

**United Nations Conference on the Elimination or Reduction of Future  
Statelessness**

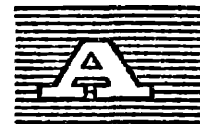
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UNITED NATIONS CONFERENCE ON THE ELIMINATION  
OR REDUCTION OF FUTURE STATELESSNESS

Organs and agencies established by treaty  
within the framework of the United Nations

(Prepared by the Secretariat of the United Nations)

ORGANS AND AGENCIES ESTABLISHED BY TREATY  
WITHIN THE FRAMEWORK OF THE UNITED NATIONS

1. The present paper has been prepared by the Secretariat to assist the Conference in its consideration of the question of the establishment of the agency proposed in article 11 of the Draft Convention on the Reduction of Future Statelessness prepared by the International Law Commission at its sixth session.

I. Existing special bodies within the framework of the United Nations

2. The Charter of the United Nations, in addition to providing for the establishment of the principal organs, envisages two other categories of organs or agencies within the framework of or in relationship with the United Nations. These are: (1) subsidiary organs which may be set up in accordance with Article 7, paragraph 2, of the Charter and which are an integral part of the Organization and (2) specialized agencies established by intergovernmental agreement and having wide international responsibilities in economic, social, cultural, educational, health and related fields, which are brought into relationship with the United Nations in accordance with Articles 57 and 63 of the Charter by means of agreement concluded with the United Nations.

3. There exists in practice a third category of organs which are neither subsidiary organs within the meaning of Article 7 (2), nor specialized agencies within the meaning of Articles 57 and 63 of the Charter. These organs or agencies have one feature in common, i.e., they have been established by treaty. For the purpose of the present paper, they are referred to as "special bodies". Their relationship to the United Nations and the method of establishing such relationship are described below.

A. The Permanent Central Opium Board and the Drug Supervisory Body

4. The International Convention adopted by the Second Opium Conference on 19 February 1925, as amended by the Protocol of 1946, provided for the establishment of a Permanent Central Board (referred to hereinafter as "the Board") and set forth in detail the composition, functions and method of operation of the Board (Articles 19 to 27). The following provisions of the Convention indicated the relationship of the Board to the United Nations: <sup>1/</sup>

"The members of the Central Board shall be appointed by the Economic and Social Council of the United Nations" (Article 19)

"The Economic and Social Council of the United Nations shall, in consultation with the Board, make the necessary arrangements for the organization and working of the Board, with the object of assuring the

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1/ League of Nations, Treaty Series, Vol.81, p.317.

full technical independence of the Board in carrying out its duties under the present Convention, while providing for the control of the staff in administrative matters by the Secretary-General.

"The Secretary-General shall appoint the secretary and staff of the Board on the nomination of the Board and subject to the approval of the Council". (Article 20)

"The Central Board shall present an annual report on its work to the Economic and Social Council of the United Nations. This report shall be published and communicated to all the Contracting Parties". (Article 27)

Furthermore, in performing its functions, the Board may call the attention of the Economic and Social Council to certain matters and may, under some circumstances, publish a report on the matter and communicate it to the Council (Article 24).

5. The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, signed on 13 July 1931, as amended by the Protocol of 1946, provided that the estimates furnished by the High Contracting Parties to the Permanent Central Board, constituted under the Convention of 19 February 1925, should be examined by<sup>2/</sup>

"a Supervisory Body consisting of four members. The World Health Organization shall appoint two members and the Commission on Narcotic Drugs of the Economic and Social Council and the Permanent Central Board shall each appoint one member.

"The Secretariat of the Supervisory Body shall be provided by the Secretary-General of the United Nations who will ensure close collaboration with the Permanent Central Board". (Article 5, paragraph 6)

Except for these provisions regarding administrative coordination and personnel arrangements, the Drug Supervisory Body, like the Permanent Central Opium Board, enjoys operational independence in performing the duties prescribed by the Convention.

