ARTICLE 57

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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. For this study, the same major headings as those used in previous Supplements have been retained. There were no new developments or significant practice under the following sections: II. Analytical Summary of Practice, subsection B. “The mandatory character of Article 57” and subsection C. “Other inter-governmental organizations.”

2. The following issues, though closely related to the provisions of Article 57, are not dealt with here to prevent the duplication of material contained in other studies: with respect to the General Assembly or the Economic and Social Council initiating negotiations for the creation of new specialized agencies, it is advisable to cross-reference to Article 59. In addition, attention should be given 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 this study includes a discussion of special arrangements made by the 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. The present study deals with the establishment of relations between the United Nations and the specialized agencies, as provided under Article 57.¹ Relations with other

¹ As noted in the Repertory, an apparent ambiguity exists in the text of Article 57. While Article 57(1) refers to “various specialized agencies, established by intergovernmental agreement . . . [which] shall be brought into relationship with the United Nations . . .”; Article 57(2) suggests that the term “specialized agencies” is applicable only after this said relationship with the United Nations has been established. Despite this ambiguity, the practice has been to consider as “specialized agencies” only those organizations brought into relationship with the United Nations through agreements concluded in accordance with Article 63. See The United Nations Conference on International Organization, vol. 10, p. 272-273, doc. 861,
intergovernmental organizations not defined as “specialized agencies” of the United Nations are also dealt with in this study, although the United Nations Charter contains no Article or provision for establishing relations with intergovernmental organizations other than the specialized agencies, as provided for in Articles 57 and 63.\(^2\) The United Nations, as noted in the Repertory and previous Supplements, however has developed various practices with respect to these “non”-specialized agencies or non-United Nations intergovernmental organizations. These United Nations practices range from whether a formal relationship agreement similar to that of a specialized agency’s is concluded with the intergovernmental organization,\(^3\) to whether working arrangements more akin to inter-secretariat ones are made,\(^4\) or to whether a hybrid of the former two types of practices is reached.\(^5\)

4. A trend crystallizes, during this period, with respect to proposed relationship agreements between the United Nations and intergovernmental organizations, wherein the United Nations considered fresh links with several intergovernmental organizations on a similar basis as the relationship agreement concluded in 1957 with the International Atomic Energy Agency (IAEA),\(^6\) which had been modeled on the relationship agreements concluded with specialized agencies under Articles 57 and 63.

5. During this period of Supplement 9, the United Nations considers relationship agreements with the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Organization for the Prohibition of Chemical Weapons. It also continues to consider relationship agreements with the intergovernmental

\(^2\) However, as stated by the United Nations Conference on International Organization, Article 57 “is not intended to preclude the Economic and Social Council from negotiating at its discretion, subject to the approval of the General Assembly, agreements bringing other types of intergovernmental agencies into relationship with the Organization.” This is in line with the United Nations Conference on International Organization’s understanding of the Article’s intended purpose “to provide for agreements sufficiently flexible to enable satisfactory arrangements to be worked out on the basis of need and experience.” The United Nations Conference on International Organization, vol. 10, p. 272-273, doc. 861, II/3/5 (1), para. 12 (b), and vol. 8, p. 82-83, doc. 924, II/12, para. 12 (b) and the Repertory, under Article 57, note 1, and its Supplements, under Article 57.

\(^3\) These types of organizations with the potential to become a specialized agency or analogous organization, are generally discussed under Part A. “Relationship with the United Nations” of the Analytical Summary of Practice. See Supplement No. 1 and 2, under Article 57, particularly the sections of the study dealing with the International Atomic Energy Agency (IAEA); and Supplement No. 5, under Article 57, particularly the section of the study dealing with the World Tourism Organization (WTO).

\(^4\) These types of organizations are generally discussed under Part C. “Other inter-governmental organizations” of the Analytical Summary of Practice and also under Article 70. The arrangement with the Council of Europe is such an example. See also Supplement No. 4, under Article 70, paras. 3 - 4.

\(^5\) These types of organizations are generally discussed under Part C. “Other inter-governmental organizations” of the Analytical Summary of Practice and also under Article 70. See Supplement No. 5, particularly the section of the study dealing with International Criminal Police Organization (INTERPOL), and Supplement No. 6, particularly the sections of the study dealing with the University of Peace.

organizations discussed in *Supplement 8*, specifically the International Seabed Authority,\(^7\) the International Tribunal for the Law of the Sea,\(^8\) and the World Trade Organization.\(^9\) The trend which crystallizes during this period is that the United Nations evidently does not limit its consideration of relationship agreements with only economic, social, cultural, educational, and health institutions, but rather also considers intergovernmental institutions in other fields such as the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Organization for the Prohibition of Chemical Weapons.

