

ARTICLE 57

CONTENTS

	<i>Paragraphs</i>
Text of Article 57	
Introductory note.....	1-2
I. General survey.....	3-5
II. Analytical summary of practice	6-30
A. Relationship with the United Nations	6-16
1. World Intellectual Property Organization	6-11
2. International Fund for Agricultural Development	12-16
**B. The mandatory character of Article 57	
C. Other intergovernmental organizations	17-28
1. International Criminal Police Organization—Interpol	17-24
2. World Tourism Organization	25-28

ARTICLE 57

TEXT OF ARTICLE 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

INTRODUCTORY NOTE

1. The present study deals with the establishment of relations between the United Nations and the specialized agencies, as provided under Article 57. It also deals with the question of relations with other intergovernmental organizations not defined as specialized agencies.

2. Certain questions, though closely related to the provisions of Article 57, are not dealt with here to prevent duplicating material contained in the discussion of other Articles. With respect to initiating negotiations for the creation of new specialized agencies, cross-reference is made to Article 59; also cross-reference to Article 63 for discussion on negotiations and entering into agreements with specialized agencies; and to Article 70 for discussion concerning arrangements for representation by specialized agencies in the deliberations of the Economic and Social Council. While the present study includes a discussion of special arrangements made by the Economic and Social Council with non-United Nations intergovernmental organizations, the study for Article 70 in addition discusses the practice of the United Nations with regard to the general participation of these organizations.

I. GENERAL SURVEY

3. During the period under review, the World Intellectual Property Organization and the International Fund for Agricultural Development were brought into relationship with the United Nations as specialized agencies on 17 December 1974¹ and 15 December 1977,² respectively.

4. The *Repertory*³ noted that, with regard to other intergovernmental organizations not defined as specialized agencies, although Article 57's text refers to specialized agencies, the Economic and Social Council nevertheless possesses discretion to bring into relationship such other intergovernmental organizations. This is in line with the provision's intended purpose of "provid[ing] for arrangements sufficiently flexible to enable satisfactory arrangements to be worked out on the basis of need and experience."⁴ Thus, during the period under review, the Council concluded arrangements with the following intergovernmental organizations: International Criminal Police Organization—Interpol and World Tourism Organization.

5. During the period under review, the question of the conversion of UNIDO into a specialized agency arose within the principal organs of the United Nations.⁵ The Committee to Draw Up a Constitution for the United Nations Industrial Development Organization as a Specialized Agency, over the course of its five sessions in 1976-1977,⁶ reached agreement on a draft Constitution, which envisaged that UNIDO would be brought into relationship with the United Nations as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations.⁷ The Committee also agreed on the text of a draft resolution on transitional arrangements, to be proposed to the General Assembly. The draft contained a request that the Economic and Social Council arrange "for the negotiation with the converted UNIDO to constitute it as a specialized agency in accordance with Articles 57 and 63 of the Charter."⁸ During the reporting period, the Constitution was not adopted and the General Assembly took no action on the proposed draft resolution.

¹G A resolution 3346 (XXIX) and annex.

²G A resolution 32/107.

³See *Repertory*, under Article 57, para. 5. See also *Supplement No. 4*, under Article 70, paras. 3 - 4.

⁴*The United Nations Conference on International Organization*, vol. 10, p. 273, para. 12 (b), document 861, II/3/5 (1).

⁵See this *Supplement*, under Article 59.

⁶A/32/182, paras. 3 and 4.

⁷*Ibid.*, annex 1, appendix 1, art. 18. See also A/10202, appendix, art. 16.

