
38. United Nations Commission for Eritrea	289 A (IV)	P	S	D	L	C	F	SG	<p>The Commission was to communicate its report to the Secretary-General for distribution to Member States in time for consideration by the Assembly at its next session. The Interim Committee was also to consider the report and proposals and report on it, with conclusions, to the Assembly.</p>

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
39. United Nations Relief and Works Agency for Palestine Refugees in the Near East [UNRWA] - Director	302 (IV)	O	I	SG	I	-	-	D/SG	Although it was not expressly stated that the headquarters or place of meeting should be in the field, it is clear from the resolution that this was intended. The Director was to report annually to the Assembly (the report to include an audit of funds) and to submit to the Secretary-General such other reports as the Agency might wish to bring to the attention of Members. The Director was also instructed to consult with the Palestine Conciliation Commission.
40. Advisory Commission to the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East [UNRWA]	302 (IV)	O	S	D	I	-	-	-	The Advisory Commission was to "advise and assist" the Director "in the execution of the programme".
41. Office of the United Nations High Commissioner for Refugees - United Nations High Commissioner	319 (IV) 428 (V)	O	I	E	L	-	G	ESC	Established at the fourth session as of 1 January 1951; Statute adopted and High Commissioner elected at the fifth session.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
41. Office of the United Nations High Commissioner for Refugees - United Nations High Commissioner (continued)									The Assembly was to review, not later than its eighth session, the arrangements with a view to determining whether the Office would be continued after 31 December 1953; the Office was continued for a further five years from 1 January 1954 by resolution 727 (VIII).
42. Special Committee on Information transmitted under Article 73 e of the Charter	332 (IV)	S	S	D/E	L	-	-	D	Originally established for three years. The Committee was continued on the same basis for a further three-year period under resolution 646 (VII) of 10 December 1952. Composed of Members transmitting information and an equal number of Members elected by the Fourth Committee on behalf of the General Assembly.
43. United Nations Administrative Tribunal	351 (IV)	J	E	E	S	-	-	-	The Tribunal's Statute provides for appointment of members by the Assembly; members are elected by secret ballot by the Fifth Committee; the Assembly has accepted the Committee's recommendation.

Established at the fifth session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
44. United Nations Commission for the Unification and Rehabilitation of Korea [UNCURK]	376 (V)	P	S	D	I	-	F	D/SG	Under resolution 410 (V), UNCURK was also given certain operational functions in relation to UNKRA, for example, it was authorized to determine, after consultation with the Agent General, the geographical areas within which the Agency was to operate and to designate authorities in Korea with which the Agent General might establish relationships, as well as to "take such steps as may be needed to support the Agent General in fulfilling his task".
45. Interim Committee on Korea	376 (V)	P	S	D	L	C	H	-	
46. Peace Observation Commission	377 A (V) Sect.B	P	S	D	S	-	F	-	Differs from other political commissions in that it was not set up for any specific task but to be generally available for observation and report on the situation "in any area where there exists international tension the continuance of which is likely to endanger the maintenance of international peace and security".

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
46. Peace Observation Commission (continued)									In the case of use of the Commission by the Assembly (or the Interim Committee when the Assembly is not in session) the invitation or consent of the State into whose territory the Commission would go is necessary. May be utilized by the Assembly (or by the Interim Committee when the Assembly is not in session) if the Security Council is not exercising its Charter functions on the matter in question. It may also be used by the Security Council.
47. Panel of military experts	377 A (V) Sect. C	S	E	SG	S	-	-	-	A panel of individual experts who could be made available, on request, to Member States. Secretary-General to appoint with the approval of the Collective Measures Committee.
48. Collective Measures Committee	377 A (V) Sect. D	S	S	D	L	-	-	D/SC	Under resolution 503 (VI) the Committee was continued for a further year and under resolution 703 (VII) it was directed to report to the ninth session. Any variations in its terms of reference under these resolutions do not affect this classification.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
49. Standing Committee on the Repatriation of Greek Children	382 C (V)	P	S	D	I	GA 618 (VII)	-	-	The Secretary-General was to report on the implementation of the resolution.
50. Group on Cease-Fire in Korea	384 (V)	P	E	P	L	C	-	D	
51. United Nations Tribunal in Libya	388 A (V) article X	J	E	SG	I	-	F	-	Continued under resolution 792 (VIII). Members to be selected for their legal qualifications from the nationals of those States not directly interested.
52. United Nations Commissioner in Eritrea	390 A (V)	P	I	E	L	C	F	D	Elected on the nomination of a committee of the General Assembly. The Assembly, in resolution 617 (VII), took note of the Commissioner's final report and expressed appreciation of his services.
53. Negotiating Committee on Contributions to Programmes of Relief and Rehabilitation in Korea and Relief and Reintegration of Palestine Refugees	393 (V) 410 (V)	A	S	P	L	R	-	-	As soon as the Negotiating Committee had ascertained the extent to which Members were willing to contribute, the Secretary-General was to notify delegations.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
54. United Nations Korean Reconstruction Agency (UNKRA) - Agent General	410 (V)	O	I	SG	I	-	H	SG	<p>The Secretary-General was to appoint the Agent General after consultation with UNCURK and the Advisory Committee on Korean Reconstruction.</p> <p>The Agent General was to report to the General Assembly through the Secretary-General, transmitting copies simultaneously to UNCURK and the Economic and Social Council.</p>
55. Advisory Committee to the Agent General of the Korean Reconstruction Agency	410 (V)	O	S	D	I	-	H	-	<p>The Committee was to advise the Agent General "with regard to major financial, procurement, distribution and other economic problems pertaining to his planning and operations".</p> <p>The Assembly voted on and adopted a proposal of the President nominating the members.</p> <p>Authorized to meet elsewhere "in special circumstances" after consultation with the Agent General "if it deems that this would be essential to the proper performance of its work".</p>
56. Committee on the draft Convention on Freedom of Information	426 (V)	S	S	D	L	C	H	ESC	

