

ARTICLE 68

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TEXT OF ARTICLE 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

INTRODUCTORY NOTE

1. Article 68 empowers the Economic and Social Council to set up commissions. The practice of the Council has been to establish organs, the types, structure and functions of which vary considerably. In order to provide a general picture of the subordinate structure of the Council, the present study deals not only with the organs set up by the Council under the title of commissions, but also with such other bodies as standing, ad hoc, or sessional committees and groups of experts.
2. The question as to whether such committees or bodies have been set up under Article 68 or under the provisions of Article 72, which empowers the Council to adopt its rules of procedure and therefore to decide upon organizational matters, is dealt with in the Analytical Summary of Practice of the present study.
3. The General Survey is divided into seven parts dealing with the following subjects: (1) types of organs and bodies established by the Council; (2) method of establishment; (3) functions and powers; (4) membership; (5) duration; (6) sessions or meetings; and (7) method of reporting. Under each of these headings the General Survey deals, first, with the commissions of the Council and, secondly, with other organs or bodies established by the Council.
4. The Analytical Summary of Practice first deals with the types of organs which Article 68 empowers the Council to set up. The following matters are then dealt with: (1) the question of the need for commissions and committees to assist the Council in the performance of its functions, and in particular the criteria applied by the Council to decide whether a commission or committee is required; (2) questions relating to membership and participation in the organs established by the Council, including consideration of the character of representation in the functional commissions and sub-commissions, the distribution of seats in the subsidiary organs of the Council, the membership in the regional economic commissions of States not Members of the United Nations, the representation of a Member State in the organs established by the Council, the participation without the right to vote of representatives of Members or non-members of the United Nations, of other organs of the United Nations, of specialized agencies, and of inter-governmental and non-governmental organizations; and (3) questions relating to the delegation of power by the Council to its commissions and committees, covering the granting of power to the regional economic commissions to adopt their own rules of procedure, the powers delegated to and by the regional economic commissions, and the binding quality of the decisions of organs established by the Council on Governments, specialized agencies and the Council itself.

5. Although the present study refers, where necessary, to the rules of procedure of the committees and commissions of the Council, it does not consider as a whole the rules of procedure of these organs, since their various provisions are dealt with in this Repertory under Articles 67, 69, 70, 71 and 72 as appropriate.

I. GENERAL SURVEY

6. Article 68 provides that the "Council shall set up commissions in economic and social fields and for the promotion of human rights". The Council is also empowered under this Article to set up "such other commissions as may be required for the performance of its functions".

7. In implementing the provisions of Article 68, the Council was, at the outset, guided by the report of the Preparatory Commission of the United Nations ^{1/} which was transmitted to it by the General Assembly. This report emphasized the need for more or less specialized bodies of various types to assist the Council in carrying out its responsibilities under Chapter IX relating to international economic and social co-operation. It pointed out, however, that in establishing its subsidiary organs, the Council should take into consideration whether inter-governmental agencies had been or would be established with competence in some of the fields of activity falling within the scope of the Council.

8. The Preparatory Commission recommended the immediate creation of commissions having functions relating to the following fields: human rights, economic and employment matters, statistics, narcotic drugs and social matters. The Council was also advised to consider the desirability of establishing at an early date demographic, transport and communications, and fiscal Commissions. Furthermore, it was recommended that, at its first session, the Council consider the advisability of setting up a co-ordination commission and that it establish committees to report on organization of the Council, on relationships with specialized agencies and on arrangements for consultation with non-governmental organizations. Finally, the report made suggestions with respect to the fields of activities to be covered by the terms of reference of the commissions, their power to set up subsidiary organs and their composition.

9. In the past nine years the Council has made extensive use of its power to create commissions and committees; their activities cover most of the areas of international economic and social co-operation defined in Chapter IX which are not within the competence of specialized agencies.

^{1/} Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. III.

A. Types of organs set up by the Council

1. Commissions

10. The Council has used the term "commission" to designate two types of organs, (1) its functional commissions 2/ which undertake studies and make recommendations to the Council with respect to the fields of activity defined in their terms of reference, and (2) its regional economic commissions 3/ which have been entrusted by the Council with broad responsibilities for economic problems of a regional character in specific areas of the world. In one case, however - that of the Commission of Enquiry into the Effects of Chewing the Coca Leaf 4/ - the Council has used the term "commission" in connexion with an ad hoc body of experts with power of investigation in the field, established at the request of the Governments concerned, and in another case - that of the Temporary Sub-Commission on Economic Reconstruction of Devastated Areas 5/ - it has used the term to designate an ad hoc body of representatives of member States authorized to make inquiries in certain countries with the consent of the Governments concerned.

2/ The following nine functional commissions, five sub-commissions, and one temporary sub-commission have been established:

- i. The Economic and Employment Commission, later called the Economic, Employment and Development Commission (now discontinued).
The Sub-Commission on Employment and Economic Stability (discontinued).
The Sub-Commission on Economic Development (discontinued).
The Temporary Sub-Commission on Economic Reconstruction of Devastated Areas (discontinued).
- ii. The Transport and Communications Commission.
- iii. The Fiscal Commission (discontinued).
- iv. The Statistical Commission.
The Sub-Commission on Statistical Sampling (discontinued).
- v. The Population Commission.
- vi. The Social Commission.
- vii. The Commission on Human Rights.
The Sub-Commission on Freedom of Information and of the Press (discontinued).
The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.
- viii. The Commission on the Status of Women (formerly the Sub-Commission on the Status of Women).
- ix. The Commission on Narcotic Drugs.
- x. The Commission on International Commodity Trade (this body is here classified as a functional commission, since it is in many respects similar to those commissions).

3/ The Economic Commission for Europe (ECE), the Economic Commission for Asia and the Far East (ECAFE), and the Economic Commission for Latin America (ECLA).

4/ E S C resolutions 123 C (VI), 159 IV (VII), 202 (VIII) and 246 H (IX).

5/ E S C resolution 2/6.

2. Other organs and bodies established by the Council

11. The Council has, from time to time, set up ad hoc committees of government representatives (whether or not the States which they represented were members of the Council), 6/ of experts, 7/ or of representatives of members appointed in their individual capacity 8/ to report at a subsequent session on matters defined in the resolutions establishing them. It should be noted in this connexion that the functions of the ad hoc committees of government representatives have been similar to those of functional commissions, since their terms of reference have usually provided for the making of recommendations to the Council on substantive questions referred to them for study and report.

12. The Council has established standing committees 9/ which may meet between sessions of the Council and which assist it with regard to questions appearing recurrently in its sessional agenda. At each session, the Council may also appoint sessional committees, 10/ drafting committees, 11/ and working parties, 12/ to assist it in the consideration of agenda items referred to them. Standing, sessional and drafting committees are composed of members of the Council.

13. Two organs composed of the executive heads of the United Nations and of the specialized agencies or their representatives have been established by the Council: the Administrative Committee on Co-ordination (ACC) and the Technical Assistance Board (TAB).

14. Finally, mention should be made of the establishment by the Council of the Interim Co-ordinating Committee for International Commodity Arrangements, a body composed of four members appointed by the Secretary-General.

B. Methods of establishment

15. Rule 71 of the rules of procedure of the Council 13/ states that "The Council shall set up such commissions as may be required for the performance of its functions, and shall define the powers and composition of each of them."

16. Rule 26 provides that "At each session, the Council may set up such committees as it deems necessary ... and refer to them any questions on the agenda for study and report." Rule 27 stipulates that "Committees of the Council shall be nominated by the President, subject to approval of the Council, unless the Council decides otherwise."

6/ For example, the Ad Hoc Committee on Restrictive Business Practices (E S C resolution 375 (XIII)).

7/ For example, the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations (E S C resolution 390 H (XIII)).

8/ For example, the Ad Hoc Committee on Forced Labour (E S C resolution 350 (XII)).

9/ The Council Committee on Non-Governmental Organizations, the Committee on Negotiations with Inter-Governmental Agencies (also called the Committee on Negotiations with Specialized Agencies), the Interim Committee on Programme of Conferences, the Technical Assistance Committee (TAC), and the Agenda Committee (discontinued).

10/ The Economic Committee, the Social Committee, and the Co-ordination Committee.

11/ For example, the drafting committee established by the Council at its sixth session to draft a resolution on the report of the Sub-Commission on Freedom of Information and of the Press (E S C (VI), 153rd mtg., p. 268).

12/ For example, the Working Party on Rules of Procedure (E S C (XIV), 571st mtg., p. 8).

13/ United Nations Publication, Sales No.: 1953.I.21.

17. Most of the organs established by the Council have been set up by resolutions under which the Council has laid down their terms of reference. Some of these organs have, however, been established by the Council by a vote upon or by acquiescence in a proposal by the President or by a member of the Council. In the case of the committees or commissions established by a resolution, the terms of reference have been drafted by one of the sessional or standing committees, or by drafting committees, sometimes called sub-committees or drafting groups, appointed by the Council for this purpose.

1. Commissions

a. FUNCTIONAL COMMISSIONS

18. The Council, at its first session, on the basis of the recommendations of the Committee on the Organization of the Economic and Social Council, 14/ adopted six resolutions establishing five commissions and one sub-commission, namely: the Commission on Human Rights and its Sub-Commission on the Status of Women, 15/ the Economic and Employment Commission, 16/ the Temporary Social Commission, 17/ the Statistical Commission, 18/ the Temporary Transport and Communications Commission, 19/ and the Commission on Narcotic Drugs. 20/

19. Under the relevant resolutions, the Council appointed nine persons in their individual capacity as "initial members" of each of the various commissions and the sub-commission, to serve for one year; however, in the case of the Commission on Narcotic Drugs, the Council requested fifteen Governments to designate one representative each to constitute the Commission.

20. All the commissions, as initially constituted, were empowered to propose changes in their terms of reference and were requested to make recommendations to the Council at its second session regarding their definitive composition. They could also make recommendations regarding the establishment of sub-commissions. 21/ The Temporary Social Commission and the Temporary Transport and Communications Commission were to make recommendations at an early date regarding the structure of the permanent commissions and sub-commissions, and possibly the establishment of new agencies in their own fields of activity.

14/ A committee of the whole appointed on 29 January 1946 (E S C (I), p. 147, annex 5 (E/20), para. 1).

15/ E S C resolution 1/5.

16/ E S C resolution 1/6.

17/ E S C resolution 1/7.

18/ E S C resolution 1/8.

19/ E S C resolution 1/10.

20/ E S C resolution 1/9.

21/ In the case of the Economic and Employment Commission, the Council specified that it should establish three sub-commissions in the following fields: employment, balance of payments, and economic development.

21. On the basis of the recommendations of the initially established commissions, the recommendations of which were revised by two drafting committees, 22/ the Council, at its second session, defined the terms of reference of the following functional commissions: the Economic and Employment Commission (resolution 2/5); the Sub-commission on Economic Reconstruction of Devastated Areas (resolution 2/6); the Transport and Communications Commission (resolution 2/7); the Statistical Commission (resolution 2/8); the Commission on Human Rights (resolution 2/9); the Social Commission (resolution 2/10); and the Commission on the Status of Women (resolution 2/11), 23/ which had been set up as a sub-commission of the Commission on Human Rights at the first session.

22. While the Council laid down the terms of reference of the Transport and Communications Commission, it considered that in this field further study should be made of existing international machinery and of the need for new specialized agencies. It decided, therefore, that the temporary commission should continue to function until further decision. Such further decision was taken by the Council at its third session when it named the fifteen members of the permanent commission. Also at its third session, the Council set up the Population Commission (by resolution 3 (III)) and the Fiscal Commission (by resolution 2 (III)), the creation of which had been recommended by the Preparatory Commission of the United Nations.

23. No further functional commissions were established until the eighteenth session. On the recommendations of a group of experts appointed by the Secretary-General under General Assembly resolution 623 (VII), the Council decided at its seventeenth session 24/ that a commission on international commodity trade should be established. At its eighteenth session, the Council constituted the Commission. 25/ The first report of the Commission was to include "observations on its terms of reference, organization, rules of procedure, and work programme". 26/

b. SUB-COMMISSIONS

24. Rule 66 of the rules of procedure of the functional commissions 27/ lays down that the commissions "shall set up such sub-commissions as may be authorized by the Council" and that their functions and composition shall be defined by the commission

22/ A drafting committee to consider the reports of the commissions in the economic field, appointed at the second session (E S C (II), 6th mtg.) proposed the terms of reference of the following commissions (the resolutions under which those terms of reference were adopted are noted parenthetically): the Economic and Employment Commission (E S C resolution 2/5); the Statistical Commission (E S C resolution 2/8); and the Transport and Communications Commission (E S C resolution 2/7). A drafting committee to consider the reports of the commissions in the social field, appointed at the same session, drafted the terms of reference of the Commission on Human Rights (E S C resolution 2/9), and the Social Commission (E S C resolution 2/10).

23/ See also E S C resolution 48 (IV) defining the functions of the commission.

24/ E S C resolution 512 A (XVII).

25/ E S C resolution 557 F (XVIII).

26/ E S C resolution 557 F (XVIII), para. 11. The Council also decided to consider in the future the status and functions of the Commission in the light of any important development in its particular field, including the results of the discussions by the Contracting Parties to the General Agreement on Tariffs and Trade (GATT) which would be taken into account as soon as possible after their results were known.

27/ United Nations Publication, Sales No.: 1953.I.22.

concerned "Unless otherwise determined by the Council". Actually, the Council has discontinued all but one 28/ of the sub-commissions which had been established earlier.

25. The Preparatory Commission of the United Nations had recommended in its report that certain commissions should receive assistance from subsidiary bodies, and the Council, in setting up the various commissions in their initial as well as their permanent form, had authorized them 29/ to make recommendations regarding the creation of sub-commissions.