⁸A/32/182, appendix 3, para. 11.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Relationship with the United Nations

1. WORLD INTELLECTUAL PROPERTY ORGANIZATION⁹

6. The treaty establishing the World Intellectual Property Organization was signed on 14 July 1967 and entered into force on 26 April 1970.¹⁰ WIPO's predecessor organization, the Bureau of the International Union for the Protection of Industrial Property (BIRPI), had a standing invitation to participate in the Economic and Social Council's sessions under Council resolution 1013 (XXXVII). WIPO continued such participation in the work of the Council, as a non-United Nations intergovernmental organization.¹¹ However, since one of WIPO's objectives was "to promote the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization . . .",¹² such collaboration was being explored with the United Nations by 1972. WIPO's Coordination Committee adopted a resolution¹³ whereby "a relationship agreement under Articles 57 and 63 of the Charter of the United Nations and articles 6 (3) (f) and 13 (1) of the Convention Establishing WIPO appears to be desirable;"¹⁴ and further requested WIPO's Director General "to bring this resolution to the attention of the United Nations through the Secretary-General of the United Nations."¹⁵

7. During the fifty-third session of the Economic and Social Council in 1972, the Secretary-General of the United Nations brought the WIPO Coordination Committee resolution and supporting documents to the attention¹⁶ of the Economic and Social Council, and suggested for its 1973 programme of work "that the Council may wish to consider them at its fifty-fifth session. . . ."¹⁷ The Council was receptive to the Secretary-General's suggestions, and included WIPO as an item on its agenda for 1973.¹⁸

8. In May 1973, WIPO's Coordination Committee adopted another resolution which urged "the conclusion, at the earliest possible date, of an agreement"¹⁹ bringing WIPO into relationship with the United Nations as a specialized agency. Attached as an annex to the WIPO resolution was a proposed draft agreement.²⁰ Accordingly, these WIPO materials were forwarded by the Secretary-General of the United Nations to the Economic and Social Council at its fifty-fifth session in 1973, along with historical and other relevant information about how to proceed from that point.²¹

9. At its fifty-fifth session, the Economic and Social Council, on 4 July 1973, decided²² to adopt the following procedure: First, the matter would be referred to the Coun-

cil's Coordination Committee "to decide whether it appeared desirable for the United Nations to enter into a relationship agreement with WIPO under Articles 57 and 63 of the Charter."²³ If the Coordination Committee responded favourably, then the Council would "establish a negotiating committee . . . to draft such an agreement and submit its report to the Council as early as possible."²⁴ To aid negotiations, the Council also decided²⁵ that the Secretary-General would circulate a comparative analysis²⁶ of the WIPO proposed draft agreement and the provisions of specialized agency relationship agreements previously concluded by the United Nations.

10. During the Economic and Social Council's Coordination Committee meetings,²⁷ with respect to an essentially procedural matter of creating a negotiating committee to draft an agreement, long and substantive deliberations ensued primarily because such a negotiating committee had not been reconstituted in recent years.²⁸ Most delegations supported the proposal to give WIPO specialized agency status, although some delegations expressed reservations as to whether WIPO's competence was sufficiently wide under the terms of Article 57 to justify its conversion into a specialized agency.²⁹

11. Another delegation, however, strongly opposed any reference to Articles 57 and 63 of the Charter and thus introduced amendments referring instead to "some form of closer relationship with the United Nations; . . . and other relationship arrangements"³⁰ similar to those instituted with WTO and Interpol.³¹ The Committee rejected the amendments proposed and adopted³² a draft decision³³ for the Economic and Social Council, recommending that WIPO be brought into relationship with the United Nations under Articles 57 and 63, and that the Council Committee on Negotiations with Intergovernmental Organizations be re-established.³⁴ At its 1873rd meeting, on 24 July 1973, the Council adopted the draft decision by 21 votes to none.³⁵

2. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD)³⁶

12. In its resolution XIII,³⁷ the World Food Conference³⁸ proposed that the International Fund for Agricultural Devel-

²³Ibid.; see also E/5360, p. 4, para. 8 (a).

²⁴E/SR.1859, agenda item 2, p. 7, para. 54; see also E/5360, p. 4, para. 8 (b).

²⁵E/SR.1859, agenda item 2, p. 7, para. 59; see also E/5360, p. 4, para. 8 (c).

²⁶E/AC.24/L.460.

²⁷See E/AC.24/SR.490 - 495.

²⁸See E/AC.24/SR.491. At the request of the Committee, the Secretariat then prepared a recapitulatory note, E/AC.24/L.467, concerning this procedural issue to clarify matters.

²⁹See E/AC.24/SR.490 and E/AC.24/SR.492.

³⁰The amendments in E/AC.24/L.472 are to the Committee's revised draft decision, contained in E/AC.24/L.466/Rev.1.

