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 the present study, the major headings used in previous *Supplements* have been retained. There were no new developments or significant practice under section B, "Mandatory character of Article 57", or section C, "Other intergovernmental organizations", in the analytical summary of practice.

2. The following issues, though closely related to the provisions of Article 57, are not dealt with here to avoid 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 refer to Article 59. Attention should also be given to Article 63 for discussion concerning 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 Council with non-United Nations intergovernmental organizations, the study under Article 70 in addition discusses the practice of the United Nations with regard to the general participation of such 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 intergovernmental organizations not defined as "specialized agencies" of the United Nations are also dealt with in the present study, although the Charter of the United Nations 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] As noted in the

[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, doc. 861, II/3/5 (1), para. 12 (b), and vol. 8, doc. 924, II/12, para. 12 (b), and the *Repertory*, under Article 57, note 1, and its *Supplements*, under Article 57).

[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, doc. 861,

Repertory and previous *Supplements*, however, the United Nations has developed various practices with respect to "non-specialized agencies" or non-United Nations intergovernmental organizations. These United Nations practices range from formal relationship agreements with intergovernmental organizations similar to those with specialized agencies[3] to working arrangements more akin to inter-secretariat ones,[4] or to hybrids of the two types of practices.[5]

4. A trend emerged 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 the period under review, the United Nations considered relationship agreements with the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Organisation for the Prohibition of Chemical Weapons. It also continued to consider relationship agreements with the intergovernmental organizations discussed in *Supplement No. 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 crystallized during this period showed that the United Nations does not limit its consideration of relationship agreements only to economic, social, cultural, educational and health institutions, but also considers intergovernmental institutions in other fields, such as the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Organisation for the Prohibition of Chemical Weapons.

6. The Economic and Social Council also continued to allow for the participation of intergovernmental organizations in its deliberations, which is further discussed under Article 70 of the present *Supplement* to the *Repertory.*

II/3/5 (1), para. 12 (b), and vol. 8, doc. 924, II/12, para. 12 (b)).

[3] These types of organization with the potential to become a specialized agency or analogous organization, are generally discussed in section A. "Relationship with the United Nations" of the Analytical Summary of Practice. See *Repertory*, *Supplements Nos. 1* and *2*, under Article 57, particularly the sections of the study dealing with the International Atomic Energy Agency; and *Repertory*, *Supplement No. 5*, under Article 57, particularly the section of the study dealing with the World Tourism Organization.

[4] These types of organizations are generally discussed in section C. "Other intergovernmental 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 *Repertory*, *Supplement No. 4*, under Article 70, paras. 3 and 4.

[5] These types of organization are generally discussed in section C, "Other intergovernmental organizations" of the analytical summary of practice and also under Article 70 (see *Repertory*, *Supplement No. 5*, particularly the section of the study dealing with the International Criminal Police Organization (INTERPOL), and *Repertory*, *Supplement No. 6*, particularly the sections of the study dealing with the University for Peace).

[6] See the Statute of IAEA, article XVI (United Nations, *Treaty Series*, vol. 276, No. 3988) and the Agreement governing the relationship between the United Nations and IAEA (GA resolution 1145 (XII)) and United Nations, *Treaty Series*, vol. 281, No. II-548; see also GA resolution 1146 (XII).

[7] See *Repertory*, *Supplement No. 8*, vol. IV, under Article 57.

[8] In 1982, the Third United Nations Conference on the Law of the Sea adopted the United Nations Convention on the Law of the Sea, wherein provisions were made to establish the International Tribunal for the Law of the Sea (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), doc. A/CONF.62/122; United Nations, *Treaty Series*, vol. 1833, No. I-31363; *Draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea* (LOS/PCN.SCN.4/WP.9) and GA resolution 49/28).

[9] See *Repertory*, *Supplement No. 8*, vol. IV, under Article 57.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Relationship with the United Nations

1. PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION

7. Multilateral negotiations in the field of disarmament and non-proliferation cumulated with the adoption by the General Assembly of the Comprehensive Nuclear-Test-Ban Treaty in resolution 50/245. Signatory States to that Treaty then decided on 19 November 1996 to establish the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty (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 which was prepared by the Commission's Legal Section, was informally submitted to the United Nations in October 1998.[12] That draft was modelled on existing United Nations relationship agreements with other intergovernmental organizations and included areas of special interest to the Commission.[13]

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.[14]

In its resolution 54/65, the General Assembly reaffirmed the 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. INTERNATIONAL SEABED AUTHORITY

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 on 16 November 1994.[15] Under the provisions of that Convention, ISBA is an autonomous international organization[16] through which States parties organize and control activities in the deep seabed area, including the exploitation of its resources.[17]

11. During the period under review, work continued on the draft[18] agreement concerning the relationship between the United Nations and the Authority "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".[19] With that draft as a basis for negotiations, the Council of the Authority in November 1996 requested the Secretary-General of the Authority to negotiate with the Secretary-General of the United Nations a relationship agreement between the two organizations.[20] In resolution 51/34, the General Assembly invited the Secretary-General of the United Nations to take steps to conclude a relationship agreement between the United Nations and ISBA.[21]

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[10] CTBT/MSS/Res/1, para. 7.
[11] CTBT/PC-8/1/annex III, p. 24.
[12] Ibid.
[13] Ibid.
[14] CTBT/PC-8/1/annex IX.
[15] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), doc. A/CONF.62/122, article 157.
[16] G A resolutions 49/28 and 50/23.
[17] In line with this autonomy, the General Assembly by its resolution 51/6 invited ISBA to participate in its deliberations as an observer. For further details, see *Repertory*, *Supplement No. 9*, vol. IV, under Article 70.
[18] See draft relationship agreement LOS/PCN/153, vol. 5, doc. LOS/PCN/WP.50/Rev.3.
[19] ISBA/C/10.
[20] Ibid.
[21] G A resolution 51/34, para. 7.