26. The Sub-Commission on Statistical Sampling was set up by a decision of the Statistical Commission, 30/ in accordance with Council resolution 2/8; at its seventh session, the Council took note of the terms of reference presented by the Commission. 31/ The Council later took the initiative in discontinuing the Sub-Commission. 32/

27. With regard to the Sub-Commission on Employment and Economic Stability and the Sub-Commission on Economic Development of the Economic and Employment Commission, the Council itself set forth their terms of reference, subsequently amended them, 33/ and eventually discontinued the sub-commissions. 34/

28. In the case of the Sub-Commission on Freedom of Information and of the Press, the Council first laid down provisional terms of reference, 35/ then confirmed those recommended by the Commission on Human Rights, 36/ and later amended them. 37/ Subsequently the Council discontinued 38/ the sub-commission and appointed a rapporteur to take over some of its activities. 39/

28/ The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

29/ The Statistical Commission: E S C resolutions 1/8 and 2/8. The Commission on Human Rights: E S C resolutions 1/5 and 2/9. The Economic and Employment Commission: E S C resolutions 1/6 and 2/5. Under these resolutions, the Commission was to establish sub-commissions on employment, on balance of payments and on economic development. Establishment of a sub-commission on balance of payments, however, was deferred by the Council under resolution 1 (III), and that body was never established. The Temporary Social Commission: By resolution 2/10, the Council recommended the taking of steps to create a sub-commission especially constituted for work in the child welfare field; the sub-commission was not established.

30/ E S C (IV), Suppl. No. 6 (E/264), para. 15.

31/ E S C resolution 149 (VII). See also E S C (VII), Suppl. No. 5, chap. IV, para. 61.

32/ E S C resolutions 414 (XIII), section B.I and 557 C, III (XVIII).

33/ See E S C resolution 1 (III) and footnote 29, above.

34/ E S C resolution 295 A (XI).

35/ E S C resolution 2/9.

36/ E S C resolution 46 (IV).

37/ E S C resolution 197 (VIII).

38/ Under resolution 414 (XIII), section B.I, the Council decided "To continue the Sub-commission ... in order to enable it, at a final session ... to complete its work".

39/ E S C resolution 442 C (XIV).

29. The terms of reference of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities were defined 40/ by the Commission on Human Rights and confirmed by the Council. 41/ The sub-commission was discontinued by resolution of the Council, 42/ but, upon the invitation of the General Assembly, 43/ the Council subsequently reconvened it. 44/

C. REGIONAL ECONOMIC COMMISSIONS

30. The creation of the Economic Commission for Europe (ECE) and the Economic Commission for Asia and the Far East (ECAFE) was not included among the recommendations of the Preparatory Commission of the United Nations, but arose from the work of the Council regarding the economic reconstruction of war-devastated areas.

31. The General Assembly, at the first part of its first session, requested 45/ the Council to place the subject of the reconstruction of countries devastated by war on the agenda of its first meeting as an urgent matter in the economic and social field 46/ and the Council entrusted its Economic and Employment Commission as initially established, with the task of advising it on this subject. Upon the recommendation of the Commission, the Council, at its second session, established 47/ the Temporary Sub-Commission on the Economic Reconstruction of Devastated Areas, composed of twenty Member States which, in turn, referred to the Council, at its third session, a proposal for the establishment of an economic commission for Europe. It also proposed to confine its own studies to the devastated areas of Asia and the Far East after the creation of ECE. 48/ The Council, by resolution 5 (III), transmitted the Sub-Commission's report to the General Assembly, which, at the second part of its first session, recommended 49/ that the Council give "prompt and favourable consideration" to the establishment of two regional commissions. After further study 50/ of the question by the Economic and Employment Commission, the Council, under resolution 36 (IV), established 51/ ECE. Upon receipt of the report of the Working Group for Asia and the Far East of the Temporary Sub-Commission 52/ recommending the creation of an economic commission for Asia and the Far East, the Council, under resolution 37 (IV), established 53/ ECAFE. It also abolished the Temporary Sub-Commission, the main functions of which had been taken over by the two regional

40/ E S C (IV), Suppl. No. 3 (E/259), paras. 19 and 20, and E S C (IX), Suppl. No. 10 (E/1371), para. 13.

41/ E S C resolutions 46 (IV) and 236 A (IX).

42/ E S C resolution 414 (XIII), section B.I.

43/ G A resolution 532 B (VI).

44/ E S C resolution 443 (XIV).

45/ G A resolution 28 (I).

46/ E S C resolution 1/6.

47/ E S C resolution 2/6.

48/ G A (I/2), Suppl. No. 3 (A/147), part II, para. 3.

49/ G A resolution 46 (I).

50/ E S C (IV), Suppl. No. 4 (E/255).

51/ A Committee on the Economic Commission for Europe had been appointed at the fourth session to draft the terms of reference of the Commission (E S C (IV), p. 347, annex 34 (E/363/Rev.1)).

52/ E S C (IV), Suppl. No. 10 (E/307/Rev.1).

53/ A Committee on the Economic Commission for Asia and the Far East had been appointed on 18 March 1947 to draft the terms of reference of the Commission (E S C (IV), p. 302, annex 19 (E/366)).

commissions. 54/ The terms of reference of ECAFE were brought generally into line 55/ with those of ECE at the fifth session of the Council under resolution 69 (V).

32. The creation of a regional economic commission for Latin America originated in a proposal submitted 56/ to the Council at its fifth session by a member. Upon the unanimous recommendation of the ad hoc committee, set up 57/ at that session to study the matter, the Council established the Economic Commission for Latin America (ECLA) under resolution 106 (V), with terms of reference similar to those of ECE and ECAFE.

33. The General Assembly, at its second session, invited 58/ the Council "to study the factors bearing upon the establishment of an economic commission for the Middle East". The Council, at its sixth session, set up 59/ an ad hoc committee to report to the Council at its next session on the matter. No action has been taken on this report, the Council having postponed consideration of the question since its seventh session.

34. The Council, at its thirteenth session, discussed 60/ the question of setting up an ad hoc committee on measures to promote the economic development of Africa which would consider factors bearing upon the establishment of an economic commission for Africa. An amendment 61/ which would delete a proposal to establish such an ad hoc committee was adopted and the Council decided 62/ to continue its own study of the problems of that continent.

2. Other organs and bodies established by the Council

a. AD HOC COMMITTEES OF GOVERNMENT REPRESENTATIVES

35. The Council has, from time to time, adopted resolutions establishing ad hoc committees composed of States Members of the United Nations; whether or not members of the Council. The resolutions have defined their terms of reference, decided their composition and have usually specified the time at which they were to report on the matters referred to them. For example, the Ad Hoc Committee on Declaration of Death of Missing Persons was set up under resolution 209 (VIII), under which the Council laid down the terms of reference and named the seven members of the Committee. In other instances, the Council, under the resolution laying down the terms of reference of an ad hoc committee, has stipulated only the number of members. In such instances, the President of the Council has completed the establishment of the committee by nominating its members. The Ad Hoc Committee on the Enforcement of International Arbitral Awards, established under resolution 520 (XVII), is a case in point.

54/ E S C resolution 39 (IV).

55/ The report of the first session of the Commission and of the committee of the whole of the Commission had recommended this step (E S C (V), Suppl. No. 6 (E/452 and E/491), parts I and II respectively).

56/ E S C (V), p. 390, annex 11 (E/468).

57/ E S C resolution 70 (V); E S C (VI), Suppl. No. 7 (E/630).

58/ G A resolution 120 (II).

59/ E S C resolution 107 (VI). For the report of the Ad Hoc Committee on the Proposed Economic Commission for the Middle East, see E S C (IX), Suppl. No. 4 (E/1360). See also Sub-Committee on the Geographical Delimitation of the Area, appointed on 26 April 1948 (E S C (IX), Suppl. No. 4 (E/1360), p. 23).

60/ E S C (XIII), 500th and 501st mtgs.

61/ E S C (XIII), 501st mtg.

62/ E S C resolution 367 B (XIII).

36. In most cases, the actual drafting of the terms of reference of the ad hoc committees has been referred by the Council to one of its sessional committees. ^{63/} In a few instances, the terms of reference of an ad hoc committee have been adopted by the Council directly on the basis of a proposal presented by a member of the Council. ^{64/}

37. The Council has also set up ad hoc or drafting committees composed solely of members of the Council. The method of establishment of such committees is dealt with in connexion with the consideration of sessional committees (see paragraphs 45 and 46 below).

b. AD HOC COMMITTEES OF EXPERTS OR OF MEMBERS APPOINTED IN THEIR INDIVIDUAL CAPACITY, GROUPS OF EXPERTS, AND RAPPORTEURS

38. When the Council has set up committees of experts or of members appointed in their individual capacity, the terms of reference of such bodies have usually been laid down in the resolutions establishing them. The appointment of the members has usually been left to the Secretary-General. ^{65/} Thus, under resolution 416 A (XIV), the Council decided to establish a committee of experts to prepare a detailed plan for a special fund for the financing of economic development, and entrusted the Secretary-General with the task of appointing its members. ^{66/} When the Council, under resolution 238 (IX), established the Ad Hoc Committee on Slavery, it instructed the Secretary-General "after consultation with the bodies having special competence in this field" to appoint its members. ^{67/}

39. In the case of the Ad hoc Committee on Forced Labour, the Council, under resolution 350 (XII), invited the International Labour Organisation (ILO) to co-operate with it in the establishment of a committee of independent members to be appointed jointly by the Secretary-General of the United Nations and the Director-General of ILO.

^{63/} For example, the terms of reference of the Ad Hoc Committee on the Establishment of an Economic Commission for the Middle East (E S C resolution 107 (VI)) were drafted by the Economic Committee.

^{64/} Ad Hoc Committee on Implementation of Recommendations on Economic and Social Matters (E S C resolution 255 (IX)). Its terms of reference were first proposed under a draft resolution submitted by Australia at the 292nd meeting of the Council (E S C (IX), p. 115).

^{65/} At the ninth session of the Council, in connexion with the discussion on the creation of the Ad Hoc Committee on Slavery, the opinion was expressed that since neither the Charter nor the rules of procedure of the Council provided for the setting up of a committee by the Secretary-General, it was doubtful whether the Council could constitutionally instruct the Secretary-General to appoint a committee. Another opinion was that the committee would be established by the Council itself, with the Secretary-General being delegated the specific function of selecting the individual experts. It was also stated that, under previous resolutions, the Council had entrusted the Secretary-General with the task of appointing the experts of an ad hoc committee. The Council adopted resolution 238 (IX) by which it set up the Ad Hoc Committee on Slavery (E S C (IX), 298th mtg., pp. 202-205).

^{66/} See also E S C resolution 390 H (XIII) regarding the establishment of the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations.

^{67/} See also E S C resolution 434 B (XIV) regarding the establishment of the Committee of Experts on the International Definition and Measurement of Standards and Levels of Living, to be convened by the Secretary-General "in co-operation with the International Labour Organisation and other appropriate specialized agencies".

40. In other instances, the Council, under resolutions setting up an ad hoc committee of experts, has specified that another organ of the Council would appoint its members. For example, by resolutions 159 IV (VII) and 202 (VIII), the Council established the Commission of Enquiry into the Effects of Chewing the Coca Leaf, 68/ and by resolution 202 (VIII) it specified that the Commission on Narcotic Drugs would select the experts, two of whom were to be chosen after consultation with the World Health Organization.

41. In the case of the Technical Preparatory Committee for an International Health Conference, which was the first committee of experts established by the Council, the resolution listed the names of the sixteen experts and their alternates. 69/

42. In some cases, the Council has authorized the Secretary-General, if he deemed it appropriate, to convene a committee 70/ or a group of experts. Thus, in connexion with the programme for surveying non-agricultural resources, the Council, under resolution 345 A (XII), requested the Secretary-General to seek the advice of suitable experts and establish "as necessary" small ad hoc committees of experts.

43. On three occasions, 71/ rapporteurs have been appointed by the Council under the terms of resolutions stipulating their functions and powers. In the first case, the rapporteur was elected at a subsequent meeting of the Council; in the two other cases, the rapporteurs were named in the resolutions.

C. STANDING COMMITTEES

44. The Council, in accordance with the recommendations of the Preparatory Commission of the United Nations, established standing committees at an early stage in its work.

(a) The Committee on Negotiations with Inter-Governmental Agencies was established at the first session of the Council under resolution 1/11. 72/ Its terms of reference were drafted by a committee of the whole entitled the Committee on Relationships with Specialized Agencies, appointed by the Council for that purpose. 73/ The Committee has met since then under the title of Committee on Negotiations with Specialized Agencies or Committee on Negotiations with Inter-Governmental Agencies.

(b) The Committee on Arrangements for Consultation with Non-Governmental Organizations was established under resolution 1/4. Upon its recommendation, the Council then set up 74/ a standing committee on arrangements for consultation with non-governmental organizations to be known as the Council Committee on Non-Governmental Organizations. Its terms of reference were subsequently amended by resolutions 16 (III) and 288 (X). The election of its seven members is now governed by the provision of rule 82 of the rules of procedure of the Council, as amended by the decision of the Council of 5 August 1954. 75/

68/ See para. 10 above.

69/ E S C resolution 1/1.

70/ For example, the Preparatory Committee for the United Nations Scientific Conference on the Conservation and Utilization of Resources (resolution 32 (IV)).

71/ Resolution 442 C (XIV) on freedom of information, election of Mr. Lopez at the 660th plenary meeting of the Council (E S C (XIV), p. 686); resolution 525 A (XVII) on slavery, nomination of Mr. Engen; resolution 548 C (XVIII) or an opium protocol, nomination of Mr. Vaille.

72/ E S C (I), annex 8, pp. 171-172.

73/ E S C (I), 4th mtg., p. 53.

74/ E S C resolution 2/3.

75/ See E S C (XVIII), Suppl. No. 1 (E/2654), p. 28.

(c) The Council, in revising its rules of procedure at its fourth session, adopted rule 13, which set up an Agenda Committee 76/ composed of the President, two Vice-Presidents of the Council and two other members elected at each session. The Committee was discontinued in consequence of resolution 414 (XIII), under which the Council decided to resume its second regular session each year during or shortly after the regular session of the General Assembly to consider its programme of work for the following year.

(d) The Interim Committee on Programme of Meetings, later referred to as the Interim Committee on Programme of Conferences, was established under resolution 101 (V), 77/ on the basis of the recommendations of the Committee on Procedural Questions 78/ set up at the fifth session. Its five members were selected by the President of the Council.