³¹See E/AC.24/SR.494.

³²The Committee adopted the revised draft decision, as orally revised, by 37 votes in favour, to none against, with three abstentions.

³³E/AC.24/L.466/Rev.1.

³⁴See E/AC.24/SR.494 and E/AC.24/SR.495. See also G A (28), Suppl. No. 3, A/9003, chap. XXVII, paras. 1045 - 1056 and E/5383.

³⁵E S C (55), Suppl. No. 1, agenda item 18, p. 33; E/SR. 1873, pp. 94 -95, paras. 58-66.

³⁶See also this *Supplement*, under Articles 59 and 63.

³⁷See E/CONF.65/20, chap. II, resolution XIII, p. 12.

³⁸Convened pursuant to G A resolution 3180 (XXVIII).

⁹See also this *Supplement*, under Article 63.

¹⁰United Nations, *Treaty Series*, vol. 828, No. 11846, pp. 3, 5.

¹¹See E/4961, p. 2, para. 6.

¹²Ibid., Convention Establishing the World Intellectual Property Organization, art. 3.

¹³See E/5228, annex I, p. 2.

¹⁴Ibid., annex I, p. 2.

¹⁵Ibid.

¹⁶E/5228 and Add.1 and 2.

¹⁷E/5228, annex I, p. 4.

¹⁸E/SR.1850, agenda item 7, p. 13, paras. 2 - 5.

¹⁹See E/5360, p. 1, para. 3 and annex, p. 3, para. 1.

²⁰Ibid., annex, pp. 5 - 8.

²¹E/5360 and annex.

²²E/SR.1859, agenda item 2, p. 7, para. 54.

opment be immediately established as a resource for the financing of agricultural development projects, and further requested the Secretary-General of the United Nations to convene a meeting to thresh over the details of such a fund.

13. During the Economic and Social Council's fifty-seventh session, the Secretary-General transmitted³⁹ the World Food Conference report to the Council. The Council decided "to transmit the report of the World Food Conference to the General Assembly . . . with a view to adopting provisions regarding those issues which would effectively enhance the capacity of the United Nations system to deal with world food problems."⁴⁰ Consequently, the General Assembly, in its resolution 3348 (XXIX):⁴¹

"13. *Further request[ed]* the Secretary-General to convene urgently a meeting of all interested countries, . . . and all interested institutions, to work out the details of an International Fund for Agricultural Development as envisaged in resolution XIII of the World Food Conference".

14. Over the course of 1975, the Secretary-General convened several meetings⁴² of interested countries which "recommended that the International Fund for Agricultural Development should be established as a specialized agency within the United Nations system with autonomy in policy formulation and operations . . ."⁴³ and included for the General Assembly's adoption a draft resolution on the establishment of IFAD.⁴⁴

15. In compliance with General Assembly resolution 3348 (XXIX), the reports of these meetings were allocated⁴⁵ to the Assembly's Second Committee. The Second Committee adopted the above-mentioned draft resolution on the establishment of IFAD and recommended its adoption to the General Assembly.⁴⁶ Thus at its thirtieth session, the General Assembly adopted resolution 3503 (XXX), in which the Assembly:

"6. *Request[ed]* the Economic and Social Council to arrange for the negotiation with the Preparatory Commission for the International Fund for Agricultural Development of an agreement with the Fund to constitute it as a specialized agency in accordance with Articles 57 and 63 of the Charter of the United Nations, to enter into such agreement, subject to the approval of the General Assembly . . .".

16. The Secretariat then suggested that, at its 1976 organizational session, the Economic and Social Council "may wish . . . to appoint the members of the Council Committee on Negotiations with Intergovernmental Agencies . . . to negotiate an agreement with the Fund as called for in the Assembly resolution."⁴⁷

³⁹E/5587 and Add. 1 - 4.

⁴⁰E S C decision 59 (LVII).

⁴¹Adopted on 17 December 1974.

⁴²For details of these meetings, see A/10333 and annex; see also this *Supplement*, under Article 59, paras. 3 - 5.

⁴³A/10333, annex, para. 22 (a).

⁴⁴*Ibid.*, para. 23.

