

ARTICLE 7

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TEXT OF ARTICLE 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

INTRODUCTORY NOTE

A. Principal organs

1. During the period under review, no question arose bearing on Article 7 (1).

B. Subsidiary organs

2. The practice regarding the establishment of subsidiary organs by the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council is examined in this *Supplement* under Articles 22, 29, 68 and 90 respectively.

3. As regards the Secretariat, the Secretary-General continued to establish various bodies found to be necessary to assist him in the performance of his functions under the Charter, or in accordance with the decisions of other United Nations organs taken in conformity with the Charter. For example, under the authority entrusted to him by the General Assembly in its resolution 1446 (XIV) of 5 December 1959, the Secretary-General on 23 June 1960 convened a group of eight experts to work with him in effecting or proposing further measures to ensure maximum economy and efficiency in the activities and organization of the Secretariat.¹

4. A new development during the period under review was the establishment of joint bodies by the United Nations and certain specialized agencies.

5. By its resolution 1594 (XV) of 27 March 1961, the General Assembly approved the Agreement on the relationship between the United Nations and the International Development Association (IDA).² By

that Agreement a Liaison Committee, composed of the Secretary-General of the United Nations and the President of the International Bank for Reconstruction and Development and of IDA, or their representatives, was established to assure co-ordination of technical assistance and other development activities. The Executive Chairman of the Technical Assistance Board and the Managing Director of the Special Fund were invited to join the Liaison Committee as full participants.

6. In its resolution 1714 (XVI) of 19 December 1961 on the World Food Programme, the General Assembly approved the establishment of an Inter-Governmental Committee composed of twenty States Members of the United Nations and members of the Food and Agriculture Organization of the United Nations (FAO) to provide guidance on policy, administration and operations, and of a joint United Nations/FAO administrative unit reporting to the Secretary-General and the Director-General of FAO.³ Ten members of the Inter-Governmental Committee were to be elected by the Economic and Social Council and the other ten by the Council of FAO. By its resolution 1914 (XVIII) of 5 December 1963, the Assembly increased the membership of the Committee to twenty-four, two of the additional members to be elected by the Economic and Social Council and two by the Council of FAO. The joint administrative unit was to rely to the fullest extent possible on the existing staff and facilities of the United Nations and FAO, and on other appropriate international agencies.

¹ G A (XVI), Suppl. No. 1, p. 177. For a list of organs established by the Secretary-General during the period under review, see this *Supplement* under Article 22, annex I.

² For text of the Agreement, see G A (XV), Annexes, a.i. 91, A/4683, annex.

³ Provision for the establishment of the two joint bodies, "subject to the concurrence of the General Assembly of the United Nations", was contained in a resolution adopted by the Conference of FAO on 24 November 1961.

ANALYTICAL SUMMARY OF PRACTICE

A. Nature of subsidiary organs

7. The characteristics and common features of the subsidiary organs of the United Nations were described in the *Repertory*.⁴

8. Since that time there has, in addition, been a tendency on the part of main organs to lay down certain principles or conditions about membership of subsidiary organs. For example, when the United Nations Conference on Trade and Development (UNCTAD) was established in 1964, the General

⁴ See *Repertory*, vol. 1, under Article 7, paras. 9–21.

Assembly, in its resolution 1995 (XIX), emphasized the need to observe the principle of equitable geographical distribution and the desirability of continuing representation for the principal trading States in the composition of the Conference's permanent organ, the Trade and Development Board. It also specified the distribution of seats to be observed by UNCTAD in electing the members of the Board.

9. Similarly, when the Inter-Governmental Committee for the World Food Programme was established in 1961, the General Assembly in its resolution 1714 (XVI), requested the Economic and Social Council to take into account in electing ten members of the Committee the representation provided by the other ten members of the Committee elected by the Council of FAO, the need for balanced representation of economically developed and developing countries, and other relevant factors such as the representation of potential participating countries, both contributing and recipient, equitable geographical distribution and the representation of both developed and less developed countries having commercial interests in international trade in food-stuffs, especially those highly dependent on such trade.

10. In reply to an inquiry from the Legal Counsel of FAO regarding provisions governing the establishment of joint bodies by the United Nations and other intergovernmental organizations, a legal opinion was given by the United Nations Secretariat on 4 January 1963.⁵ It stated that no general provisions existed in the Charter or in the rules of procedure of the principal organs of the United Nations referring specifically to the establishment of such bodies. Nevertheless, the setting up of such joint bodies would be considered permissible in appropriate circumstances by the application of the Charter provisions relating to the establishment of subsidiary organs. The legal opinion cited Article 7 (2) as one such provision and the Inter-Governmental Committee for the World Food Programme as one of the joint bodies.

B. Organs established by treaty⁶

11. The International Narcotics Control Board provided for in the Single Convention on Narcotic Drugs of 1961 assumed its functions when the Convention entered into force on 13 December 1964. The Board retained the features of a special body attributed to its predecessors, the Permanent Central Opium Board and the Drug Supervisory Body. In the preamble of the Convention,⁷ the desire was expressed that the international organs concerned

should be within the framework of the United Nations. The following provisions of the Convention indicate the relationship of the Board to the United Nations:

(a) The Parties, recognizing the competence of the United Nations with respect to the international control of drugs, would agree to entrust to the Commission on Narcotic Drugs of the Economic and Social Council, and to the International Narcotics Control Board, the functions assigned to them under the Convention (article 5);

(b) The expenses of the Board would be borne by the United Nations in a manner to be decided by the General Assembly (article 6);

(c) Members of the Board would be elected by the Economic and Social Council [article 9 (1)];⁸

(d) Members of the Board would receive an adequate remuneration as determined by the General Assembly [article 10 (6)];

(e) The reports of the Board would be submitted to the Economic and Social Council [article 15 (2)];

(f) The secretariat of the Board would be furnished by the Secretary-General of the United Nations (article 16).