6. The Council also continued to allow for the participation of intergovernmental organizations in its deliberations, and this matter is further discussed under Article 70 of this *Supplement*.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Relationship with the United Nations

1. **The Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization (CTBTO)**

7. Multilateral negotiations in the field of disarmament and non-proliferation cumulated with the General Assembly’s adoption of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) in resolution 50/245 of 10 September 1996. The Signatory States to the CTBT then decided on 19 November 1996 to establish a Preparatory Commission (the Commission) “to ensure the rapid and effective establishment of the future Comprehensive Nuclear-Test-Ban Treaty Organization”, endowing it with “standing as an international organization, authority to negotiate and enter into agreements, and such other legal capacity as necessary for the exercise of its functions and the fulfilment of its purposes.”\(^10\)

8. In 1998, “substantial communication” occurred between the United Nations Legal Office and the Commission’s Legal Services Section regarding the possibility, scope and content of a relationship agreement between the United Nations and the Commission.\(^11\) A draft relationship agreement prepared by the Commission’s Legal Section was

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\(^7\) See *Supplement No. 8*, under Article 57.


\(^9\) See *Supplement No. 8*, under Article 57.

\(^10\) CTBT/MSS/Res/1 of 27 November 1996 at para. 7, p. 3.

informally submitted to the United Nations in October 1998. This draft was modelled on the United Nations existing relationship agreements with other intergovernmental organizations, and also included areas of special interest to the Commission.

9. Subsequently in April 1999, the Commission adopted the following decision:

“The Preparatory Commission authorises the Executive Secretary, in consultations with all interested Signatory States by appropriate means, to negotiate with the Secretary-General of the United Nations a draft administrative agreement on the relationship between the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the United Nations, the terms of which will be subject to the approval by the Preparatory Commission and the General Assembly.”

In its resolution 54/65 of 6 December 1999, the General Assembly reaffirmed this above mentioned decision and invited the Secretary-General to take appropriate steps for the conclusion of a relationship agreement between the United Nations and the Commission.

2. THE INTERNATIONAL SEABED AUTHORITY (ISBA)

10. The International Seabed Authority (ISBA) came into existence with the entry into force of the United Nations Convention on the Law of the Sea (UNCLOS) on 16 November 1994. Under the provisions of UNCLOS, the ISBA is an autonomous international organization through which States Parties organize and control activities in the deep sea-bed Area, including the exploitation of the Area’s resources.

11. During this period, work continued on the draft Agreement concerning the Relationship between the United Nations and the ISBA “in order to achieve effective coordination of the activities of the Authority and the United Nations and to avoid unnecessary duplication of their activities and services”. With this draft as a basis for negotiations, the ISBA’s Council requested in November 1996 the Secretary-General of the ISBA to negotiate with the United Nations Secretary-General a relationship agreement between the two organizations. The General Assembly in resolution 51/34

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12 Ibid.
13 Ibid.
14 CTBT/PC-8/1/Annex IX of 29 April 1999.
16 In line with this autonomy, the General Assembly invited the ISBA to participate in its deliberations as an observer in resolution 51/6 of 24 October 1996. See for further details this Supplement, under Article 70.
17 Supra note 7 at Article 157.
18 See draft relationship agreement prepared by the Preparatory Commission in LOS/PCN/153, Vol. 5, doc. LOS/PCN/WP.50/Rev.3.
19 ISBA/C/10 of 14 November 1996.
20 Ibid.
of 9 December 1996 then invited the Secretary-General to take steps to conclude a relationship agreement between the United Nations and the ISBA.\(^{21}\)

12. In January 1997, negotiations transpired, and the agreement was signed on 14 March 1997 by the United Nations Secretary-General and the ISBA Secretary-General.\(^{22}\) Under the agreement’s terms, it would be provisionally applied until approved by the ISBA’s Assembly and the United Nations General Assembly. Approval by the ISBA’s Assembly happened on 27 March 1997.\(^{23}\) General Assembly approval took place on 26 November 1997 as evidenced in its resolution 52/27.

13. This relationship agreement constructs a framework for cooperation between the United Nations and the ISBA on administrative and technical support matters. Similar to the United Nations specialized agency relationship agreements, it also provides for cooperation concerning personnel arrangements, reciprocal representation at meetings, exchange of data, conference services including translation of documents and interpretation, technical assistance, relationship with the Joint Staff Pension Fund, use of the International Civil Service Commission, and the use of the United Nations laissez-passer.\(^{24}\)

3. **THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA (ITLOS)**

14. According to the terms of the United Nations Convention on the Law of the Sea (UNCLOS),\(^{25}\) the establishment of the International Tribunal for the Law of the Sea (ITLOS) is provided. A central role for ITLOS, pursuant to article 287, paragraph 1(a) of UNCLOS and annex VI thereto,\(^{26}\) would be the settlement of disputes arising under the Convention and its related agreements. However, functional interrelationships established under UNCLOS, between the United Nations, its principal organs, the competent specialized agencies and the ITLOS, also necessitated a formal relationship agreement with the United Nations.

15. During this period, work continued on the draft\(^{27}\) agreement on cooperation and relationship between the United Nations and the ITLOS. UNCLOS’s States Parties recommended that ITLOS enter into a relationship agreement with the United Nations, taking into consideration the Final draft Agreement on Cooperation and Relationship between the United Nations and ITLOS.\(^{28}\) In resolution 51/34 of 9 December 1996, the

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\(^{21}\) GA resolution 51/34 of 9 December 1996, op. para. 7.