⁴⁵A/C.2/295.

⁴⁶A/10394, paras. 7 - 10.

⁴⁷E/L.1684, para. 9. The negotiating committee was eventually appointed using as its basis the draft resolution contained in E/L.1723.

** B. The mandatory character of Article 57

C. Other intergovernmental organizations

1. INTERNATIONAL CRIMINAL POLICE ORGANIZATION—INTERPOL⁴⁸

17. Pursuant to Economic and Social Council resolution 1225 (XLII), the Council Committee on Non-Governmental Organizations met intermittently in 1968 and 1969 to carry out the Council's request to review⁴⁹ the activities of non-governmental organizations already granted consultative status with the Council.

18. Debates⁵⁰ ensued on the issue of Interpol's status primarily because Article 4 of Interpol's statute provided: "Each country may appoint as a member of the Organization any official police body whose functions come within the scope of the Organization's activities."⁵¹ Some Member States considered the composition of Interpol's membership as grounds for being intergovernmental. Others countered that Interpol was not strictly intergovernmental, yet it could not be classified as being totally non-governmental. Several oral proposals concerning the matter were formulated.⁵² A three-part proposal garnered the majority of the Committee's votes. In the first part, it was tentatively decided to place Interpol in category II status. By the second part, the Committee decided the entire question of examining Interpol's application was a "complicated one".⁵³ In the third part, the Committee decided that a special arrangement should be studied for the Council's consultations with Interpol.⁵⁴

19. This three-part decision of the Committee on Non-Governmental Organizations however, was not fully supported, as two delegations requested that the following reservations be included in the Committee's report: The first reservation concerned the placing of an intergovernmental organization in category II status, which the delegation considered "both inadmissible and illegal".⁵⁵ Under the second reservation, another delegation considered that the Council Committee on Non-Governmental Organizations had "committed a most flagrant legal violation when considering Interpol, which is strictly an intergovernmental organization."⁵⁶ Another delegation countered, however, that Interpol could be placed in category II status because under the terms of Economic and Social Council

⁴⁸See also *Supplement No. 4*, under Article 71, sect. II, paras. 4 - 8; and this *Supplement*, under Articles 70 and 71, sect. II, C and E.

⁴⁹Criteria contained in Council resolution 1296 (XLIV) of May 1968 formed the basis of the review. No summary records were issued for these Council Committee on Non-Governmental Organizations meetings; however, a report of the review was issued (E/4647). See ST/LIB/SER.B/E.37, p. 45.

⁵⁰Upon the introduction of the Council Committee on Non-Governmental Organizations report (E/4647), the Chairman pointed out to the Council that "discussions had been long. . . on the subject of . . . Interpol alone, 42 interventions had been made." See E/SR.1580, agenda item 17, para. 3.

⁵¹E/C.2/R.39/Add.3.

⁵²E/4647, pp. 8 - 9.

⁵³*Ibid.*

⁵⁴*Ibid.*

⁵⁵*Ibid.*, p. 9.

⁵⁶*Ibid.*

resolution 1296 (XLIV), paragraph 7,⁵⁷ an organization could be considered as non-governmental if it had not been established by intergovernmental agreement.⁵⁸

20. During the Economic and Social Council's consideration⁵⁹ of the report of the Committee on Non-Governmental Organizations,⁶⁰ one delegation felt that part one of the recommendations on Interpol contained in the report conflicted with part three because placing Interpol in category II status might deprive it of playing a more active role, especially in the field of narcotics control.⁶¹ The delegation proposed the following formulation with a view to giving Interpol greater access to the Council:

"The Council decided to place the International Criminal Police Organization—Interpol in category II for the time being, and to request the Council Committee on Non-Governmental Organizations to study a special arrangement to be arrived at between the Council and Interpol and to report to the Council at its forty-eighth session."