(e) The Technical Assistance Committee was constituted by the Council under resolution 222 (IX). 79/ Its establishment originated in the recommendations contained in the report by the Secretary-General 80/ on the Expanded Programme of Technical Assistance and the debate in the Economic Committee at the ninth session of the Council.

d. SESSIONAL COMMITTEES

45. Since its second session, the Council had established committees for economic and for social matters by taking a decision to that effect upon a proposal of the President, and had referred to them relevant items in its agenda. 81/ Since the fourth session, the Social Committee 82/ and the Economic Committee 83/ have been established as committees of the whole. They are reconstituted at each session upon a decision of the Council to refer to them relevant items in its agenda. The Committee on Matters relating to Co-ordination, 84/ later called the Co-ordination Committee of the Council, and consisting of twelve members, was set up by a decision of the Council at its sixth session on the proposal of the President. The Committee has been reconstituted since then as a committee of the whole whenever the Council has wished to refer to it questions on its agenda. At its seventh session, the Council set up a Committee on Human Rights. 85/ The Council itself also met as a committee of the whole 86/ at its fourth, fifth and sixth sessions, but has not done so since.

76/ See footnote 2 to E S C resolution 57 (IV).

77/ Subsequently amended by resolution 174 (VII).

78/ E S C (V), p. 470, annex 17 C (E/560).

79/ Amended by E S C resolutions 433 (XIV) and 542 (XVIII).

80/ United Nations Publication, Sales No. 1949.II.B.1.

81/ E S C (II), 6th mtg., pp. 42-44. Two committees were set up to consider the reports of the commissions dealing with economic matters and with matters in the social field. The former included eleven members, the latter twelve, designated by the President.

82/ The Social Committee was established as a committee composed of eleven members of the Council (E S C (IV), 52nd mtg., p. 13). It was made a committee of the whole at the 67th meeting (E S C (IV), 67th mtg., p. 102).

83/ E S C (IV), 62nd mtg., p. 73.

84/ E S C (VI), 145th mtg., pp. 181 and 182.

85/ E S C (VII), 180th mtg., p. 61.

86/ E S C (IV), 72nd mtg.; E S C (V), 107th mtg.; E S C (VI), 163rd mtg.

e. AD HOC COMMITTEES, DRAFTING GROUPS AND WORKING PARTIES

46. In addition to its sessional committees, the Council has set up during its sessions ad hoc committees, drafting groups or working parties to which it refers items or specific aspects of items on its agenda. In accordance with rules 26 and 27, the Council has usually established such bodies by acquiescing in a proposal by the President, who has appointed their members from among members of the Council. This has been the case, for example, in connexion with the committees on procedure, appointed at various sessions to study and report on proposed amendments to the rules of procedure of the Council. 87/ The same method was also followed to set up such drafting committees as the Drafting Committee on an economic commission for Latin America, 88/ or the informal drafting group on the translation of the classics. 89/ It is to be noted, however, that most of the ad hoc bodies with drafting functions have, in practice, been set up by the sessional committees of the Council. Their establishment has been governed by paragraph 2 of rule 27 of the rules of procedure of the Council, which provides that sub-committees of committees shall be nominated by the chairman of the committee concerned, subject to its approval unless the committee decides otherwise.

f. OTHER BODIES ESTABLISHED BY THE COUNCIL

47. The Administrative Committee on Co-ordination (ACC), first called the Co-ordination Committee, 90/ was set up under resolution 13 (III), by which the Council requested the Secretary-General "to establish a standing committee of administrative officers consisting of himself as chairman, and the corresponding officers of the specialized agencies". The creation of a co-ordination commission had been suggested in the report 91/ of the Preparatory Commission and has been mentioned in most of the agreements with the specialized agencies. 92/

48. The Technical Assistance Board (TAB) was set up under resolution 222 A (IX), by which the Expanded Programme of Technical Assistance was established. By that resolution, the Council provided that the guiding principles and arrangements regarding the Expanded Programme were subject to final approval by the General Assembly and requested the Secretary-General to invite ACC to set up a Technical Assistance Board

87/ However, at its seventh session, the Council adopted resolution 177 (VII), by which it authorized the Committee on Procedure set up at its 180th meeting to meet between the seventh and eighth sessions.

88/ Established at the 105th meeting of the Council (E S C (V), p. 154).

89/ Established at the 235th meeting of the Council (E S C (VIII), p. 86).

90/ The title Administrative Committee on Co-ordination was formally adopted at the suggestion of the Council (E/1076, para. 3, and E S C (VII), Annex, E/1038, pp. 268 and 269).

91/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. III, section 5, p. 42.

92/ The standard article in the agreements between the United Nations and the specialized agencies specifies that the agency concerned agrees to participate in and to co-operate with any body or bodies which the Council may establish for the purpose of facilitating such co-ordination. The agreements with the International Bank for Reconstruction and Development and the International Monetary Fund provide for their participation with ACC and its subsidiary body "to the extent consistent with the provisions of these agreements" (United Nations Publications, Sales No.: 1951.X.1).

consisting of the executive heads, or their representatives, of the United Nations and of the specialized agencies which participate in the Expanded Programme of Technical Assistance.

49. The Interim Co-ordinating Committee for International Commodity Arrangements was established by the Council under resolution 30 (IV), "to keep informed of and to facilitate ... inter-governmental consultation" in this field. The Committee was reconstituted under resolution 373 (XIII), as amended by resolutions 462 (XV) and 557 F (XVIII). Its members are appointed by the Secretary-General; the Chairman is nominated by the Contracting Parties to GATT, one member is nominated by the Food and Agriculture Organization, another member is to be "a person to be concerned in particular with non-agricultural primary commodities" and the last member is to be "a person of wide experience on problems confronting countries undergoing development whose economies are primarily dependent on the production and international marketing of primary commodities".

C. Functions and powers

50. Since the type and structure of the commissions and committees of the Council vary widely, their powers and functions may be most conveniently considered under each type of organ. However, it may be noted at the outset that, under resolution 557 B, I (XVIII), the Council instructed all commissions and their subsidiary bodies to submit to it for prior approval all requests for new studies or other projects which would require additional budgetary provisions or substantial changes in the work programmes.

1. Commissions

a. FUNCTIONAL COMMISSIONS

51. The functional commissions assist, advise and make recommendations and reports to the Council on matters within their competence.

52. They have been empowered by the Council to make studies and recommendations on their own initiative. However, in some cases, a request from the Council to undertake such tasks is required. Thus, the Transport and Communications Commission may, on its own initiative, "suggest to the Council the creation of new agencies or the conclusion of new conventions or the revision of existing conventions", but must receive a request from the Council in order to report on "the work of any of the specialized agencies in the sphere of transport and communications" ^{93/} or to assist the Security Council ^{94/} or the Trusteeship Council. ^{95/}

53. The terms of reference of some of the functional commissions provide that they shall assist the Council in the co-ordination of activities within their competence. Thus, the Statistical Commission is to assist the Council in the co-ordination of the statistical work of the specialized agencies ^{96/} and in advising the organs of the United Nations on statistical questions; ^{97/} the Economic and Employment Commission (now discontinued) was to draw the attention of the Council to the probable influence of the policies and activities of other commissions, the specialized agencies, or other international organizations on certain economic questions and was to make recommendations to the Council on economic questions involving concerted study and/or

^{93/} E S C resolution 2/7.

^{94/} See also in this Repertory under Article 65.

^{95/} E S C resolution 2/7.

^{96/} E S C resolution 1/8.

^{97/} E S C resolution 2/8.

action by more than one specialized agency or commission. 98/ Similarly, the Fiscal Commission was to advise the Council and other commissions on the fiscal implications of recommendations of other commissions made in their fields. 99/

54. Co-operation between commissions and other organs of the United Nations or specialized agencies was provided for under the resolutions constituting some of the commissions. For example, the Secretary-General was directed to request the Statistical Commission to consider, in collaboration with the Transport and Communications Commission and with such specialized agencies as might be considered necessary, the problem of the unification of transport statistics. 100/ The Fiscal Commission was to co-operate with other commissions of the Council and other organs of the United Nations including the specialized agencies. 101/

55. The Council has assigned other tasks to its functional commissions. The terms of reference of the Statistical Commission provided that it shall "provide information and other services at the request of the Economic and Social Council". 102/ The Commission on Narcotic Drugs was to "Perform such other functions ... as the Council may direct". 103/ The Transport and Communications Commission was to "perform such other tasks as the Economic and Social Council may require of it". 104/

56. The terms of reference of certain commissions include functions of a different nature: the Fiscal Commission, now discontinued, was authorized 105/ to assist any Member Government of the United Nations on matters within its competence at the request of that Government. The Transport and Communications Commission, on instructions from the Council, and under certain conditions, might "perform the task of conciliation in cases of disputes between States and/or specialized agencies". 106/ The Commission on Narcotic Drugs was to "Carry out such functions entrusted to the League of Nations Advisory Committee on Traffic in Opium and other Dangerous Drugs by international conventions in narcotic drugs as the Council may find necessary to assume and continue". 107/

57. In addition to the power conferred on some of the commissions to set up sub-commissions, all functional commissions have been authorized, under rule 20 of their rules of procedure, 108/ to set up committees during their sessions "in consultation with the Secretary-General". 109/ The commissions have on occasion exercised such powers. Thus, the Commission on the Status of Women, at its eighth session,

98/ E S C resolution 2/5.

99/ E S C resolution 2 (III).

100/ E S C resolution 2/7.

101/ E S C resolution 2 (III).

102/ E S C resolution 1/8. See the same provision under resolution 1/6.

103/ E S C resolution 1/9.

104/ E S C resolution 2/7.

105/ E S C resolution 2 (III).

106/ E S C resolution 2/7.

107/ E S C resolution 1/9.

108/ The rules of procedure of the functional commissions do not apply to the Commission on International Commodity Trade. See footnote 146 below.

109/ Under rule 20, the committees may, in agreement with the Secretary-General, be authorized to meet between sessions of the commission. The provisions of rules 21 and 22 regarding the nomination of the members of the committees and the rules of procedure of the committees are the same as those under rule 27 of the rules of procedure of the Council.

established an Ad Hoc Committee on Communications. 110/ The Commission on Narcotic Drugs, at its ninth session, established an Ad Hoc Committee on Seizures. 111/

58. Moreover, the Commission on Human Rights was authorized under its terms of reference to call in ad hoc working groups of experts "without further reference to the Council, but with the approval of the President of the Council and the Secretary-General". 112/

59. As provided in rule 73 of the rules of procedure of the Council, each commission elects its own officers. Until the Council drew up common rules of procedure 113/ for its functional commissions, provisional rules had been approved by each commission on the basis of the rules submitted 114/ by the Secretary-General.

60. The Commission on International Commodity Trade 115/ constituted by the Council at its eighteenth session was given certain powers not hitherto specifically granted to the functional commissions. Thus, the Commission was authorized to "inform Member and non-member States of the conclusions of its studies, to send them its reports, and to seek from them the available information it requires for its work, all such relations being conducted through the Secretary-General".

b. REGIONAL ECONOMIC COMMISSIONS

61. The three regional economic commissions were given the power to "Initiate and participate in measures for facilitating concerted action" in the fields of activities defined by their terms of reference. 116/ In these fields they were to "Make or sponsor such investigations and studies of economic and technological problems of and developments within" the area covered by them and to "Undertake or sponsor the collection, evaluation and dissemination of such economic, technological and statistical information" as they deemed appropriate. They were also required to "take measures to ensure that the necessary liaison is maintained with other United Nations organs and with the specialized agencies".

62. All such actions were made subject to the proviso that the commissions were "acting within the framework of the policies of the United Nations and subject to the general supervision of the Council", and that they took "no action in respect to any country without the agreement of the government of that country". 117/

63. Furthermore, the regional economic commissions were empowered to make recommendations directly to certain Governments and to specialized agencies. Thus, ECE 118/ could make recommendations directly to "its member governments, governments admitted in a consultative capacity ... and the specialized agencies concerned" with the proviso that "proposals for activities that would have important effects on the economy of the world as a whole" should be submitted for the prior consideration

110/ E/CN.6/L.146.

111/ E S C (XVIII), Suppl. No. 8, para. 155.

112/ E S C resolution 2/9.

113/ E S C resolutions 99 (V) and 100 (V), as amended by E S C resolutions 289 (X) and 481 (XV). See also in this Repertory under Article 72.

114/ See E/327.

115/ E S C resolution 557 F (XVIII).

116/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, pp. 97-103.

117/ Ibid.

118/ Ibid., p. 98, para. 4.

of the Council. A similar proviso was included in the terms of reference of ECAFE 119/ and ECLA 120/ which were also authorized to make recommendations to "associate members".

64. The terms of reference of ECAFE and ECLA were amended 121/ at the thirteenth session of the Council to include provisions regarding economic development and technical assistance. Thus, ECAFE was empowered in particular to perform such advisory services "as the countries of the region may desire, provided that such services do not overlap with those rendered by the specialized agencies or the United Nations Technical Assistance Administration" and to assist the Council in respect of technical assistance problems. Further, ECLA was assigned the functions of assisting the Council and its Technical Assistance Committee with respect to the United Nations technical assistance programme "in particular by assisting in their appraisal of these activities in the Latin American region".

65. The regional economic commissions were authorized to establish subsidiary bodies 122/ "after discussion with any specialized agency functioning in the same general field, and with the approval of the Council". In practice, the Council has authorized the commissions under various resolutions to set up the subsidiary bodies necessary to carry out specific functions. 123/

66. Finally, the regional economic commissions, under their terms of reference, were given the right to adopt their own rules of procedure, including the method of selecting the Chairman. 124/

2. Other organs and bodies established by the Council

67. Rule 26 of the rules of procedure of the Council provides that the Council may refer to the committees which it sets up during its sessions "any question on the agenda for study and report" and that such committees shall elect their own officers "except where decided otherwise by the Council". In practice, with the exception of

119/ Ibid., p. 100, para. 8.

120/ Ibid., p. 102, para. 5.

121/ E S C resolution 414 C. I (XIII).

122/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, p. 98, para. 5 (ECE); p. 101, para. 14 (ECAFE); p. 103, para. 10 (ECLA).