\(^{22}\) ISBA/3/A/3 of 27 March 1997; A/52/487, para. 32.


\(^{25}\) Ibid.


\(^{28}\) SPLOS/14, para. 33; LOS/PCN/152, Vol. I (LOS/PCN/SCN.4/WP.16/Add.4); see also SPLOS/27, para.
General Assembly requested the Secretary-General to take steps to conclude a relationship agreement between the United Nations and ITLOS.\textsuperscript{29} Negotiations between the ITLOS Registry and the United Nations Office of the Legal Counsel ensued to finalize the terms of the agreement.\textsuperscript{30} Once negotiations were completed, the Agreement on Cooperation and Relationship between the United Nations and ITLOS was signed on 18 December by the Secretary-General and the President of the ITLOS, and applied provisionally pending entry into force through the United Nations General Assembly’s and ITLOS’s approval of the agreement.\textsuperscript{31}

16. On 12 March 1998, the ITLOS confirmed the approval of this agreement at its fifth session.\textsuperscript{32} The Secretary-General next submitted the agreement to the Assembly for approval on 10 June 1998.\textsuperscript{33} The Assembly took action and approved the Agreement on Cooperation and Relationship between the United Nations and ITLOS in its resolution 52/251 of 8 September 1998.\textsuperscript{34} The terms of this relationship agreement largely follow the ISBA and United Nations agreement, and include provisions, \textit{inter alia}, for reciprocal representation,\textsuperscript{35} exchange of information and documents, personnel arrangements, conference services, and the use of the United Nations laissez-passer.\textsuperscript{36}

4. THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS (OPCW)

17. In the field of arms control and disarmament, the entry into force on 29 April 1997 of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction constituted a historic achievement, and ushered in the establishment of the Organization for the Prohibition of Chemical Weapons (OPCW).\textsuperscript{37} The General Assembly recognized the need for an appropriate relationship between the United Nations and the OPCW and in its resolution 51/230 of 22 May 1997, invited the Secretary-General to conclude a relationship agreement between the United Nations and the OPCW.

18. Pending the conclusion of this relationship agreement, the General Assembly also authorized the Secretary-General to enter into temporary arrangements for the OPCW’s inspectors to use the United Nations laissez-pass as an official travel document.\textsuperscript{38} The

\textsuperscript{29} GA resolution 51/34 of 9 December 1996, op. para. 7.
\textsuperscript{30} SPLOS/27, para. 67.
\textsuperscript{31} Ibid.; A/52/968; SPLOS/31, para. 13 – 14.
\textsuperscript{32} A/52/968, para. 3.
\textsuperscript{33} A/52/968.
\textsuperscript{34} GA resolution 52/251 of 8 September 1998.
\textsuperscript{35} See also GA resolution 51/204 of 17 December 1996 wherein the ITLOS is invited as an observer to the General Assembly. See for further details this Supplement, under Article 70.
\textsuperscript{36} Ibid., Annex; A/52/PV.92 of 8 September 1998; see also A/52.968; A/52/L.80; A/52/L.80/Add.1;
\textsuperscript{37} GA resolution 51/230 of 22 May 1997.
\textsuperscript{38} Ibid., para. 2.
draft relationship agreement had yet to be finalized at the close of the period under review, but its completion was anticipated in the near future.39

5. THE WORLD TRADE ORGANIZATION (WTO)

19. The General Assembly had noted in resolution 49/97 of 19 December 1994 “the ongoing exchange of views between the [United Nations] Secretary-General and the Director-General of the General Agreement on Tariffs and Trade on the issue of establishing a relationship between the United Nations and the World Trade Organization.”40 In line with this ongoing exchange of views, the WTO General Council decided on 3 April 1995 to conclude “a global arrangement with the United Nations based on the previous United Nations/GATT relationship.”41

20. Since the WTO succeeded the General Agreement on Tariffs and Trade (GATT), which had been treated as a United Nations specialized agency on a de facto basis,42 the conclusion reached during the consultations regarding a relationship agreement between the United Nations and the WTO is “that a flexible framework for cooperation, liable to further review and adaptation in light of developments and emerging requirements, is the most desirable course of action.”43 Therefore the framework chosen for cooperation between the United Nations and the WTO was essentially modelled upon the previous United Nations/GATT relationship as found in General Assembly document 9 March 1976, including inter alia reciprocal representation, the provision and exchange of relevant information, participation of the WTO in the Administrative Committee on Coordination and its subsidiary bodies, cooperation between secretariats, and administrative matters.44

**B. The mandatory character of Article 57

**C. Other inter-governmental organizations

39 See EC-IX/DEC.9 for draft relationship agreement; EC-XII/DG.1 of 2 September 1998; EC-XV/DEC.7 of 29 April 1999; C-IV/DEC.4 of 2 July 1999.
40 GA resolution 49/97 of 19 December 1994, para. 1.
41 E/1995/125, Annex I: Letter dated 29 September 1995 from the Director-General of the WTO to the Secretary-General.
44 Ibid., Annexes I & II.