The delegation that had sponsored the earlier three-part proposal stated that the current proposal was in a sense a further elaboration of that idea and had no difficulty in accepting it.⁶² Another delegation noted the crux of the argument was the legal status of Interpol⁶³ and proposed adding: "should it be established that Interpol qualifies as an intergovernmental organization"⁶⁴ at the end of the new proposal. However, other delegations opposed the amendment,⁶⁵ and the Council instead adopted the above-mentioned proposal by 23 votes to none, with 2 abstentions.⁶⁶

21. During the meetings of the Committee on Non-Governmental Organizations in February 1970, it was decided that the Secretariat, in consultation with Interpol, would submit to the Committee's session in 1971 the draft of a special arrangement between Interpol and the Economic and Social Council.⁶⁷ Until such new arrangement was reached, Interpol would retain its category II status.⁶⁸ The Council later decided⁶⁹ to endorse the recommendations of the Council Committee on Non-Governmental Organizations.

22. Interpol and the Secretariat then held consultations to produce a draft arrangement. Subsequently, the Secretary-General submitted⁷⁰ the draft as a memorandum to the Committee on Non-Governmental Organizations. In-

cluded in the memorandum was a draft letter to the Interpol Secretary-General indicating that the "special arrangement, which, if acceptable to your Organization, would come into effect upon approval by the Council . . .".⁷¹ If found acceptable to Interpol, the item would be considered by the Committee on Non-Governmental Organizations at its session in 1971.⁷²

23. During the 1971 session of the Committee on Non-Governmental Organizations, there was general satisfaction with the proposed draft arrangement. However, one representative emphasized that section 4,⁷³ concerning representation by observers, "should not be understood to imply legal commitment on the part of any United Nations body other than the Economic and Social Council and its subsidiary organs."⁷⁴ The Committee on Non-Governmental Organizations decided⁷⁵ to approve the draft arrangement, and submit it together with a draft resolution to the Council. The Social Committee then considered⁷⁶ the report⁷⁷ of the Committee on Non-Governmental Organizations containing the draft resolution and unanimously decided⁷⁸ to recommend the adoption of the draft resolution to the Council.

24. Consequently, the Economic and Social Council, in considering⁷⁹ the report of the Social Committee,⁸⁰ noted the relevant recommendations⁸¹ and adopted⁸² the draft resolution on the arrangement for cooperation between the United Nations and Interpol as contained in Economic and Social Council resolution 1579 (L) and its annex.⁸³ The arrangement covered matters of concern to Interpol, questions regarding the exchange of information and documentation, consultations and technical cooperation, representation by observers at meetings, exchange of written statements, and the proposal of agenda items.

2. WORLD TOURISM ORGANIZATION⁸⁴

25. *Supplement No. 4*⁸⁵ mentioned the recommendation, as contained in General Assembly resolution 2529 (XXIV), to convert the International Union of Official Travel Organizations (IUOTO), a non-governmental organization, into an intergovernmental organization. It had been decided "that once the statutes of the Union had been changed: (a) an agreement between the United Nations and the Union should be concluded which would establish

⁵⁷E S C resolution 1296 (XLIV), para. 7: "Any international organization which is not established by intergovernmental agreement shall be considered as a non-governmental organization for the purpose of these arrangements, including organizations which accept members designated by governmental authorities". E S C resolution 1296 (XLIV) contains the criteria for NGO consultative status with the Council. The previous criteria, under E S C resolution 288 B (X), also contained a similar provision in para. 8. See *Repertory*, under Article 71, para. 16.

⁵⁸E/4647, p. 10. This relates to Article 70. See this *Supplement*, under Article 70: sect. II.D.

⁵⁹E/SR.1580, 1582, and 1594.

⁶⁰E/4647.

⁶¹E/SR. 1594, para. 15.

⁶²*Ibid.*, para. 16.

⁶³*Ibid.*, para. 18.

⁶⁴*Ibid.*, para. 19.

⁶⁵*Ibid.*, paras. 21 - 26.

⁶⁶*Ibid.*, paras. 28 - 29.

⁶⁷E/4799, chap. IV, para. 18.

⁶⁸*Ibid.*, chap. IV, para. 19.

⁶⁹E S C decision (XLVIII), item 7, p. 21; G A (25) Suppl. No. 3, A/8003, chap. XV, para. 691; see E/SR.1692.

⁷⁰E/C.2/R.42.

⁷¹*Ibid.*, p. 2.

⁷²*Ibid.*, p. 4.