123/ For details of such authorizations, see the following resolutions: (1) ECE: E S C resolutions 143 (VII) and 232 (IX), regarding subsidiary organs charged with industrial development and trade; (2) ECAFE: E S C resolution 144 (VII), regarding subsidiary bodies charged with the restoration and development of the economy in Asia and the Far East; resolution 233 A (IX), approving the establishment of a Committee on Industry and Trade, a Sub-Committee on Iron and Steel, a Sub-Committee on Travel; resolution 144 D (VII), regarding the Bureau of Flood Control. It may be noted that, at its fourth session, ECAFE decided (E S C (VIII), p. 3, resolution 14) that the Bureau should form part of the Secretariat of the Commission for all administrative and financial purposes, but that its chief should enjoy the necessary autonomy in all technical matters subject to the decisions of the Commission. The General Assembly made a separate appropriation for the Bureau from 1949 to 1954, but this appropriation was merged with that of the secretariat of the Commission for 1955.

124/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, p. 99, para. 15 (ECE); p. 101, para 15 (ECAFE); p. 103, para. 11 (ECLA).

the Economic and Social Committees, the meetings of which are presided over by the First or Second Vice-President of the Council, most of the committees of the Council have elected their Chairmen. Under rule 27, a committee may set up sub-committees nominated by the Chairman of the committee unless the committee decides otherwise.

a. AD HOC COMMITTEES OF GOVERNMENT REPRESENTATIVES

68. The functions of the ad hoc committees established by resolutions of the Council have been defined in their terms of reference. Such functions have included the making of recommendations on the matters referred to them by the Council; these recommendations have in some cases included the drafting or revision of a convention. 125/ The Council has, on occasion, empowered such committees to request information from Governments, specialized agencies and other sources in order to carry out their tasks. 126/ In some cases, committees 127/ have been empowered to consult with inter-governmental organizations. Moreover, the Special Committee on Refugees and Displaced Persons, established at the first session of the Council, was empowered to "establish such sub-committees as may be necessary for all aspects of its work, including the carrying out of investigations or field trips". 128/

b. COMMITTEES COMPOSED OF PERSONS APPOINTED IN THEIR INDIVIDUAL CAPACITY AND EXPERT BODIES

69. Ad hoc committees of members appointed in their individual capacity, or experts, groups of experts and rapporteurs, have usually been empowered to make studies and/or recommendations "on their own responsibility". 129/ Such committees or groups of experts have at times consulted with Governments, specialized agencies, 130/ and non-governmental organizations. 131/ The Ad Hoc Committee on Forced Labour, which was to prepare a study "by examining the texts of laws and regulations and their application ... and, if the Committee thinks fit, by taking additional evidence into consideration", 132/ reported to the Council that it had sought information from

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- 125/ Ad Hoc Committee on Genocide: E S C resolution 117 (VI); Ad Hoc Committee on Declaration of Death of Missing Persons: E S C resolution 209 (VIII).
- 126/ Ad Hoc Committee on Restrictive Business Practices: E S C resolution 375 (XIII).
- 127/ Ad Hoc Committee on Proposed Economic Commission for the Middle East: E S C resolution 107 (VI), para. (ii) provides that "The Committee may consult with interested agencies both within and without the United Nations".
- 128/ E S C resolution 1/3, para. 7.
- 129/ For example, see E S C resolution 290 (XI), regarding the establishment of a group of experts on balance of payments.
- 130/ For example, see E S C resolution 160 (VII), establishing a committee of experts in the basic sciences to examine, in consultation with the specialized agencies, the question of the possible establishment of international research laboratories. See also resolution 290 (XI), establishing a group of experts to report on the problem of reducing the international impact of recessions.
- 131/ The Ad Hoc Committee on Slavery set up under E S C resolution 238 (IX) reported that it had (a) submitted to States Members and non-members of the United Nations a questionnaire on slavery and servitude, (b) invited certain research institutions and organizations to assist the Committee in making its survey, (d) invited certain individual experts to provide information on specific questions, (e) submitted to the International Labour Organisation a special request for information, and (f) received information gathered by its members on particular areas of the world (E S C (XI), Annexes, a.i. 24, p. 1, E/1660, para. 8).
- 132/ E S C resolution 350 (XII).

Members and non-members of the United Nations by means of a questionnaire on forced labour, as well as documentation and oral information from non-governmental organizations and private individuals. 133/ On one occasion, a commission of experts was empowered to make investigations in the field at the request of the Governments concerned. 134/

C. STANDING COMMITTEES

70. The functions of the Committee on Negotiations with Specialized Agencies have been defined in each of the resolutions 135/ under which the Council has assigned to the Committee from time to time the task of negotiating agreements with inter-governmental organizations to be brought into relationship with the United Nations as specialized agencies. 136/ The Council Committee on Non-Governmental Organizations, which has carried out the functions assigned to it by the Council in connexion with its arrangements for consultation with non-governmental organizations under resolution 288 (X) is dealt with in this Repertory under Article 71. The Interim Committee on Programme of Conferences was charged with the task of consulting with the Secretary-General regarding the calendar of meetings.

71. The functions and powers of the Technical Assistance Committee (TAC) were defined by resolutions 222 (IX), 433 (XIV) and 542 B II (XVIII). The Committee has advised the Council on the operation of the Expanded Programme of Technical Assistance, has given directives to TAB and its Executive Chairman, has reviewed and approved the over-all programme for each year and has authorized the allocation of funds to the participating organizations. The Council specified, under resolution 542 B, II (XVIII), that TAC should "continue to be under the authority of the Economic and Social Council, and its decisions subject to general policy review by the Council".

d. SESSIONAL COMMITTEES AND OTHER BODIES ASSISTING THE COUNCIL DURING ITS SESSIONS

72. The task given to the sessional committees has been to study and to report to the Council on items on the agenda of the Council referred to them directly or after a preliminary debate in plenary. The reports have usually included recommendations for action by the Council in the form of resolutions proposed for adoption by the Council. Ad hoc committees, drafting committees and drafting groups set up by decisions of the Council in the course of a session have been given similar functions, including that of reporting to the Council at the same session at which they were established.

e. OTHER BODIES ESTABLISHED BY THE COUNCIL

73. The principal function of ACC was defined as being "to insure the fullest and most effective implementation of the agreements entered into between the United Nations and the specialized agencies". 137/ Functions of an operative nature were assigned to TAB. In particular, TAB and its Executive Chairman were made responsible for the co-ordination of administrative policies and procedures of the Expanded Programme of Technical Assistance and for the allocation of funds to the participating agencies, subject to review and approval by TAC and the Council. Authorization was also given to

133/ E S C (XVI), Suppl. No. 12 (E/2431), paras. 21 and 48.

134/ Commission of Enquiry into the Effects of Chewing the Coca Leaf. See E S C resolutions 159 IV (VII) and 202 (VIII).

135/ E S C resolutions 1/11, 2/7, 35 (IV) and 130 (VI).

136/ See also in this Repertory under Article 63.

137/ E S C resolution 13 (III).

TAB and its Executive Chairman to appoint resident technical assistance representatives. 138/

74. The Interim Co-ordinating Committee for International Commodity Arrangements was assigned the functions of convening inter-governmental study groups, advising the Secretary-General on the convening of commodity conferences and co-ordinating the activities of individual commodity groups and councils. 139/

D. Membership

75. Membership of the subsidiary organs of the Council has included, according to the resolutions or decisions establishing them, members of the Council only, States Members or non-members of the United Nations, representatives of Member States appointed in consultation with the Secretary-General, and persons selected in their individual capacity.

1. Commissions

a. FUNCTIONAL COMMISSIONS 140/

76. The functional commissions are composed of Members of the United Nations elected by the Council. 141/ The number of members of a commission has, in each instance, been specified in the terms of reference of the commission; in some cases, it has been increased by a subsequent resolution. 142/ Except for the Commission on Narcotic Drugs and the Commission on International Commodity Trade, the selection of the members of the functional commissions has taken place in three stages: 143/ first, the Council has selected, by secret ballot, States Members of the United Nations; then, "With a view to securing a balanced representation in the various fields covered by the Commission", the Secretary-General has consulted with the States so selected before their representatives have been nominated, and finally, the representatives have been confirmed by the Council.

138/ E S C resolutions 222 (IX), 433 (XIV), and 542 B, II (XVIII).

139/ E S C resolutions 30 (IV), 296 (XI), 373 (XIII), 462 (XV) and 557 F (XVIII). The status and functions of the Interim Co-ordinating Committee for International Commodity Arrangements are to be reviewed by the Council at its twentieth session (E S C resolution 557 F (XVIII), paras. 7 and 8).

140/ See paras. 135-141 below.

141/ Rule 72 of the rules of procedure of the Council provides that "Elections to commissions shall be decided by secret ballot, unless the Council decides otherwise."

142/ The Economic, Employment and Development Commission: 15 members (E S C resolution 2/5) increased to 18 members (E S C resolution 295 A (XI));
 Transport and Communications Commission: 15 members (E S C resolution 2/7);
 Fiscal Commission: 15 members (E S C resolution 2 (III));
 Statistical Commission: 12 members (E S C resolution 2/8) increased to 15 members (E S C resolution 299 G (XI));
 Commission on Human Rights: 18 members (E S C resolution 2/9);
 Commission on the Status of Women: 15 members (E S C resolution 2/11) increased to 18 members (E S C resolution 414 (XIII));
 Social Commission: 18 members (E S C resolution 2/10);
 Population Commission: 12 members (E S C resolution 3 (III)) increased to 15 members (E S C resolution 414 (XIII)).

143/ See, for example, resolution 2/8, for the relevant provisions in the terms of reference of the Statistical Commission.

77. It was provided in the terms of reference of the Statistical Commission that the Council might "in addition, appoint in their individual capacity, not more than twelve corresponding members from countries not represented on the Commission. Such members shall be appointed with the approval of the Governments concerned". 144/ A similar provision applied to the Economic and Employment Commission. 145/ The Council, however, has never acted under these provisions.

78. Except for the initial period, the term of office of the members of a commission has been three years. In order to ensure continuity in the work of the commission, one third of the original members of the commission has been elected for two years, one third for three years and the remainder for four years. Elections to the offices falling vacant each year have been held annually by the Council.

79. When a member has been unable to serve for the full three-year term, the vacancy has been filled by the Government concerned, which has designated, in consultation with the Secretary-General, another representative who has subsequently been confirmed by the Council.

80. Rules 11 to 14 of the rules of procedure of the functional commissions 146/ govern the questions of the effective date of taking of office, the rights of members pending confirmation by the Council, the status of alternates for an absent member or for a member elected chairman, and the status of advisers.

81. With regard to the membership of the Commission on Narcotic Drugs, ten Member States were appointed for an indefinite period at the eighth session of the Council; 147/ the term of office of the other five members was set at three years, subject to renewal. All fifteen members were to be "Members of the United Nations, which are important producing or manufacturing countries or countries in which illicit traffic in narcotic drugs constitutes a serious social problem".

82. The members of the Commission on International Commodity Trade were to be the Member States selected by the Council, which were to appoint representatives to the Commission. 148/

b. SUB-COMMISSIONS

83. The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, the only sub-commission still in existence, is composed of twelve members, elected by the Commission on Human Rights in consultation with the Secretary-General and with the consent of their Governments. 149/ Rules 69 and 70 of the rules of procedure of the functional commissions govern terms of office of members and the appointment of alternates.

144/ E S C resolution 2/8.

145/ E S C resolution 2/5 provided for 10 to 15 corresponding members.

146/ The Commission on International Commodity Trade should be excepted since its rules of procedure have not yet been established.

147/ E S C resolution 199 (VIII).

148/ E S C resolution 557 F (XVIII).

149/ Previously, the twelve members of the sub-commission had been selected by the Council as provided under resolution 46 (IV). An additional member was to be appointed under resolution 236 A (IX). The sub-commission was discontinued under resolution 414 B (XIII), and re-convened under resolutions 443 (XIV) and 502 A (XVI). The present members were elected by the Commission in May 1953 for a period of three years (E S C (XVI), Suppl. No. 8 (E/2447 - E/CN.4/689), para. 225).

84. With respect to the other sub-commissions now discontinued, the method of selection of the members was similar to that just described. The number of members and the terms of office, however, varied. 150/

C. REGIONAL ECONOMIC COMMISSIONS 151/

85. The regional economic commissions are composed of States and their membership is laid down in the terms of reference of the commissions, as subsequently amended by the Council.

86. At the outset, ECE was composed of the "European Members of the United Nations and the United States of America". 152/ The Commission was authorized to "admit in a consultative capacity European nations not Members of the United Nations", 153/ and to determine the conditions of their participation, "including the question of voting rights in the subsidiary bodies of the Commission". 154/ This provision was added by the Council after ECE had referred the matter to it on the grounds that a change of the rules of the Commission relating to voting rights involved questions of principle which had a bearing on the work of other United Nations organs and were therefore outside the competence of ECE. 155/ The Commission, at its seventh session, requested its subsidiary bodies to grant to these European States 156/ the right to vote. The Council, at its seventeenth session, decided that Austria, Finland, Ireland, Italy and Portugal were eligible for full membership on condition that they applied for membership and agreed to make an annual financial contribution. 157/ Italy was admitted on 19 July 1954.

150/ The Sub-Commissions on Employment and Economic Stability and on Economic Development were composed of seven members selected for three years.

The Sub-Commission on Freedom of Information and of the Press was first composed of twelve members selected by the Council at the request of the Commission for one year. They actually served for almost two years. New members were selected by the Commission in April 1949 for a term of office expiring in 1952.

The Sub-Commission on Statistical Sampling was composed of four members and one consultant selected by the Commission, who served until the Sub-Commission was discontinued, although authorization existed for a membership of not more than nine members (E S C resolution 414 B (XIII)).

151/ See also under the heading "The question of membership in the regional economic commissions" (paras. 152-179 below).

152/ E S C resolution 36 (IV).

153/ Ibid. The Commission, at its first session, authorized the Executive Secretary to invite European countries not Members of the United Nations, except Spain, to the sessions of the Commission and since then all of them have been invited.

154/ E S C resolution 414 C.II (XIII).

155/ E S C (XIII), Suppl. No. 6 (E/2002), p. 16, resolution 3.

156/ Albania, Austria, Bulgaria, Finland, Hungary, Ireland, Italy, Portugal, Romania and Switzerland. Spain was not invited to participate in the work of the Commission (E S C (XIV), Suppl. No. 5 (E/2187), para. 148).

