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A/CN.4/L.103

Scope and order of future work on the subject of relations between States and inter-governmental organizations: Working paper by Mr. Abdullah El-Erian, Special Rapporteur

Topic:
Representation of States in their relations with international organizations

Extract from the Yearbook of the International Law Commission:-
1963, vol. II

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**Scope and order of future work on the subject of relations between States and inter-governmental organisations:
Working Paper by Mr. Abdullah El-Erian, Special Rapporteur**

[Original: English]
[11 July 1963]

A. BROAD OUTLINE

1. In the light of the review of attempts to codify, the international law relating to the legal status of international organizations and the preliminary survey of its scope, as contained in the first report on relations between States and inter-governmental organizations (A/CN.4/161), the subject may be classified into the following groups of questions:

I. First group — General principles of juridical personality of international organizations, which would include:

1. Legal capacity;
2. Treaty-making capacity;
3. Capacity to espouse international claims.

II. Second group — International immunities and privileges, which would include:

1. Privileges and immunities of international organizations;
2. Related questions of the institution of legation in respect to international organizations and;
3. Diplomatic conferences.

III. Third group — Special questions

1. The law of treaties in respect to international organizations;
2. Responsibility of international organizations, and
3. Succession between international organizations.

B. SCOPE OF THE DRAFT ARTICLES

2. The Commission should concentrate its work on this subject first on international organizations of universal character (the United Nations system) and prepare its draft articles with reference to these organizations only, and examine later whether they could be applied to regional organizations as they stood or whether they required modification.

The study of regional organizations raises particularly a number of problems, e.g., recognition by and relationship with non-member States, which would require the formulation of particular rules peculiar to these organizations.

C. ORDER OF PRIORITIES

3. A distinction has to be made between the question of the juridical personality and immunities and

privileges of international organizations and the other aspects of the subject of relations between States and international organizations.

Consideration of these other aspects, namely, the law of treaties in respect to international organizations, responsibility of international organizations and succession between international organizations, should be deferred to a future stage in the work of the Commission when it will have completed or made substantial progress in its work on these topics in relation to States. Furthermore, it will be a matter for future consideration by the Commission whether these aspects could be taken up more appropriately in connexion with its work on the subjects of the law of treaties, State responsibility and succession of States, rather than in connexion with its work on the subject of relations between States and international organizations.

4. The question of the juridical personality and immunities and privileges of international organizations may be divided into two parts:

I. First part — General principles of juridical personality of international organizations, which would include:

1. Legal capacity;
2. Treaty-making capacity, and
3. Capacity to espouse international claims.

II. Second part — Immunities and privileges of international organizations, which would include:

1. Immunities and privileges of international organizations as bodies corporate;
2. Immunities and privileges of officials of international organizations, and
3. Immunities and privileges of representatives to international organizations and other related questions of the institution of legation in respect to international organizations.

D. FORM OF THE DRAFT ARTICLES

5. While the Special Rapporteur aims provisionally at preparing a group of draft articles which might provide the basis of a draft convention, further consideration has to be given to whether the draft articles on the part concerning the juridical personality of international organizations would more appropriately take the form of an expository code rather than that of a draft convention.