⁷³E/4945, annex III, sect. 4 reads: ". . . Representatives of Interpol shall be invited to attend in an observer capacity meetings of the Council, of its subsidiary organs, of conferences convened by it and of other United Nations bodies, which deal with matters of common interest. Observers invited pursuant to this paragraph may participate, with the approval of the body concerned and without the right to vote, in debates on questions of concern to their organizations."

⁷⁴E/4945, para. 10.

⁷⁵*Ibid.*, para. 13.

⁷⁶E/AC.7/SR.652.

⁷⁷E/4945, chap. II, paras. 6-15, and annex III, pp. 17 - 18.

⁷⁸E/AC.7/SR.652, p. 46; G A (26), Suppl. No. 3, A/8403, para. 772.

⁷⁹E/SR.1769, agenda item 15, para. 19.

⁸⁰E/5021.

⁸¹*Ibid.*, paras. 20, 21 - 23; see also E/4945, chap. II, paras. 6 - 15 and annex III, pp. 17 - 18.

⁸²Adopted by 24 votes to none, with 2 abstentions. E/SR.1769, agenda item 15, pp. 158 - 159, para. 19; G A (26), Suppl. No. 3, A/8403, paras. 777 and 782.

⁸³See also this *Supplement*, under Article 71, sects. II. C and II. E.

⁸⁴See also this *Supplement*, under Article 71; *Supplement No. 4*, under Articles 57 and 59, and *Supplement No. 3*, under Article 71, para. 7.

⁸⁵*Supplement No. 4*, under Article 57, Note, para. (a).

close cooperation and relationships between the United Nations and the transformed Union".⁸⁶ However, as noted in *Supplement No. 4*, there was no indication either in the General Assembly resolution or in the pertinent discussions that the transformed Union would become a specialized agency.

26. At the forty-ninth session of the Economic and Social Council in July 1970, the Secretary-General's report⁸⁷ on cooperation and relationships between the United Nations and IUOTO was slated for consideration. This was in accordance with General Assembly resolution 2595 (XXIV) of December 1969, in which the Assembly had requested the Secretary-General to make "concrete proposals . . . for the full implementation"⁸⁸ of an operational link between the United Nations and IUOTO. However, since "the United Nations can conclude an agreement with the transformed Union establishing an operational link *only* after the statutes of the Union have been revised"⁸⁹ to make it of an intergovernmental nature, the Council decided⁹⁰ to postpone consideration of the Secretary-General's report until its fiftieth session.

27. IUOTO, by revising its own statutes, adopted the statutes of the World Tourism Organization on 28 September 1970.⁹¹ However, the WTO's statutes would only enter into force 120 days after 51 States had ratified them. It was

only at that point that the Council would be able to conclude a relationship agreement with WTO. This did not occur until 23 April 1974, as the Secretary-General reported to the Council on 22 May 1974 during its fifty-sixth session.⁹²

28. By its decision 109 (LIX) of 23 July 1975, the Economic and Social Council designated WTO as an intergovernmental organization which would participate as an observer on a continuing basis in the work of the Council while a draft agreement between the United Nations and WTO was being negotiated. In 1977, in its decision 254 (LXIII) of 3 August 1977, the Council approved the draft agreement, which contained provisions similar to those found in relationship agreements concluded under Article 63 of the Charter between the United Nations and the specialized agencies. By the same decision, the Council transmitted the draft agreement to the General Assembly for consideration. The Assembly approved the "draft agreement on cooperation and relationships between the United Nations and the World Tourism Organization" as annexed to resolution 32/156 on 19 December 1977. The agreement provided, inter alia, for mutual recognition of the respective roles of the two organizations in the field of tourism.⁹³

⁸⁶G A resolution 2529 (XXIV), op. para. 5.

⁸⁷E/4861; see G A (25) Suppl. No. 3, A/8003, paras. 556 - 558.

⁸⁸G A resolution 2529 (XXIV), para. 6.

⁸⁹E S C resolution 1540 (XLIX), preambular para. 3 (emphasis added).

⁹⁰Ibid., paras. 2 - 3.

⁹¹See E/4955.

⁹²See E/5519.

⁹³See also this *Supplement*, under Article 70, para. 6.