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
57. <u>Ad Hoc Commission on Prisoners of War</u>	427 (V)	S	E	I/SG	L	C	-	SG	To consist of "three qualified and impartial persons". To be chosen by the International Red Cross or, failing that, by the Secretary-General.
58. <u>Ad Hoc Committee on South West Africa</u>	449 A (V)	P/S	S	D	L	R	-	D	Reconstituted under resolution 570 (VI) until the next regular session and continued under resolution 651 (VII) to report to the eighth session. Was to negotiate with the Union of South Africa as well as to study reports and petitions.
59. <u>Committee on International Criminal Jurisdiction</u>	489 (V)	S	S	D	L	C	G	SG	The Secretary-General was to communicate the report to Member Governments for observations and to place the question on the agenda of the seventh session.
60. <u>Special Committee on the representation of China</u>	490 (V)	S	S	E	L	C	-	D	Elected on the nomination of the President.
61. <u>Committee of Twelve [on atomic energy]</u>	496 (V)	S	S	D	L	C	-	D	
62. <u>Additional Measures Committee</u>	498 (V)	S	S	D	L	-	-	D	

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
63. Good Offices Committee	498 (V)	P	E	P	L	-	-	-	It was inferred that the Committee would report directly to the Assembly.

Established at the sixth session

Annex

Article 22

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
64. Disarmament Commission	502 (VI)	S	S	D	I	-	-	SC/D	The Commission was established "under the Security Council".
65. United Nations Commission to investigate Conditions for Free Elections in Germany	510 (VI)	P	S	D	L	-	F	SG	The Commission adjourned <u>sine die</u> while remaining at the disposal of the United Nations and all parties concerned to carry out its task during such time as its mandate remained in force. The Assembly had not, by the end of the eighth session, taken action on the Committee's report. It was to report to the Secretary-General by a specified date "for the consideration of the four Powers and for the information of the other Members of the United Nations".
66. United Nations Tribunal in Eritrea	530 (VI) article XI	J	E	SG	L	-	F	-	Members to be selected for their legal qualifications from the nationals of three different States not directly interested. It was provided that the members might be the same as those of the Tribunal in Libya.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
67. Committee on Administrative Unions	563 (VI)	S	S	D	L	C	-	D	
68. Ad Hoc Committee on Factors (Non-Self-Governing Territories)	567 (VI)	S	S	D	L	C	-	D	
69. Negotiating Committee for Extra-Budgetary Funds	571 B (VI) 607 (VI)	A	S	P	L	R	-	-	<p>The Committee was to consult Members and non-Members "as soon as possible during the current session". It was extended under resolution 607 (VI) for as long as necessary after the close of the session.</p> <p>As soon as the Committee had ascertained the extent to which Members were willing to contribute the Secretary-General, at the Committee's request, was to arrange during the current session meetings of Member and non-Member States at which the pledges would be made known.</p>
70. Special Committee on legal and drafting questions	597 (VI)	S	S	D	L	C	H	D	

Established at the seventh session

Annex

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
71. United Nations Good Offices Commission on the question of the treatment of people of Indian origin in the Union of South Africa	615 (VII)	P	E	P	L	-	-	D	Continued under resolution 719 (VIII) to report to the ninth session.
72. United Nations Commission on the Racial Situation in the Union of South Africa	616 A (VII)	S	E	D/P	L	-	-	D	Continued under resolution 721 (VIII) to report to the ninth session. Original members were appointed by the Assembly on the proposal of the President; resolution 721 (VIII) provided that if any members of the Commission were unable to continue their membership they should be replaced by the President in consultation with the Secretary-General.
73. Special Committee on Admission of New Members	620 A (VII)	S	S	D	L	R	-	D	The report was to be transmitted to the Secretary-General in time for distribution to Members two months before the next session.