157/ E S C resolution 517 B (XVII). On 1 September 1954 the membership of the Commission was as follows: Belgium, Byelorussian SSR, Czechoslovakia, Denmark, France, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Poland, Sweden, Turkey, Ukrainian SSR, USSR, United Kingdom, United States and Yugoslavia.

87. The membership of ECAFE included at the outset Member States of the United Nations within the geographical scope of the Commission 158/ and other Member States named in its terms of reference. 159/

88. The terms of reference of ECAFE provided that any State within the geographical scope of the Commission which became a Member of the United Nations was to be admitted to membership in the Commission. Other territories or groups of territories within the geographical scope of the Commission might be granted associate membership on application to the Commission by the Member responsible for the international relations of the territory or on its own application if the territory was responsible for the conduct of its own international relations. 160/

89. Associate members have participated in the meetings of the Commission without vote, while being eligible to vote and to hold office in committees and other subordinate bodies set up by the Commission.

90. The Council, at its seventeenth session, decided 161/ that Cambodia, Ceylon, the Republic of Korea, Japan, Laos, Nepal and Viet-Nam, States not Members of the United Nations, were eligible for full membership in the Commission, provided that they applied for it and agreed to make an annual financial contribution. 162/

91. Membership of ECLA was laid down as being "open to Members of the United Nations of North, Central and South America, and in the Caribbean area, and to France, the Netherlands and the United Kingdom". 163/

92. Provisions similar to those applying to ECAFE, have been made for associate members, but no territory has applied for this status.

93. The question of participation of States not members of the regional economic commissions in the work of the commissions is considered in the Analytical Summary of Practice under the heading "The question of membership in the regional economic commissions" (paragraphs 152-179 below), and is also dealt with in this Repertory under Article 69.

158/ E S C resolutions 37 (IV), 69 (V) and 414 (XIII). Afghanistan was included in the geographical scope of the Commission (E S C resolution 516 B (XVII)) subsequent to its admission as a member of the Commission (E S C resolution 465 (XV)).

159/ Australia, France, Netherlands, USSR, United Kingdom and United States. New Zealand was added at the sixth session of the Council.

160/ E S C resolution 69 (V), amended by resolution 414 (XIII).

161/ E S C resolution 517 A (XVII).

162/ As of 1 September 1954, the membership of ECAFE was as follows:

Full members: Afghanistan, Australia, Burma, Cambodia, China, France, India, Indonesia, Japan, Netherlands, New Zealand, Pakistan, Philippines, Thailand, USSR, United Kingdom, United States and Viet-Nam.

Associate members: Ceylon, Hong Kong, the Republic of Korea, Laos, Malaya and British Borneo and Nepal.

[It may be noted that the following associate members subsequently became full members of the Commission on the date shown: Ceylon, 10 December 1954, the Republic of Korea, 20 October 1954 and the Kingdom of Laos, 16 February 1955.]

163/ E S C resolution 106 (VI). As of 1 September 1954, the membership of ECLA was as follows: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, France, Guatemala, Haiti, Honduras, Mexico, Netherlands, Nicaragua, Panama, Paraguay, Peru, United Kingdom, United States, Uruguay and Venezuela.

2. Committees and other bodies established by the Council

94. Committees established by Council resolutions and composed of government representatives have included States Members of the United Nations not members of the Council. The President of the Council has appointed such members in cases in which the relevant resolutions have not specified the members. In accordance with a resolution 164/ of the General Assembly, the Council has established 165/ the United Nations High Commissioner's Advisory Committee on Refugees, which was set up by the Council on the authority of the General Assembly, and includes in its membership States not Members of the United Nations.

95. The membership of committees or groups composed of persons appointed in their individual capacity or as experts has usually been defined in their terms of reference, which have specified the organ empowered to appoint the members. 166/ In some cases mention has been made of the number of experts, 167/ in other instances, a mere indication of the size of the committee or group has been given. 168/ Similarly, in a few cases, the Council has defined the personal qualification 169/ required of members, while in other cases it has only referred to their expert knowledge or independence and impartiality. 170/

164/ By resolution 428 (V), annex, paragraph 4, the General Assembly stipulated that the Council might decide to establish a committee "which shall consist of representatives of States Members and States non-members of the United Nations, to be selected by the Council on the basis of their demonstrated interest in and devotion to the solution of the refugee problem".

165/ E S C resolution 393 (XIII).

166/ E S C resolution 1/1 establishing the Technical Preparatory Committee for an International Health Conference, listed the names of the experts.

167/ Under resolution 350 (XII), the Council referred to the Ad Hoc Committee on Forced Labour as a committee "of not more than five independent members"; under resolution 290 (XI), it referred to "a group of three to five experts"; and under resolution 390 H (XIII), it referred to a committee of "no less than five and no more than nine members".

168/ Under resolution 221 (IX), the Council referred to a "small group of experts"; also under resolutions 290 (XI) and 434 B (XIV). Under resolution 345 A (XII) the Council referred to a small ad hoc committee of experts. Under resolution 147 C (VII) it referred to "a meeting of inland transport experts of the countries represented on the Economic Commission for Asia and the Far East".

169/ Under resolution 202 (VIII), the Council referred to "a team of two experts in the international administration and control of narcotic drugs, and a team of two medical experts"; under resolution 390 H (XIII), it specified that the membership of the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations was to include "a representative of the International Institute for the Unification of Private Law".

170/ Under resolution 350 (XII), the Council referred to "independent members, qualified by their competence and impartiality"; under resolution 416 A (XIV), on the methods of financing economic development it referred to a committee of "persons who shall be chosen from various parts of the world so as to reflect adequately the geographical distribution of the States Members of the United Nations, and who shall have the experience and high ability required by the importance and complexity of the task entrusted to them".

96. The standing committees, 171/ sessional committees, 172/ ad hoc drafting committees or groups, 173/ have either been committees of the whole of the Council or have been composed of members of the Council appointed by the President.

97. The membership of ACC, TAB, and the Interim Co-ordinating Committee for International Commodity Arrangements, has been described in connexion with the account of the method of their establishment (see paragraphs 47-49 above).

E. Duration and termination 174/

1. Functional commissions and sub-commissions

98. The functional commissions have been established without indication of duration, to remain in existence unless the Council decides otherwise. The first such decision of the Council was the abolition 175/ of the two sub-commissions of the Economic and Employment Commission, which was itself discontinued when the Council reviewed its organization and operation at its thirteenth session. At the same session, the Council discontinued the Sub-Commission on Statistical Sampling, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, 176/ and the Sub-Commission on Freedom of Information and of the Press. 177/ The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities was reconvened 178/ upon the invitation of the General Assembly. 179/ In reviewing its organization at its eighteenth session, the Council discontinued the Fiscal Commission 180/ and did not re-establish the commission and sub-commissions previously abolished.

2. Regional economic commissions

99. The original terms of reference of the three regional economic commissions laid down that the Council would determine, not later than 1951, whether they should be terminated or continued. 181/ The Council, at its thirteenth session, reviewed their

171/ The Committee on Negotiations with Specialized Agencies is composed of eleven or twelve members. The Technical Assistance Committee is a committee of the whole. The Council Committee on Non-Governmental Organizations has seven members elected each year at the resumed second regular session of the Council (decision of 5 August 1954). The Interim Committee on Programme of Conferences has five members appointed by the President.

172/ The Economic Committee, the Social Committee and the Co-ordination Committee are committees of the whole.

173/ The number of members was varied according to the decisions under which the Council has established the committees or groups. For example, the Drafting Committee charged with drafting a resolution on the report of ECE (E S C (VII), 187th mtg., p. 182) included four members of the Council, while the Drafting Committee charged with drafting a resolution on the report of ECAFE (E S C (VII), 190th mtg., pp. 248-250) included five members.

174/ See also in the Analytical Summary of Practice, paras. 35-49 below.

175/ E S C resolution 295 A (XI). Under this same resolution, the name of the commission was changed to the Economic, Employment and Development Commission.

176/ E S C resolution 414 (XIII); see also E S C resolution 557 C,I (XVIII).

177/ E S C resolution 414 (XIII).

178/ E S C resolution 443 (XIV).

179/ G A resolution 532 B (VI).

180/ E S C resolutions 557 C,I (XVIII) and 557 C,II (XVIII).

181/ ECE: E S C resolution 36 (IV); ECAFE: E S C resolution 37 (IV); ECLA: E S C resolution 106 (VI).

operation and decided 182/ to continue them indefinitely, as recommended by the General Assembly. 183/ It also made some amendments to their terms of reference and provided that the Council would, from time to time, review their work. 184/

3. Committees of the Council and other subsidiary bodies

100. The standing committees of the Council, the Interim Co-ordinating Committee for International Commodity Arrangements, ACC and TAB were to remain in existence unless specifically discontinued by the Council.

101. The sessional committees have been reconstituted at each session when the Council has referred items on its agenda to them. The expiration of *ad hoc* committees of government representatives or experts has been coterminous with the date at which they have adopted their final recommendations or reports.

F. Sessions or meetings

102. It is provided in rule 1 of the rules of procedure of the functional commissions that they hold one session annually unless the Council decides otherwise. 185/ The Council, under resolution 557 C (XVIII), decided to convene the Population Commission, the Statistical Commission, the Social Commission and the Transport and Communications Commission once every two years, unless special circumstances led the Secretary-General to make other proposals on the subject and these were approved by the Council. 186/

103. Under rule 3, the functional commissions were to meet "at the seat of the United Nations" unless otherwise decided by the Council, taking into account any recommendation of the commission and in consultation with the Secretary-General. 187/ Furthermore, the General Assembly, by resolution 694 (VII), under which it established a regular pattern of conferences for a period of four years, specified that:

"Sessions of a functional commission or of functional commissions (but preferably not more than one) of the Economic and Social Council, to be determined by the Economic and Social Council, would meet in Geneva without overlap for a total period not exceeding five weeks between mid-March and the end of April."

182/ E S C resolution 414 (XIII); see also G A (VI), Suppl. No. 3 (A/1884), para. 84.

183/ G A resolution 409 A (V).

184/ E S C resolution 414 (XIII).

185/ Under the rules of procedure of the functional commissions adopted at the fifth session, certain commissions have met twice a year unless the Council has decided otherwise. The provision was deleted at the tenth session of the Council. The rules do not apply to the Commission on International Commodity Trade, since its rules of procedure have not yet been established.

186/ E S C resolution 557 C, IV (XVIII). The Commission on Human Rights, the Commission on the Status of Women, and the Commission on Narcotic Drugs were to meet annually. The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities is also to meet every year. See E S C resolutions 414 (XIII) and 451 (XIV) for earlier decisions.

187/ The terms of reference of the Commission on International Commodity Trade (E S C resolution 557 F (XVIII)) provide that it can meet "as frequently as it considers necessary" when specific items have been proposed for discussion. Subject to prior approval by the Council, and in accordance with the decisions of the General Assembly, the Commission may hold meetings away from Headquarters if it is in the interest of its work.

104. The rules of procedure of the regional commissions have not prescribed the frequency of their sessions, but, because of the requirement that they report annually to the Council, they have in fact generally met once a year. Both ECE and ECAFE (after initially meeting twice a year) have held one plenary session a year, whereas ECLA has, since 1951, scheduled a plenary session every two years and a meeting of the committee of the whole in alternate years. The dates for the sessions have been recommended by the Commission, subject to the approval of the Council. In the case of ECAFE and ECLA, the place of the sessions has also been subject to approval by the Council. Sessions of ECE have been held at the European Office of the United Nations, the concurrence of the Secretary-General being required to hold a particular session elsewhere. 188/

105. The Council has each year adopted its calendar of conferences for the coming year on the basis of a draft programme, established by the Secretary-General in consultation with the Interim Committee on Programme of Conferences, which has taken into account the recommendations of the commissions and committees concerned. Subsequent adjustments in the dates of meetings or sessions might be made by the Secretary-General in consultation with the Interim Committee, and, in the case of the functional commissions, "whenever practicable, with the Chairman of the Commission". 189/

G. Method of reporting 190/

106. Under rule 38 of their rules of procedure, 191/ the functional commissions are required to report to the Council on the work of each session. Until the tenth session of the Council, the rule included a provision under which their reports were presented to the Council by a rapporteur or by such other members of the commission as it might decide. With regard to the form of the reports, rule 39 provides that a commission recommendation for action by the Council must, so far as practicable, be framed as a draft resolution of the Council. 192/

107. The sub-commissions have reported to the parent commission. However, before its abolition, the Sub-Commission on Freedom of Information and of the Press reported to the Council, except on certain matters when it reported to the Commission on Human Rights. 193/

188/ See in the Analytical Summary of Practice, paras. 195-201 below.

189/ Rule 2 of the rules of procedure of the functional commissions.

190/ It is to be noted that an organ not subsidiary to the Council has been directed by and has reported to it: the Executive Board of the United Nations Children's Fund (UNICEF), under General Assembly resolution 417 (V), has exercised its functions in accordance with principles laid down by the Council and the Social Commission and has reported to both organs.

191/ The Commission on International Commodity Trade constitutes an exception, since its rules of procedure are not yet established.

192/ At its third session, the Statistical Commission expressed the view that much of the technical advice of the commission was in furtherance of more general authorization already given by the Council, and therefore did not call for detailed resolutions addressed to the Council (E S C (III), Suppl. No. 5, annex 12 (E/183), para. 26).

193/ E S C resolution 197 (VIII). It may also be noted that the Working Group for Asia and the Far East of the Temporary Sub-Commission on the Reconstruction of Devastated Areas reported directly to the Council (E S C (XIV), Suppl. No. 10 (E/307/Rev.1)).

108. The committees of the Council have also framed the recommendations in their reports to it in the form of draft resolutions of the Council. On a number of occasions the Chairman or a member of a committee has introduced the report. Drafting or working groups have sometimes reported orally to the Council through their Chairman.

109. In the case of TAB it was required 194/ that it report to TAC, and in the case of the United Nations High Commissioner's Advisory Committee on Refugees, that it report to the High Commissioner. 195/ The Interim Committee on Programme of Conferences was to consult with the Secretary-General, but the Secretary-General was to report to the Council. 196/

110. The terms of reference of the regional economic commissions originally provided for a full report each year on their activities, and interim reports at each session of the Council. The latter provision has since been deleted, 197/ the Council having decided that it did not require, for the time being, interim reports at each session of the Council.