6. The Protocol referred to in the two preceding paragraphs was signed on 11 December 1946 for the purpose of transferring to the United Nations the powers exercised by the League of Nations under the International Agreements, Conventions and Protocols on Narcotic Drugs.<sup>3/</sup> By resolution 54 (I), the General Assembly approved the Protocol and instructed the Secretary-General to perform the functions conferred upon him by the Protocol.

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<sup>2/</sup> League of Nations, Treaty Series, Vol. 139, p.303.

<sup>3/</sup> See Annex to G.A. resolution 54 (I).

B. The International Bureau for Declarations of Death

7. The Convention on the Declaration of Death of Missing persons, signed on 6 April 1950, contained the following provisions.<sup>4/</sup>

"Article 8

"International Bureau for Declarations of Death

"1. There shall be established within the framework of the United Nations an International Bureau for Declarations of Death [referred to hereinafter as "the Bureau"]. The Secretary-General of the United Nations shall determine its seat, composition, organization and method of operation.

"Article 15

"Approval by the General Assembly

"The establishment of the International Bureau provided for in article 8 shall require the approval of the General Assembly of the United Nations."

The functions and procedures of the Bureau were set forth in articles 8, 9, 10, 11 and 12 of the Convention.

8. The establishment of the Bureau was considered by the General Assembly of the United Nations at its fifth session. In his report<sup>5/</sup> to the Assembly, the Secretary-General suggested that although the Convention had not yet come into force,

"it would be advisable for the General Assembly, at its current session, to determine whether to approve the establishment of the International Bureau for Declarations of Death. Approval by the General Assembly, together with the necessary budget authorization, would enable the Secretary-General to establish the Bureau as soon as the Convention comes into force. A decision in regard to the Bureau would also be of assistance to interested states in determining whether to accede to the Convention."

9. In accordance with rule 152 of the rules of procedure of the General Assembly, the Secretary-General further submitted to the Fifth (Administrative and Budgetary) Committee a report<sup>6/</sup> on the financial implications of the establishment of the Bureau while stating that the time of the establishment of such a Bureau would be governed by the date when the Convention came into force. In this report the estimate of expenditures was made on the basis of the maintenance of a small staff and adequate provision for stationery, postage and printing for one full year of operation.

4/ A/CONF.1/9.

5/ GA (V) Annexes, agenda item 48, A/1329.

6/ Ibid., A/C.5/390.

10. On 16 November 1950, the General Assembly adopted resolution 493 (V) reading as follows:

"The General Assembly,

"Having regard to Article 15 of the Convention on the Declaration of Death of Missing Persons established by the United Nations Conference on Declaration of Death of Missing Persons,

"1. Decides to approve the establishment of the International Bureau for Declarations of Death provided for in article 8 of the afore mentioned Convention;

"2. Decides that the expenses of the International Bureau should be assessed upon such non-member States as may become parties to the Convention, in accordance with the principle adopted in this respect in connexion with the expenses of the International Court of Justice.<sup>7/</sup>"

C. The International Atomic Energy Agency

11. By resolution 912 II (X), the General Assembly decided to call a conference on the final text of the statute of the International Atomic Energy Agency (referred to hereinafter as "the Agency") and requested the Secretary-General, in consultation with the Advisory Committee on the Peaceful Uses of Atomic Energy established by resolution 810 B (IX), "to study the question of the relationship of the International Atomic Energy Agency to the United Nations, and to transmit the results of their study to the Governments concerned before the conference is convened". This study<sup>8/</sup> was prepared and presented in the form of the basic principles which should be included in the agreement to be entered into between the United Nations and the Agency; and it was transmitted to the Governments concerned in accordance with the resolution of the Assembly.

12. The Statute of the Agency<sup>9/</sup>, as adopted by the Conference on 26 October 1956, provided for consultation and, where appropriate, collaboration by the Agency with the competent organs of the United Nations and with the specialized agencies concerned,

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<sup>7/</sup> This provision was based on a recommendation made by the Advisory Committee on Administrative and Budgetary Questions and approved by the Fifth Committee. The report of the Advisory Committee contained the following explanation (GA(V), Annexes, agenda item 48 A/1489, paragraph 6);

"6. The Convention is open for accession not only on behalf of Members of the United Nations, but also on behalf of non-member States which are parties to the Statute of the International Court of Justice and other non-member States to which an invitation is addressed, upon their request, by the Economic and Social Council (article 13). The Advisory Committee therefore recommends that the expenses of the International Bureau should be assessed upon such non-member States following the principle adopted in connexion with the expenses of the International Court of Justice, the amount of the assessment being fixed by the General Assembly on the recommendation of the Committee on Contributions."