Article 22

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
74. Group of Experts on Financing of Economic Development through the Establishment of Equitable Prices	623 (VII)	S	E	SG	L	-	-	D/ESC	The report was to be transmitted to the General Assembly with the comments of the Economic and Social Council.
75. <u>Ad Hoc</u> Committee on Factors (Non-Self-Governing Territories)	648 (VII)	S	S	D	L	-	-	-	
76. Committee on Special Administrative Questions	681 B (VII)	S	S	D	L	C	-	D	It was to meet "in the interval" between the seventh and eighth sessions and to report at the eighth session.
77. 1953 Committee on International Criminal Jurisdiction	687 (VII)	S	S	P	L	C	H	D	Members to be designated by the President in consultation with the Chairman of the Sixth Committee. The exact date of the Committee's meeting was to be determined by the Secretary-General.
78. Special Committee on the question of defining aggression	688 (VII)	S	S	D	L	-	H	-	The Committee's report was to be communicated by the Secretary-General to Member States for comments prior to consideration at the ninth session.

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
79. Special Committee on Measures to Limit the Duration of Regular Sessions of the General Assembly	689 (VII)	S	S	D	L	C	-	-	The report was to be transmitted by the Secretary-General to Members for comment prior to consideration at the eighth session.
80. Negotiating Committee for Extra-Budgetary Funds	693 (VII)	A	S	P	L	R	-	D	In addition to the report, meetings were to be arranged, if the Committee requested, at which pledges should be made known (see Committee established at the sixth session).
81. Special Committee on Programme of Conferences	698 (VII)	S	S	P	L	C	-	D	
82. United Nations Commission [for investigation of charges of use by United Nations forces of bacteriological warfare]	706 (VII)	P	S	D	L	-	F	SG	The Commission was to be set up after the President had received an indication of acceptance by the Governments concerned. It was, in fact, never set up.

Established at the eighth session

Title of subsidiary organ	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
83. Committee of Good Offices on the Admission of New Members	718 (VII)	S	S	D	L	-	-	D	The Committee was, perhaps, rather more than a study committee since it was to "consult" with members of the Security Council with the object of reaching an understanding to facilitate the admission of new Members.
84. Question of establishing a Special Rapporteur on the special United Nations fund for economic development	724 B (VIII)	S	I	D	L	-	-	ESC/D	An interim report was to be submitted to the Economic and Social Council and a final report to the Assembly at its ninth session.
85. Committee on South West Africa	749 A (VIII)	S/P	S	D	I	-	-	D	Appointed by the Assembly on recommendation of the Fourth Committee to the President.
86. Sub-Committee on the Questionnaire [formulated by the Trusteeship Council]	751 (VIII)	S	S	D	L	-	-	TC	
87. Negotiating Committee for Extra-Budgetary Funds	759 (VIII)	A	S	P	L	-	-	D	

Bodies to be established by the Secretary-General

A distinction is here drawn between bodies established by the Assembly, the members of which were to be appointed by the Secretary-General (which are included in the previous listing) and bodies which the Secretary-General was recommended or authorized to establish.

Title of body	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
1. International Civil Service Commission	13 (I) para. 6	A	E	SG	S	-	-	-	To be appointed after consultation with the heads of the specialized agencies brought into relationship with the United Nations.
2. Advisory Committee on a statute for a United Nations administrative tribunal	13 (I) para. 11	S	E	SG	L	-	-	D	"possibly including representatives of the staff".
3. Advisory Group of Experts [to classify posts, etc.]	13 (I) para. 18	A	E	SG	L	-	-	-	
4. Advisory Group of Experts (to assist in organizing administrative and budgetary aspects of the Organization)	14 (I) para. 4	A	E	SG	L	-	-	-	
5. Director of United Nations Relief for Palestine Refugees	212 (III)	O	I	SG	I	R	-	-	The Secretary-General might delegate to the Director "such responsibility as he may consider appropriate for the overall planning and implementation of the relief programme".

Title of body	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
5. Director of United Nations Relief for Palestine Refugees (continued)									The Secretary-General was to report to the next session on the action taken as a result of the resolution.
6. <u>Ad Hoc</u> Advisory Committee on Palestine Refugees	212 (III)	O	S	P	I	R	-	-	<p>The Secretary-General might submit to the Committee any matter of policy or principle on which he wished the committee's advice.</p> <p>The resolution stated that the Assembly "<u>Agrees</u> to the convoking, at the discretion of the Secretary-General", of an <u>ad hoc</u> advisory committee, the members of which were to be selected by the President.</p>
7. United Nations Panel of Field Observers	297 B (IV)	P	E	SG	S	-	-	-	The panel was to be a list of persons qualified to assist United Nations missions in the functions of observation and supervision. It was to be based on the principle of equitable geographical distribution.
8. Committee on Postage Stamps	454 (V)	A	E	SG	-	-	-	-	

Bodies to be established by other organs

Title of body	Resolution establishing	Functions	Membership	Method of appointment	Duration	Method of termination	Place of meeting	Method of reporting	Remarks
Balkan sub-commission of the Peace Observation Commission	508 (VI)	P	S	I	I	-	H	POC/ SG	<p>The Peace Observation Commission was requested to appoint the sub-commission.</p> <p>The sub-commission might dispatch observers to any area of international tension in the Balkans at the request of any State concerned and might visit such area.</p> <p>It was to report as it considered necessary to the Peace Observation Commission and to the Secretary-General for the information of Member States.</p>