111. Groups of experts set up by resolutions of the Council and appointed by the Secretary-General or by a commission 198/ have, on occasion, been requested to report to a commission of the Council, 199/ or through the Secretary-General. 200/

II. ANALYTICAL SUMMARY OF PRACTICE

A. Types of organs which Article 68 empowers the Council to set up

112. Article 7 provides for the establishment, in accordance with the Charter, of such subsidiary organs as may be found necessary, and Article 68 provides for the setting up of commissions by the Economic and Social Council. 201/

113. The recommendations of the Preparatory Commission of the United Nations regarding the subordinate structure of the Council included the creation of commissions "which might be adequate to deal with the majority of the economic and social questions on

194/ E S C resolution 222 A (IX).

195/ E S C resolution 393 B (XIII).

196/ E S C resolutions 101 (V) and 174 (VII).

197/ E S C resolutions 232 (IX) for ECE, 233 B (IX) for ECAFE, and 234 B (IX) for ECLA.

198/ In this connexion, it should be pointed out that it is not always clear whether expert bodies reporting to commissions should be considered as subsidiary organs of the Council or of the commission concerned.

199/ By resolution 379 B (XIII), the Council requested the Secretary-General to appoint a small group of experts to advise the Transport and Communications Commission on problems relating to the question of the licensing of motor vehicle drivers and to prepare draft regulations thereon.

200/ By resolutions 290 (XI) and 341 A (XII), the Council set up a group of three to five experts to report on alternative practical ways of dealing with the problems of reducing the international impact of recessions, and on national and international measures to mitigate the vulnerability of the economies of under-developed countries to fluctuations in international markets.

201/ While Articles 22 and 29 provide for the setting up of "subsidiary organs" of the General Assembly and the Security Council respectively, no similar provision exists for the Economic and Social Council and the Trusteeship Council.

which the Council initially will need advice", 202/ and the establishment of committees needed by the Council at its first session. 203/ In this connexion, the report of the Preparatory Commission pointed out:

"the need for flexibility in the number of commissions, the scope of their activities, the powers delegated to them, the method of selection of personnel, and the duration of their sitting. Some commissions may be of short life, others are envisaged as permanent subordinate organs. Powers may, on the one hand, be confined to research and publication of long-term studies and, on the other, may extend to administrative and executive action". 204/

114. These comments show that it was envisaged from the outset that the subordinate structure of the Council would include organs of various types, and no constitutional question has subsequently been raised in the Council regarding the type of organs to be set up under Article 68.

115. The Council has, on various occasions, referred to its functional 205/ and regional 206/ commissions as organs established under Article 68.

116. In connexion with the creation of committees of experts, the view was expressed in the Sixth Committee of the General Assembly that the Council was empowered to call upon the assistance of experts under Article 62 (1), another opinion being that such powers derived from Article 68. 207/ The Sixth Committee took no decision on the question, which was not discussed by the Council itself.

117. Among the other organs or bodies established by the Council, the ad hoc committees of government representatives established by various resolutions have had features similar to those of the functional commissions, since their functions have usually been to study, and to make recommendations on, matters defined in their terms of reference, and their membership has included representatives of members and non-members of the Council. Such ad hoc committees, as well as the standing, sessional, and drafting committees, are dealt with in this study in order to give as complete as possible a picture of the various organs or bodies which have assisted the Council in the performance of its functions. In establishing such committees, the Council has, at times, referred to rule 26 of its rules of procedure regarding the committees of the Council. These rules were adopted pursuant to the general provision of Article 72 which empowers the Council to adopt its rules of procedure and therefore to decide on organizational matters.

202/ Report of the Preparatory Commission of the United Nations, PC/20, 23 December 1945, chap. 3, section 4, paras. 13 and 14.

203/ Ibid., para. 42.

204/ Ibid., para. 10.

205/ See, for example, the discussions at the thirteenth session of the Council regarding the organization and operation of the Council and its commissions, and in particular the record of the 92nd meeting of the Co-ordination Committee (E/AC.24/SR.92, p. 8).

206/ With regard to the regional economic commissions, which were not mentioned in the reports of the Preparatory Commission, the discussions of the Council at the fourteenth, fifteenth and seventeenth sessions on the question of voting rights in the regional economic commissions of non-members of the United Nations show clearly that these commissions were established under the provisions of Article 68 of the Charter.

207/ See in this Repertory under Article 62 (4).

118. With regard to ACC, the Preparatory Commission 208/ had contemplated the creation of a co-ordination commission with the same membership and similar functions in order to assist the Council in the performance of its functions under Article 63.

119. Finally, TAB was set up by the Council as part of the machinery required to operate the Expanded Programme of Technical Assistance, the guiding principles of which were approved by the General Assembly.

B. The need for commissions and committees to assist the Council
in carrying out its functions

120. The present section deals with the criteria applied by the Council to set up or to abolish its subsidiary organs and to determine the types of subsidiary organs which would be most appropriate for the kind of assistance required, that is to say, functional commissions, ad hoc committees or groups of experts. 209/

121. Among the principles laid down by the Preparatory Commission of the United Nations for the establishment of subsidiary organs of the Council was one stating that the Council should set up commissions in the spheres of activity in which no specialized agency was established, that "in any event, it is necessary to consider the position in the transitional period before specialized agencies are set up and have been brought into relationship with the United Nations" and that "temporary arrangements may have to be made by the Economic and Social Council to cover this period". The report of the Preparatory Commission also mentioned the need for appropriate machinery to deal with "complex economic and social problems of the gravest urgency arising out of the war". It specified that provision would have to be made "for the continuance of certain functions and activities of the League of Nations in the fields covered by the Council". Finally, the report stressed "the importance of co-ordination of activities in fields which are closely inter-related". 210/

122. When the Council established its first commissions, it usually indicated in their terms of reference that it required their advice or assistance in the fields covered by their functions in order "to enable it to discharge this responsibility". The same applied to commissions later set up by the Council. Thus, the resolution 211/ by which the Council provided for the future establishment of the Commission on International Commodity Trade specified that "all the reports /submitted upon this subject/ emphasize the need for devising effective measures of international co-operation to solve the grave problems of the inadequacy and instability of the proceeds of primary commodity exports" and that "it is necessary to establish specialized machinery, within the framework of the United Nations, permanently concerned with the examination of proposals capable of offering satisfactory solutions".

123. The practice of the Council has not shown any clear differentiation between the establishment of commissions under the mandatory clause "shall be set up" and the establishment of commissions under the contingency clause which refers to commissions "which may be required", and in all cases the Council has considered the question of the need for such organs.

208/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. III, section 5, paras. 12-14.

209/ For a study of the question as to whether a specialized agency or a subsidiary organ should be set up to deal with a certain problem, see in this Repertory under Article 63.

210/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. III, section 4, paras. 6, 7, 9 and 11.

211/ E S C resolution 512 A (XVII).

124. With regard to ad hoc committees or groups of experts, the Council has usually indicated the reasons for their establishment in the preamble of the resolutions setting forth their terms of reference. Thus, in connexion with the question of a draft Convention on Declaration of Death of Missing Persons, the Council, "Noting that the questions raised by this draft convention have a complex legal character", established an ad hoc committee of experts to deal with these questions. 212/

125. When the Council, at its thirteenth session, reviewed its organization and operation, as well as that of its commissions, it had before it the report 213/ of the Ad Hoc Committee on the organization and operation of the Council and its commissions, 214/ which set forth general principles regarding the requirements and the characteristics of the subsidiary organs of the Council. In particular, the Ad Hoc Committee stressed in its report that "the first function of subsidiary organs of the Council is to extend to the Council help and advice of a kind which the Council is unable to obtain from its own resources or through the Secretariat. The initiative should always lie with the Council, therefore, to decide if it requires specific additional help or advice in the solution of a particular problem and, if so, what type of help or advice."

126. The Ad Hoc Committee favoured the establishment of subsidiary organs on an ad hoc basis rather than as permanent commissions and pointed out that "Subsidiary bodies should only be set up, however, to perform tasks of the highest priority, of real international concern, which require immediate consideration and which can best be solved by international co-operation." 215/ It further noted that "If a problem calls for expert analysis, the subsidiary organ should consist of a panel of experts chosen for their personal qualifications; if the Council wishes to take political soundings, the subsidiary organ should consist of representatives of governments. It is usually inadvisable to attempt to combine both these functions in a single body." 216/

127. When the Council considered the recommendations of the Ad Hoc Committee regarding the abolition of certain functional commissions, the views set forth below were among those expressed 217/ on the question of need for such organs by representatives favouring their maintenance. It was contended that: (1) the Council itself was not in a position to give certain matters the time and attention they deserved; (2) the agenda of the Council was already over-burdened and if the Council discontinued certain functional commissions, arrangements should be made for dealing adequately with the questions formerly studied by these commissions; (3) the Commission on Human Rights and the Commission on the Status of Women were required under the terms of Article 68. 218/

212/ E S C resolution 209 (VIII).

213/ E S C (XIII), Annexes, a.i. 36, E/1995 and Corr.1, para. 15.

214/ The Ad Hoc Committee had been established by E S C resolution 295 B (XI).

215/ E S C (XIII), Annexes, a.i. 36, E/1995 and Corr.1, para. 16.

216/ Ibid., para. 15.

217/ For texts of relevant statements, see: E/AC.24/SR.91, Pakistan, p. 4; E/AC.24/SR.92, Chile, pp. 16 and 18; Philippines, p. 8; E/AC.24/SR.93, Pakistan, p. 12.

218/ It may be noted that the Ad Hoc Committee on the organization and operation of the Council and its commissions had recommended to the Council that "the Commission on Narcotic Drugs continue in its existing form until it has completed the single convention on narcotic drugs"; the Committee recognized the special nature of the Commission which performs specific duties under international treaties (E S C (XIII), Annexes, a.i. 36, E/1995 & Corr.1, para. 20 (xii), and appendix A, pp. 11 and 12).

128. The views set forth below were among those expressed 219/ by representatives who favoured the abolition of all or most of the functional commissions. It was stated that: (1) such commissions tended to become inter-governmental organs which duplicated the discussions of the Council, since their members were in practice representatives of Governments; (2) small groups of experts to prepare the work for the consideration of the Council should be set up; (3) there was undue overlapping between the work of certain commissions and that of others.

129. Still other representatives who, while favouring the abolition of some commissions, proposed the maintenance of others, expressed the views, among others, that: (1) such organs could take into account both political and technical considerations when presenting recommendations to the Council, but could meet less frequently than in the past; (2) the discontinuance of most commissions would reduce the number of Member States which could participate in the work of the Council and its commissions, and would be contrary to the recommendations of the General Assembly under resolution 409 B (V). 220/

130. The Council, by resolution 414 (XIII), approved the general principles expressed by its Ad Hoc Committee on the question of the reorganization of the functional commissions. On a trial basis, the Council temporarily discontinued the Economic, Employment and Development Commission and all sub-commissions, with the exception of the Sub-Commission on Freedom of Information and of the Press, which was to hold one more session. The work of these organs was to be taken over either by the Council itself, the regional economic commissions, the parent commissions, the Secretary-General, or ad hoc bodies. Moreover, six of the functional commissions were to meet every two years unless special circumstances justified more frequent sessions, and two commissions every year.

131. With regard to the regional economic commissions, the General Assembly had expressed the opinion 221/ that they should be maintained. The Council expressed unanimous appreciation of their work and, by resolution 414 C (XIII), decided to continue them indefinitely; it also stressed the importance which the Governments represented on the commissions attached to their programmes, and endorsed their further development. Under the same resolution, the Council further decided to review the question of its own organization after three years.

132. During this trial period, however, the Council decided, upon the invitation of the General Assembly, 222/ to re-establish 223/ the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities and to convene 224/ the Commission on the Status of Women annually rather than every two years.

133. At its eighteenth session, the Council reviewed its organization on the basis of past experience and, by resolution 557 C (XVIII), confirmed the measures taken at its thirteenth session regarding the permanent commissions and sub-commissions, as amended during the trial period. It further decided to discontinue the Fiscal Commission on the

219/ For texts of relevant statements, see E/AC.24/SR.92, United Kingdom, p. 5; USSR, p. 12; France, p. 14; Chile, p. 16.

220/ See paras. 142-179.

221/ G A resolution 409 A (V).

222/ G A resolution 532 B (VI): Sub-Commission on the Prevention of Discrimination and the Protection of Minorities; G A resolution 532 A (VI): Commission on the Status of Women.

223/ E S C resolution 443 (XIV).

224/ E S C resolution 445 I (XIV).

basis of criteria, set forth below, which are significant in relation to the question of the need for a commission. The relevant portion of resolution 557 C, II (XVIII) reads as follows:

"The Economic and Social Council,

".....

"Recognizing that the fiscal aspects of economic problems are important; that the fiscal work of the United Nations is well established; and that the Secretariat has received adequate guidance from the Fiscal Commission and the Council,

"1. Considers that the activity of the Fiscal Commission is no longer necessary."

134. With regard to the Economic, Employment and Development Commission, the Council, "Recognizing the strong desire expressed in the Council" for its re-establishment, requested 225/ the Secretary-General to study the question of the terms of reference of the Commission. At the resumed part of the eighteenth session, the Council considered the report 226/ of the Secretary-General, and decided 227/ to defer consideration of the re-establishment of the Commission until its resumed twentieth session in 1955.

C. Character of membership of the functional commissions and sub-commissions

135. The Charter provides no guidance on the question of the composition of the functional commissions.

136. The Preparatory Commission of the United Nations recommended that commissions should be composed of "a majority of responsible highly-qualified governmental representatives". 228/ However, when the Second and Third Committees of the General Assembly, at its first session, considered the report of the Preparatory Commission, it was emphasized that "no limitation should be put on the Council in choosing the members of the Commissions". 229/ When the Economic and Social Council met in January 1946, its Committee on Organization 230/ considered the question of the composition of the commissions. While some representatives in the Committee favoured the setting up of commissions composed of government representatives, others considered that they should be composed of experts acting in their individual capacity. 231/ In view of the urgency of setting up the commissions, and the need for careful selection of the members at an early stage, it was decided that the commissions should temporarily be composed of a nucleus of nine members appointed for one year in their individual capacity. The Commission on Narcotic Drugs constituted an exception, being from the outset composed of representatives of Governments. The initial commissions made recommendations to the Council at its second session with regard to the completion of the membership of each commission and favoured commissions composed of Members appointed in their individual capacity, whether or not they were government officials.