Such a body, as stated in *Repertory Supplement No. 1*, although established by treaty, has "a position within the United Nations similar in some respects to that of subsidiary organs".⁹

12. In its resolution 2106 (XX) of 21 December 1965, the General Assembly adopted and opened for signature and ratification the International Convention on the Elimination of All Forms of Racial Discrimination annexed to that resolution. The Convention provided, *inter alia*, for the establishment of a Committee on the Elimination of Racial Discrimination.

13. Discussion of the draft Convention revealed different opinions concerning the status of that Committee *vis-à-vis* the United Nations.

14. In the Third Committee of the General Assembly, the text proposed by Ghana, Mauritania and the Philippines, as revised,¹⁰ provided that a Committee on the Elimination of Racial Discrimination of 18 experts should be established, that the experts should be elected by States Parties to the Convention from among their nationals, and that a State Party should be responsible for the expenses of any its nationals elected to membership of the Committee. The United Republic of Tanzania submitted amendments to that text: (a) to replace the name "Committee on the Elimination of Racial Discrimination" by the "United Nations Committee on Racial Discrimination"; (b) to replace the word

⁵ See *United Nations Juridical Yearbook 1963*, pp. 168 and 169.

⁶ Some organs established by treaties concluded under the auspices of the United Nations, such as the International Wheat Council, established by the International Wheat Agreement of 1962, and the International Coffee Council, established by the International Coffee Agreement of 1962, were authorized to make arrangements for consultation and co-operation with appropriate organs of the United Nations. They are not treated in this study since they do not have any of the essential characteristics of subsidiary organs within the meaning of Article 7 (2). See *Repertory*, vol. I, under Article 7, para. 21.

⁷ See United Nations, *Treaty Series*, vol. 520 (1964), No. 7515, p. 204.

⁸ Article 9 (3) of the Convention laid down the principles to be observed in the election of the members of the Board. It read as follows: "The Council, with due regard to the principle of equitable geographic representation, shall give consideration to the importance of including on the Board in equitable proportion, persons possessing a knowledge of the drug situation in the producing, manufacturing, and consuming countries, and connected with such countries."

⁹ See *Repertory Supplement, No. 1*, vol. I, under Article 7, para. 7.

¹⁰ G A (XX), Annexes, a.i. 58, A/6181, para. 102.

“experts” by the word “members”; (c) to replace the provision concerning the election of the Committee by States Parties by the provision that the Committee should be elected by secret ballot by the United Nations General Assembly; and (d) to replace the provision concerning expenses by the provision that the expenses of the Committee should be borne by the regular budget of the United Nations.¹¹ Those amendments were not adopted by the Third Committee.¹²

15. In proposing the amendments relating to the election and financing of the Committee by the United Nations,¹³ the representative of Tanzania envisaged the Committee to be an organ of the United Nations with great responsibility and prestige. Some representatives considered that the United Nations should be responsible for financing the Committee if the impartiality of the experts was to be ensured.¹⁴

16. In opposition to those amendments it was stated that since the Convention would enter into force on receipt of twenty ratifications it would be unfair if non-signatory States had the right to exercise influence in the Committee. Until the Convention was ratified by all Member States, it was proper that the Committee should represent only the signatory States and should consequently be elected and financed by them alone.¹⁵ If the Convention

were ratified by all Member States, certain aspects of the implementation provisions would have to be reconsidered. The independence of the experts would not be compromised in any way by the proposed arrangement. If a State Party to the Convention provided an expert, it would surely endeavour to respect his independence.¹⁶ One representative stated that his main reason for supporting the idea that the Committee's expenses should be borne by the signatory States was the difficult financial position of the United Nations.¹⁷

17. The text recommended by the Third Committee and adopted by the General Assembly as its resolution 2106 (XX) established a Committee on the Elimination of Racial Discrimination, consisting of 18 experts to be elected by States Parties from among their nationals, and financed by States Parties to the Convention. At the same time the Committee retained close links with the United Nations. Thus, the meeting to elect members of the Committee is convened by the Secretary-General; States Parties submit their reports to the Committee, as required by the Convention, through the Secretary-General; the Committee reports annually, through the Secretary-General, to the General Assembly; the Secretary-General provides the secretariat for the Committee; and the meetings of the Committee are normally held at United Nations Headquarters.

18. It may therefore be said that the Committee on the Elimination of Racial Discrimination possesses certain characteristics similar to those of the subsidiary organs of the United Nations.

¹¹ *Ibid.*, paras. 104 and 109.

¹² *Ibid.*, para. 110.

¹³ G A (XX), 3rd Com., 1349th mtg., para. 36; 1350th mtg., para. 37.

¹⁴ *Ibid.*, 1351st mtg., para. 27; 1352nd mtg., paras. 30 and 32.

¹⁵ *Ibid.*, 1350th mtg., para. 41.

¹⁶ *Ibid.*, para. 54.

¹⁷ *Ibid.*, 1351st mtg., para. 3.