12. Following negotiations in January 1997, the agreement was signed on 14 March 1997 by the Secretary-General of the United Nations and the Secretary-General of the Authority.[22] Under the terms of the agreement, the relationship would be provisional until approved by the Assembly of the Authority and the United Nations General Assembly. The Assembly of the Authority approved the agreement on 27 March 1997[23] and the General Assembly approved it in its resolution 52/27 on 26 November 1997.

13. The relationship agreement constructed a framework for cooperation between the United Nations and 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 United Nations 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

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

15. During the review period, work continued on the draft[27] agreement on cooperation and the relationship between the United Nations and the Tribunal. States parties to the Convention recommended that the Tribunal 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 the Tribunal.[28] In resolution 51/34, the General Assembly requested the Secretary-General of the United Nations to take steps to conclude a relationship agreement between the United Nations and the Tribunal.[29] Negotiations between the Registry of the Tribunal and the Office of the Legal Counsel of the United Nations ensued to finalize the terms of the agreement.[30] Once negotiations were completed, the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea was signed on 18 December by the Secretary-General of the United Nations and the President of the Tribunal, and applied provisionally pending entry into force through approval of the agreement by the General Assembly and the Tribunal.[31]

16. On 12 March 1998, the Tribunal, at its fifth session, confirmed its approval of the agreement.[32] The General Assembly approved the Agreement in its resolution 52/251.[33] The relationship agreement includes provisions, inter alia, for reciprocal representation, exchange of information and documents, personnel arrangements, conference services and the use of the United Nations laissez-passer.[34]

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[22] ISBA/3/A/4, p. 6.

[23] ISBA/3/A/3 and A/52/487, para. 32.

[24] See G A resolution 52/27 and A/52/PV.56, A/52/L.27, A/52/260, annex, and ISBA/3/A/L.2.

[25] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), A/CONF.62/122; United Nations, *Treaty Series*, vol. 1833, No. I-31363.

[26] Ibid.

[27] See LOS/PCN/SCN.4/WP.16/Add.4, LOS/PCN/152 (vol. II), pp. 299-312 and LOS/PCN/SCN.4/WP.9.

[28] SPLOS/14, para. 33; LOS/PCN/152, vol. I (LOS/PCN/SCN.4/WP.16/Add.4); see also SPLOS/27, para. 67.

[29] G A resolution 51/34, para. 7.

[30] SPLOS/27, para. 67.

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[32] A/52/968, para. 3.

[33] G A resolution 52/251.

[34] See also G A resolution 51/204, wherein the Tribunal was invited to the General Assembly as an observer. For further details, see *Repertory, Supplement No. 9*, vol. IV, under Article 70, and annex, as well as A/52/PV.92. See also A/52/968, A/52/L.80 and A/52/L.80/Add.1.

4. ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

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 led to the establishment of the Organisation for the Prohibition of Chemical Weapons.[35] The General Assembly recognized the need for an appropriate relationship between the United Nations and the Organisation for the Prohibition of Chemical Weapons; in its resolution 51/230, the General Assembly invited the Secretary-General to conclude a relationship agreement between the United Nations and that organization.

18. Pending the conclusion of the relationship agreement, the General Assembly also authorized the Secretary-General to enter into temporary arrangements for the organization's inspectors to use the United Nations laissez-passer as an official travel document.[36] The 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.[37]

5. WORLD TRADE ORGANIZATION

19. In its resolution 49/97, the General Assembly noted the ongoing exchange of views between the Secretary-General of the United Nations and the Director-General of the General Agreement on Tariffs and Trade (GATT) on the issue of establishing a relationship between the United Nations and the World Trade Organization (WTO).[38] In line with their 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".[39]

20. Since WTO succeeded the General Agreement on Tariffs and Trade (GATT), which had been treated on a de facto basis as a United Nations specialized agency,[40] the conclusion reached during the consultations regarding the relationship agreement between the United Nations and 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".[41] Therefore the framework chosen for cooperation between the United Nations and WTO was essentially modelled upon the previous United Nations/GATT relationship as described in the General Assembly document of 9 March 1976, including, inter alia, reciprocal representation, the provision and exchange of relevant information, participation of WTO in ACC and its subsidiary bodies, cooperation between secretariats and administrative matters.[42]

**B. Mandatory character of Article 57

**C. Other intergovernmental organizations

[35] G A resolution 51/230.

[36] Ibid., para. 2.

[37] See EC-IX/DEC.9 for draft relationship agreement; EC-XII/DG.1, EC-XV/DEC.7 and C-IV/DEC.4.

[38] G A resolution 49/97, para. 1.

[39] E/1995/125, annex I: Letter dated 29 September 1995 from the Director-General of WTO to the Secretary-General of the United Nations.

[40] E/1995/125, *Coordination of the Policies and Activities of the Specialized Agencies and Other Bodies of the United Nations System*, p. 5. See also A/49/363, para. 45, A/46/565 and annex. Chapter IV of the stillborn International Trade Organization of the 1948 Havana Charter provided the basis for GATT, which, until now, had been applied "provisionally" (i.e., until the Havana Charter enters into force — which it never did) by virtue of the Protocol of Provisional Application of 30 November 1947. United Nations, *Treaty Series*, vol. 55, No. 814.

[41] E/1995/125, p. 2.

[42] Ibid., annexes I and II.