225/ E S C resolution 557 C, I (XVIII).

226/ E/2665 and Corr.1.

227/ E S C resolution 558 (XVIII).

228/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. III, section 4, para. 37.

229/ G A (I/1), Plen., p. 297, A/16, and p. 573, annex 3 (A/17).

230/ Committee on the Organization of the Economic and Social Council set up at the first session of the Council (E S C (I), 2nd mtg., p. 41).

231/ E/ORG.3-9.

137. In the course of discussion of a draft resolution relating to the composition of the commissions submitted by a drafting committee at the second session of the Council, opinion was divided as to the desirability of commissions composed exclusively of government representatives or commissions composed of non-governmental experts. The Council agreed, however, that Governments elected to membership of functional commissions had the option to nominate persons either as government representatives or as experts in an individual capacity, to sit on the commissions. The President stated 232/ that that was a matter "entirely between the nominee and his government". Moreover, it was decided that, "With a view to securing a balanced representation in the various fields covered by the Commission", the Secretary-General was to "consult with the Governments so selected before the representatives are finally nominated by these Governments and confirmed by the Council". This decision was incorporated in resolution 2/12 on the composition of the commissions. 233/ A similar discussion took place at the third session of the Council in the Joint Committee on Composition of Commissions. 234/ Opinion was again divided as to the desirability of commissions composed exclusively of government representatives or commissions composed of non-governmental experts. Intermediate solutions permitting both types of representation were also advocated. The Joint Committee decided that States, not individual representatives, would be elected by the Council to membership of all functional commissions.

138. The character of the membership in functional commissions was again considered at the thirteenth session of the Council by the Ad Hoc Committee on Organization and Operation of the Council and its Commissions. Although the Ad Hoc Committee did not recommend any change in the method of appointing the members of the commission, it expressed the view that experience had shown that the Council tended not to receive the services it required in the case of "large permanent commissions, whose members are neither entirely independent experts nor avowedly governmental representatives". The Committee emphasized that "so long as the present methods of recruitment of functional commissions exist" the Governments should "choose persons of the highest possible degree of expert knowledge". 235/

139. The Council took no specific action on this part of the report, and the method of appointment of the members of the functional commissions remained as established by the Council at its second session.

232/ E S C (II), 15th mtg., p. 135.

233/ At its first, second, fourth and tenth sessions, the Council discussed the question of the status of alternate representatives designated for a session or part of a session. At its tenth session, the Council, by resolution 289 (X), conferred upon alternate representatives the same rights, including the right to vote, as enjoyed by regular members (rule 13 of the rules of procedure of the functional commissions). Members of the Council who had opposed granting the right to vote to alternates had argued that it tended to eliminate the distinction between regular and alternate representatives.

234/ E S C (III), Suppl. No. 2, annex 4a (E/JC.1).

235/ E S C (XIII), Annexes, a.i. 36, E/1995 and Corr.1, paras. 17 and 19.

140. It may be noted that the Commission on International Commodity Trade, constituted at the eighteenth session of the Council, is composed of one representative of each of the eighteen Members of the United Nations elected by the Council. 236/

141. With regard to the sub-commissions, the Council decided at its third session that they were to be composed of members selected in their individual capacity. 237/

D. Distribution of membership in functional commissions and other subsidiary organs of the Council

142. Since their establishment, the Council has elected to the permanent functional commissions States Members of the United Nations, whether or not they were members of the Council. It has followed the same practice with regard to the membership of some of its ad hoc committees.

143. The question of the distribution of membership in the subsidiary organs of the Council was raised at the third session of the General Assembly in connexion with the consideration of the part of the annual report of the Council dealing with its organization. 238/

144. At that session a draft resolution 239/ was submitted to the Joint Second and Third Committee by which the Assembly would recommend to the Council, when electing the members of its commissions, sub-commissions and other working organs, "to take all Members of the United Nations into consideration with a view to utilizing the special services of each one of them". Moreover, the preamble of the draft resolution would affirm that in 1948, out of fifty-eight Members of the United Nations, only thirty-nine were represented on the 120 seats in the functional commissions other than the Commission on Narcotic Drugs.

145. In support of the draft resolution it was contended that all Members of the United Nations could contribute to the work of the Council and the desirability of having the five permanent members of the Security Council represented on all the functional commissions was questioned. It was also observed that the Council too frequently re-elected the same members, and an amendment 240/ was submitted under which a recommendation that due regard be paid to the system of rotation would be included in the draft resolution.

146. In opposition to the draft resolution, the views set forth below were among those expressed. It was stated that: (1) the draft resolution was unnecessary since the practice of the Council gave proper expression to the intention of the Charter and the debate in the Joint Committee would give sufficient guidance to the Council; (2) the

236/ By resolution 557 F (XVIII), the Council stipulated that the Commission was to be composed of "one representative of each of eighteen States Members of the United Nations elected by the Council, bearing in mind the need to ensure adequate representation of all geographical regions and of countries in various stages of development which participate to an important extent in international commodity trade and/or are closely dependent thereon".

237/ For example, resolution 1 (III), regarding the sub-commissions of the Economic and Employment Commission, provided that they would be composed of "persons selected by the Commission in consultation with the Secretary-General and subject to the consent of the Governments of the countries of which the persons are nationals".

238/ G A (III/1), Joint 2nd and 3rd Com., 25th - 28th mtgs., pp. 2-40.

239/ Ibid., 25th mtg., p. 8, A/C.2 and 3/69.

240/ Ibid., 27th mtg., p. 23, A/C.2 and 3/70.

system of election to the commissions by secret ballot was the most democratic possible, and under this system any Member of the United Nations could be elected to a commission; (3) a formal requirement of representation by region or by rotation would detract from the democratic character of the elections and would introduce a system of designation and of arbitrary compulsory participation; (4) with regard to the re-election of the permanent members of the Security Council, their economic and social importance in the world and the experience and competence of their staff made their presence especially useful in the work of the subsidiary organs of the Council; (5) the number of States represented on the commissions should be compared to the number of Members of the United Nations which actually wished to participate in the work of the commissions and not to the total membership of the United Nations. 241/ It was proposed that the Council pay due regard to both geographical distribution and to the special contribution each of the Members might bring to the work of the Council. 242/

147. A revised text of the draft resolution 243/ was adopted unanimously by the General Assembly and became resolution 207 (III). By this resolution, after stating that it would be beneficial if all Members of the United Nations could co-operate in the subsidiary organs of the Council, the Assembly recommended

"the Economic and Social Council, in the election of Member States entitled to nominate members of functional commissions, and in elections and arrangements for elections of members of other subsidiary bodies, to take all Members of the United Nations into consideration, with due regard to an equitable geographical distribution, to the special contribution each of the Member States may bring to the work of the Council, and to their ability to take effective action in response to their election." 244/

148. The Council, at its eighth session, took note 245/ of this resolution and, at the ninth session, the attention of the Council was again drawn to this resolution by the President before the election for renewal of membership of the commissions took place. 246/

149. The question of a broader distribution of membership in the subsidiary organs of the Council was raised again at the fifth session of the General Assembly, when the Joint Second and Third Committee considered the section of the annual report of the Council dealing with organizational matters and, in particular, with the decision 247/ of the Council to set up the Ad Hoc Committee on Organization and Operation of the Council and its Commissions. In the course of the debate, a draft resolution 248/ was submitted by which the Assembly would draw the attention of the Ad Hoc Committee to the necessity of taking the provisions of resolution 207 (III) into consideration. Under a further draft resolution 249/ it would be suggested that the largest number of Member

241/ G A (III/1), Plen., Annexes, pp. 327-333, A/711 and Corr.1.

242/ G A (III/1), Joint 2nd and 3rd Com., 27th mtg., p. 33.

243/ A drafting committee prepared the text adopted by the Joint Second and Third Committee and subsequently by the General Assembly (G A (III/1), Joint 2nd and 3rd Com., Annexes, p. 5, A/C.2 and 3/75, para. 12).

244/ It is to be noted that, in presenting the resolution to the General Assembly, the Joint Committee considered that it did not require the Council to change its rule of procedure regarding the selection of the members of its subsidiary organs (G A (III/1), Plen., Annexes, p. 327, A/711 and Corr.1, para. 23).

245/ E S C resolution 215 (VIII).

246/ G A (IV), Suppl. No. 3 (A/972), para. 33.

247/ E S C resolution 295 (XI).

248/ G A (V), Annexes, vol. I, a.i. 12 and 29, p. 15, A/C.2 and 3/L.17.

249/ G A (V), Annexes, vol. I, a.i. 12 and 29, p. 15, A/C.2 and 3/L.18/Rev.3.

States compatible with efficacy should be enabled to participate in the organization and work of the Council and its commissions. Both draft resolutions were adopted by the General Assembly and became resolutions 409 B and C (V).

150. Subsequently, on the basis of the recommendations of its Ad Hoc Committee, the Council, at its thirteenth session, increased 250/ the membership of the Commission on the Status of Women and of the Population Commission, and established 251/ a procedure enabling all Members of the United Nations to indicate their interest in serving on the functional commissions. Under this procedure, the Secretary-General was to inform the Member States annually of the forthcoming vacancies in the commissions to be filled by the Council, and to request them to indicate those on which they would like to serve, and the experience and fields of interest of individuals who might represent them. The procedure did not prevent the Governments elected from nominating other officials, if necessary, or from sending alternate representatives.

151. When the Council reviewed its organization at its eighteenth session, 252/ it confirmed 253/ the procedure established at the thirteenth session.

E. The question of membership in the regional economic commissions

152. The practice of the regional economic commissions with regard to membership and participation is based on the following two principles: (1) that all countries or territories within a given region should be able to participate in the economic commission for that region; and (2) that countries outside a particular region may nevertheless have a special interest in the work of the economic commission covering that region, and should therefore be able to participate in the work or in some aspect of the work of the commission concerned.

153. Under the first of these principles, the Council has provided for: (1) membership of all Members of the United Nations within the geographic scope of each regional commission; and (2) associate membership in ECAFE and ECLA for countries not Members of the United Nations and for territories not responsible for their own international relations, within the geographic scope of these Commissions, and for consultative participation in ECE of European countries not Members of the United Nations, with the exception of Spain. 254/ In the case of ECE, provision was also made for consultation with the representatives of the respective Allied Control Authorities of the occupied territories and for participation 256/ of representatives of the Free Territory of Trieste when it was established.

250/ E S C resolution 414 (XIII), sections B.V and B.VI. The membership of the Statistical Commission was increased from 12 to 15 at the eleventh session of the Council (E S C resolution 299 G (XI)).

251/ E S C resolution 414 (XIII), section B.IV.

252/ With regard to the membership of committees, it may be noted that a proposal was made at the eighteenth session of the Council to enlarge TAC by the annual election of two States not Members of the United Nations and two States Members of the United Nations but not represented on the Council. Since the Committee decided to postpone consideration of this question, no action was taken by the Council. (E S C (XVIII), Annexes, a.i. 8, p. 13, E/2637, para. 21; E S C (XVIII), 820th mtg. See also G A (IX), 2nd Com., 315th, 316th, 319th and 320th mtgs.)

253/ E S C resolution 557 (XVIII).

254/ See paras. 85-93 and footnote 153 above.

255/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, p. 98, para. 10.

256/ Ibid., para. 9; see also S/3301 and S/3305.

154. Under the second of the above-mentioned principles, the United States is a member of ECE, and the membership of ECAFE and ECLA includes several Members of the United Nations situated outside the respective regions of these Commissions. 257/ Also, in the case of all three regional commissions, the terms of reference have provided 258/ for consultative participation of Members of the United Nations not members of the Commission, in any matter of special concern to them. In the case of ECAFE, until Korea and Japan were included in the geographic scope of the Commission and the Republic of Korea and Japan became associate members, its terms of reference provided 259/ for consultation with representatives of the respective control authorities in Japan and Korea. Acting on the same principle, the Council authorized 260/ certain consultative participants in ECE, not Members of the United Nations, to take part in the second ECAFE Conference on Trade Promotion on the same basis as Members of the United Nations not members of the Commission, and authorized Italy to participate in sessions of ECLA on a similar basis. 261/

155. It has been thought convenient to examine under the heading of each Commission the practical problems to which the application of these principles have given rise, particularly in regard to the participation of countries and territories not Members of the United Nations.

1. *The Economic Commission for Europe*

a. COUNTRIES IN CONSULTATIVE STATUS

156. Paragraph 8 of the original terms of reference of ECE 262/ provided that

"The Commission may admit in a consultative capacity European Nations not Members of the United Nations, and shall determine the conditions in which they may participate in its work".

157. At the first session of ECE, 263/ the Executive Secretary was authorized to invite such countries (with the exception of the Franco Government of Spain) whose co-operation would be of value to the Commission in its work. He has made it a practice to invite the following countries to participate in the sessions of the Commission and its subsidiary bodies: Albania, Austria, Bulgaria, Finland, Hungary, Ireland, Italy, Portugal, Romania and Switzerland.

158. At the sixth session of ECE, a draft resolution was submitted under which full voting rights in the Commission would have been accorded to States not Members of the United Nations which took an active part in the work of the Commission in a consultative capacity. This draft resolution was rejected by the Commission which, instead, adopted a resolution referring the matter to the Economic and Social Council on the grounds that "a change of the Commission's rules relating to voting rights involves questions of principle which have a bearing upon the work of other United Nations organs and therefore are outside the competence of the Commission". 264/

257/ See paras. 85-93 above.

258/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, p. 98, para. 11; p. 100, para. 9; p. 102, para. 6.

259/ E S C resolution 69 (V), para. 4.

260/ E S C resolution 459 (XIV); see also in this Repertory under Article 69.

261/ E S C resolution 515 B (XVII); see also in this Repertory under Article 69.

262/ E S C resolution 36 (IV).

263/ E/ECE/33.

