

ARTICLE 59

TEXT OF ARTICLE 59

The Organization shall, where appropriate, initiate negotiations among the States concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

INTRODUCTORY NOTE

1. The structure of this study is similar to that of Article 59 in the *Repertory*, except that the sub-headings have been modified to conform to the nature of the supplementary material. It should be noted that information covered under the study for Article 59 stops at the point where the United Nations negotiations are concluded on whether or not to create a new specialized agency. During the period under review, no negotiations were initiated regarding the creation of any new specialized agencies. For the sake of completeness, a brief discussion has been included concerning the steps taken during the period towards the conversion of the United Nations Industrial Development Organization into a specialized agency. For a more detailed analysis of the conversion, see the present *Supplement*, under Article 57.

I. GENERAL SURVEY

2. During the period under review, no new negotiations were initiated regarding the creation of a new specialized agency. Negotiations continued, however, on the conversion of UNIDO into a specialized agency.¹

3. Following the adoption of General Assembly resolution 3362 (S-VII), in which the Assembly had endorsed the Lima Declaration and Plan of Action and the recommendation of the Second General Conference of the United Nations Industrial Development Organization,² the Organization continued to take steps toward the conversion of UNIDO into a specialized agency. The United Nations Conference on the Establishment of the United Nations Industrial Development Organization as a Specialized Agency held its second session in Vienna from 19 March to 8 April 1979, with the purpose of finalizing the Constitution of UNIDO.³ The Constitution was adopted on 8 April 1979⁴ with the provision in article 25 that it would enter into force once at least 80 States had ratified or accepted it.⁵

4. Article 25 of the UNIDO Constitution additionally states that, even once the requisite number of States have ratified the Constitution, entry into force is still subject to the result of consultations among States.⁶ For that reason, the General Assembly, in its resolution 37/213 of 20 December 1982, recommended that a series of consultations be held in Vienna in 1983 to discuss all relevant questions.⁷ Following the consultations, a formal meeting was held at Vienna (16-20 May 1983) to examine the question of the conversion of UNIDO into a

¹Although the preamble to the Constitution of UNIDO cites in general "the terms of Chapter IX of the Charter of the United Nations", the relevant resolutions and decisions dealing with the conversion of UNIDO into a specialized agency predominantly cite Articles 57 and 63 of the Charter, rather than Article 59. See, e.g., General Assembly resolution 34/96, para. 11. For a more detailed discussion of the conversion, see the present *Supplement*, under Article 57.

²See *Repertory, Supplement No. 5*, under Article 59, paras. 10-16. See also *Repertory, Supplement No. 3*, under Article 59, para. 5.

³See A/CONF.90/20; see also *ibid.*, paras. 1-4, outlining the meetings leading up to the Conference.

⁴A/CONF.90/19.

⁵*Ibid.*, art. 25, para. 1.

⁶*Ibid.*, art. 25, paras. 1 and 2; see also the present *Supplement*, under Article 57.

⁷G A resolution 37/213, para. 1 (b).

specialized agency.⁸ At the meeting, it was decided that the entry into force of the Constitution would be final “only when financial viability of the new organization had been ensured”.⁹ In furtherance of that requirement and taking into account article 25 of the Constitution, the Secretary-General was requested to determine, in consultation with the States, when that requirement had been fulfilled.¹⁰ Further consultations were held at Vienna in April and May 1984 on the question, and the consensus reached was outlined in a report by the Secretary-General to the General Assembly.¹¹

5. Throughout the period under review, the Organization repeatedly encouraged a prompt and efficient conversion process. The General Assembly in its resolution 34/96 detailed transitional arrangements relating to the establishment of UNIDO as a specialized agency, and in subsequent resolutions it urged States to ratify or accept the Constitution.¹² By 1982, the Constitution of UNIDO had been ratified by more than the minimum number of States whose agreement was required for its entry into force.¹³ As the consultations proceeded on questions of financial viability, the conditions for which had not been agreed upon, the General Assembly continued to encourage all States to ratify the UNIDO Constitution and to push for the “speedy implementation” of the conversion of UNIDO.¹⁴

⁸See A/38/141; 86 States took part in the consultations; for a complete list of the States, see annex I to the report.

⁹Ibid., para. 32.

¹⁰Ibid. See also G A resolution 38/193, para. 3(a), requesting the Secretary-General to undertake consultations among States to determine financial viability.

¹¹A/39/376, report on consultations held in Vienna in April and May 1984. See G A resolution 39/231, taking note of the 1984 consultations.

¹²See, e.g., G A resolution 35/66 A, para. 11; G A resolution 36/182, para. I.5.

¹³See G A resolution 37/213, noting that more than 80 States had ratified the UNIDO Constitution.

¹⁴See G A resolution 39/231, paras. 4 and 6.

****II. ANALYTICAL SUMMARY OF PRACTICE**