<sup>8/</sup> GA(XI), Annexes, agenda item 69, A/3122.

<sup>9/</sup> IAEA/CS/13.

and for submission by the Agency of reports on its activities annually to the General Assembly of the United Nations and, when appropriate, to the Security Council. The Agency was also required to submit reports to the Economic and Social Council and other organs of the United Nations on matters within the competence of these organs. The Statute further authorized the Agency to enter into relationship agreement with the United Nations. This agreement, based on the principles set forth in the study referred to in the preceding paragraph, was subsequently concluded and approved by the General Assembly.<sup>10/</sup>

## II. Conclusion

13. From the foregoing summary of provisions, it may be said that the Permanent Central Opium Board, the Drug Supervisory Body and the International Bureau for Declarations of Death, while enjoying wide operational autonomy, are given a status in the framework of the United Nations, similar in some respects to that of subsidiary organs. In each case, however, the functions and powers of the special body are set forth in the constituent instrument concerned. The relationship of the International Atomic Energy Agency to the United Nations seems close, although not quite similar, to that between the United Nations and a specialized agency.

14. The integration of these special bodies into the United Nations system is effected through the acceptance by the United Nations either by resolution of the General Assembly, as in the case of the International Bureau for Declarations of Death, or by agreement, as in the case of the International Atomic Energy Agency.

15. The report of the International Law Commission covering the work of its fifth session contained the following comments on the draft article envisaging the establishment within the framework of the United Nations of an agency and a tribunal to deal with cases of stateless persons:<sup>11/</sup>

"It was not considered necessary at this juncture to provide for the details of the organization either of the agency referred to in paragraph 1 or of the tribunal referred to in paragraph 2. That task must be left, in the first instance, to the contracting parties. It is only when they have failed to take the steps necessary for the purpose or when they have failed to come to an agreement on the subject that the setting up of the agency or the tribunal or both will become a responsibility of the General Assembly of the United Nations acting at the request of any of the parties."

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<sup>10/</sup> GA resolution 1145 (XII), cf. GA resolution 1115 (XI).

<sup>11/</sup> GA(VIII). Supplement No. 9 (A/2456), pp. 26-27.

"After the draft conventions have been approved by the General Assembly and accepted by States, they will become, in a general sense, United Nations Conventions. The United Nations, by giving its approval to the Conventions, will accept the responsibilities - including those of a financial nature - devolving upon it under the various provisions of Article 10 [which became Article 11 in the revised draft]. The Commission considers that, quite apart from any obligation implied in the approval of the conventions, it is consonant with the purposes and principles of the United Nations that the Organization should assist actively in the implementation of conventions of that kind. ..."

16. Since the General Assembly had decided to call a conference to conclude convention(s) instead of undertaking itself to approve the draft convention(s), it is obvious that the observations of the International Law Commission quoted above are no longer applicable. In the light of existing practice regarding the establishment of special bodies within the framework of the United Nations, it is for the Conference to specify in its convention the functions and powers of the agency envisaged in article 11 of the International Law Commission's draft, while leaving such questions as organization, composition and method of operation to the General Assembly of the United Nations. The nature of the proposed agency being analogous to that of the International Bureau for Declarations of Death, the provisions of the 1950 Convention creating the Bureau may be taken into account by the Conference in drafting articles in this respect to be embodied in the Convention.

17. While the Conference may include in its Convention an article to the effect that the General Assembly of the United Nations should approve the establishment of the agency as was done in the 1950 Convention referred to in paragraph 7 above, it may, as an alternative, adopt a resolution to this effect, independently of the text of the Convention. The resolution would request the General Assembly to approve the establishment of the proposed agency as envisaged in the text of the convention.