264/ E S C (XIII), Suppl. No. 6 (E/2002), resolution 3.

159. The Council considered this question at its thirteenth session. 265/ The Assistant Secretary-General in charge of the Department of Economic Affairs read a statement prepared by the Legal Adviser to the Council, in which reference was made to the proceedings at Dumbarton Oaks and San Francisco, to the views of the joint sub-committee of the Second and Third Committees established at the first session of the General Assembly, 266/ and to the practice of granting full membership including the right to vote in UNICEF to certain States not Members of the United Nations, and in which the opinion was expressed that the Council, having wide discretion in determining the composition of its commissions, might accord to non-member States the right to vote in ECE.

160. A draft resolution under which voting rights in the Commission would have been accorded to countries not Members of the United Nations was rejected. A resolution 267/ was adopted, by which the Council expressed the opinion that "for the time being, no change should be made as to voting rights in so far as the Commission itself is concerned" and decided to amend paragraph 8 of the terms of reference of the Commission to read as follows:

"(8) The Commission may admit in a consultative capacity European nations not members of the United Nations, and shall determine the conditions in which they may participate in its work, including the question of voting rights in the subsidiary bodies of the Commission."

161. At its seventh session, ECE adopted 268/ a resolution by which it took note of this decision of the Council and requested its subsidiary bodies to grant voting rights to European nations not Members of the United Nations admitted to participate in the work of the Commission in a consultative capacity. In connexion with this resolution, the following paragraph was inserted in the annual report of the Commission: 269/

"In unanimously adopting the resolution on Voting Rights of European Nations not members of the United Nations the Commission has taken note of the fact that the decision of the Economic and Social Council concerning the granting of the right to vote in the Commission to countries not members of the United Nations was taken 'for the time being'. The Commission concludes therefrom that the Economic and Social Council is keeping the question under constant review with regard to the importance of the problem of equal status of all countries participating in the Commission's activities. A number of delegations to the seventh session of the Economic Commission for Europe have expressed the wish that the Council will grant voting rights to non-members of the United Nations in the Commission itself at the earliest possible moment."

162. The Council, at its fourteenth session, in connexion with its consideration 270/ of the annual report of ECE and in particular the resolution referred to above, rejected a draft resolution by which it would have accorded voting rights in the Commission to European nations not Members of the United Nations.

163. The matter was raised again at the eighth session of ECE when a draft resolution by which voting rights would have been accorded to countries not Members of the United Nations, was rejected. 271/

265/ E S C (XIII), 555th and 556th mtgs.

266/ G A (I/1), Plen., p. 297, A/16 and p. 573, annex 3 (A/17).

267/ E S C resolution 414 (XIII), section C.II.

268/ E S C (XIV), Suppl. No. 5 (E/2187), p. 20, resolution 1.

269/ Ibid., p. 14, para. 149.

270/ E S C (XIV), 594th to 596th mtgs.

271/ E/ECE/SR.8/12 and E/ECE/SR.8/24.

164. At its sixteenth session, the Council decided 272/ to defer consideration of the question of admission to membership in the regional economic commissions of States not Members of the United Nations, and the question was accordingly included in the provisional agenda of the seventeenth session. Prior to this decision, in response to a request made by the Council for a legal study of the question, the Secretary-General had circulated a memorandum. 273/

165. At its seventeenth session, the Council rejected a proposal to grant membership to all countries, not Members of the United Nations, participating in ECE in a consultative capacity. It adopted a resolution 274/ by which it noted that the General Assembly had determined that Austria, Finland, Ireland, Italy and Portugal were eligible for membership in the United Nations, and decided to amend paragraph 7 of the terms of reference of ECE to include these countries as members provided that they applied for membership and agreed to comply with certain conditions.

b. GERMANY

166. Under its terms of reference, ECE may "consult with the representatives of the respective Allied Control Authorities of the occupied territories". 275/ In practice this has made possible the participation by experts from both the eastern zone and the western zones of Germany in the work of the subsidiary bodies of ECE. At the ninth session of ECE, it was proposed that representatives of the German Democratic Republic and of the Federal Republic of Germany be invited to take part in the work of the Commission under paragraph 8 of its terms of reference. In the course of the discussion, it was maintained that it was open to experts from the occupied zones of Germany, under paragraph 10 of the terms of reference, to sit in the plenary sessions of the Commission as members of the delegations of the Occupying Powers. It was decided not to vote on the draft resolution, but to include a summary of the discussion and the text of the draft resolution in the report of the Commission to the Council. 276/

2. The Economic Commission for Asia and the Far East

a. ASSOCIATE MEMBERS

167. The question of membership in ECAFE of non-member States of the United Nations was taken up by the ECAFE committee of the whole, meeting at Lake Success in July 1947, 277/ in connexion with the question of membership for the Non-Self-Governing Territories. In a statement 278/ at that meeting, the Assistant Secretary-General for Legal Affairs of the United Nations concluded that, although there was no explicit provision in the Charter on the subject, the Charter, in spirit and in principle, envisaged a clear difference between Members and non-members and that this difference rested upon the fundamental principle that rights of membership should not be granted unless obligations of membership were also assumed. Consequently, he considered that full membership should only be granted to non-member States in very exceptional circumstances. With regard to the Non-Self-Governing Territories, he stressed that full membership would also be contrary to the special régime set up for those

272/ E S C (XVI), 705th mtg.

273/ E S C (XVII), Annexes, a.i. 8, p. 1, E/2458.

274/ E S C resolution 517 B (XVII). Under this resolution, Italy became a member of ECE on 19 July 1954. See also G A (IX), Suppl. No. 3 (A/2686), paras. 87-95.

275/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, para. 10.

276/ E S C (XVIII), Suppl. No. 3 (E/2556), paras. 148-159.

277/ E S C (V), Suppl. No. 6 (E/452 and E/491), part II.

278/ E/CN.11/AC.1/9.

Territories in Chapters XI, XII and XIII. He noted, however, that the Economic and Social Council had full power to provide for the co-operation of those Territories with the consent of the metropolitan Power but such co-operation must fall short of full membership.

168. The Committee rejected a proposal to admit as full members of the Commission "countries and territories within the geographical scope of the Commission, which are not Members of the United Nations". Instead, the formula of associate membership was adopted, by which such countries and territories could participate without voting rights in meetings of the Commission. 279/

169. The Council, at its fifth session, received the report of the ECAFE committee of the whole referred to above. In the course of consideration of the question of membership by the Council 280/ and by the Economic Committee, 281/ there was virtually no change in the attitudes of representatives as expressed at the earlier meeting of the ECAFE committee of the whole. The Council adopted a resolution 282/ adding to the terms of reference of ECAFE provisions relating to the concept of associate membership for the Non-Self-Governing Territories in the region as well as for countries responsible for the conduct of their own international relations which were not Members of the United Nations.

170. It subsequently became customary for associate members to vote in subsidiary bodies of the Commission, since such voting was not specifically excluded by the terms of reference of the Commission. At its seventh session, the Commission recommended 283/ the amendment of its terms of reference to formalize this practice of voting in subsidiary bodies, and the amendment was approved by the Council at its thirteenth session. 284/

171. At its ninth session, the Commission had before it a proposal to amend paragraph 3 of its terms of reference by adding the following provision:

"provided also that any associate member of the Commission that has applied for membership in the United Nations Organization and has received a number of votes which the Economic and Social Council considers sufficient shall thereon be admitted as a member of the Commission". 285/

172. After discussion, a resolution was adopted by which ECAFE recommended that the Council "admit to membership ... those associate members who are responsible for their own international relations and who apply to the Commission for such membership". 286/

173. The Council, at its fifteenth session, considered this recommendation and had before it in this connexion a draft resolution 287/ by which it would admit the following associate member countries to membership of ECAFE: Cambodia, Ceylon, Japan, the Republic of Korea, Laos, Nepal and Viet-Nam. In the course of a lengthy discussion, 288/ questions were raised whether the Council had the power under the

279/ E S C (V), Suppl. No. 6 (E/452 and E/491), part II, pp. 19 and 20.

280/ E S C (V), 100th, 101st and 106th mtgs.

281/ E/AC.6/SR.8.

282/ E S C resolution 69 (V).

283/ E S C (XIII), Suppl. No. 7 (E/1981), p. 42.

284/ E S C resolution 414 (XIII), section C.I.

285/ E S C (XV), Suppl. No. 6 (E/2374), para. 175.

286/ Ibid., para. 180.

287/ E S C (XV), Annexes, a.i. 5, p. 2, E/L.504.

288/ E S C (XV), 699th, 700th, 701st and 703rd mtgs.

Charter to grant voting rights or full membership in its regional economic commissions to States not Members of the United Nations and whether the Council should decide the question of membership for those States by means of a general rule applicable both to ECE and ECAFE or by means of a specific decision applying to one commission in particular. The Council decided to adjourn the debate on this matter to its sixteenth session.

174. As noted above in regard to ECE, the Council, at its sixteenth session, again decided to defer consideration of the question. At its seventeenth session, the Council adopted a resolution, 289/ by which it noted that the General Assembly had determined that Cambodia, Ceylon, the Republic of Korea, Japan, Laos, Nepal and Viet-Nam were eligible for membership in the United Nations, and decided to amend paragraphs 3 and 4 of the terms of reference of ECAFE to permit inclusion of these countries as members, provided that they applied for membership and agreed to comply with certain conditions. A proposal to defer consideration of the admission of Cambodia, Laos, Viet-Nam and the Republic of Korea, on the grounds that their international status required clarification, was rejected. 290/

b. APPLICATIONS FOR ASSOCIATE MEMBERSHIP

175. It is provided under paragraph 5 of the terms of reference of ECAFE that any territory, part or group of territories, within the geographic scope 291/ of the Commission may be admitted as an associate member upon the presentation of its application by the member of the Commission responsible for the conduct of that territory's international relations, or upon its own application if it has become responsible for the conduct of its own international relations.

176. Under this provision, Burma, Ceylon, Hong Kong, the Malayan Union, Cambodia and Laos were admitted as associate members at the second session of ECAFE. 292/ The Commission, on that occasion, also had before it a proposal by the Netherlands to admit the territory of the Netherlands East Indies, and a proposal by India that the Commission accept the application of the Government of the Republic of Indonesia for associate membership. The Commission decided to defer consideration of these applications. Further deferment was decided upon at the third session of ECAFE. 293/ At the fourth session of ECAFE, these applications were again considered 294/ and, after considerable discussion, a proposal was adopted by which "the Republic of Indonesia and the rest of Indonesia" were admitted to associate membership. The representative of the Netherlands stated that the Commission had acted outside its competence, and his delegation withdrew from the session. At the sixth session, the Commission adopted a proposal 295/ submitted by the Netherlands under which it welcomed "the establishment of the Republic of the United States of Indonesia as an independent and sovereign State" and resolved to modify the earlier arrangements by recognizing the Republic as an associate member of the Commission.

289/ E S C resolution 517 A (XVII). Japan, Cambodia and Viet-Nam became members by 1 September 1954 under this resolution.

290/ G A (IX), Suppl. No. 3 (A/2686).

291/ The geographic scope of ECAFE has been enlarged by the Council on several occasions (E S C resolution 187 (VIII) and resolution 419 (XIV)), to permit associate membership of Nepal, the Republic of Korea and Japan. It was also enlarged to include Afghanistan (E S C resolution 516 (XVII)). Except in the case of Korea, this was done at the request of the Commission.

292/ E S C (VI), Suppl. No. 8 (E/606).

293/ E S C (VII), Suppl. No. 12 (E/839).

294/ E S C (VIII), Suppl. No. 3 (E/1088), paras. 23-27 and 29. It may be noted that the area defined as "the rest of Indonesia" did not send representatives to ECAFE at this or subsequent sessions.

295/ E S C (XI), Suppl. No. 8 (E/1710). Subsequently, Indonesia automatically became a full member of ECAFE on becoming a member of the United Nations.

177. The question of associate membership for the Republic of Viet-Nam was discussed at the second, third and fourth sessions of ECAFE. 296/ At the fifth session, 297/ applications for associate membership were received from both the State of Viet-Nam and the Democratic Republic of Viet-Nam. The application of the former was supported by France and that of the latter by the USSR. In opposition to the application by the Democratic Republic of Viet-Nam, it was argued that it did not fulfil the condition of paragraph 3 a (1) (present paragraph 5) of the terms of reference of ECAFE under which an applicant for associate membership may present its own application if it has become responsible for the conduct of its own international relations; it was contended that the Democratic Republic of Viet-Nam had no such relations. A proposal to accept both applications was rejected, since it was felt that the applications were mutually exclusive, both applicants claiming to represent the same territory. The State of Viet-Nam was admitted 298/ to associate membership, and the application of the Democratic Republic of Viet-Nam was rejected.

178. The Commission, at its fifth session, also had before it applications for associate membership from the Republic of Korea and the People's Democratic Republic of Korea. In support of the former application, the representative of the United States cited the terms of General Assembly resolution 195 (III); the application was opposed by the representative of the USSR, who supported the application of the People's Democratic Republic of Korea. The representative of India proposed that both applications be accepted, but this was not agreed to because it was felt that, since both applications related to the whole territory of Korea, they were mutually exclusive. The Republic of Korea was admitted as an associate member, and the application of the People's Democratic Republic of Korea was rejected. 299/

3. *The Economic Commission for Latin America*

179. As noted above, although the terms of reference of ECLA 300/ contain a similar provision to those of ECAFE in regard to associate membership, no applications have as yet been submitted to the Commission.

F. The question of the representation of a Member State in the organs established by the Council 301/

180. The question of the representation of a Member State in the organs established by the Council was first raised at the tenth session of the Council, in connexion with the representation of China. In the course of 1950 the question also arose in the subsidiary organs of the Council.

296/ E S C (VIII), Suppl. No. 3 (E/1088), paras. 28-30.

297/ E S C (XI), Suppl. No. 8 (E/1710), paras. 182-189.

298/ Although the resolution in question (E/CN.11/232/Rev.1) referred to "the State of Viet-Nam", it may be noted that, when the Commission, at its seventh session, recommended amendment of its terms of reference, it specified "Viet-Nam" as an associate member (E S C (XIII), Suppl. No. 7 (E/1981), appendix I, para. 4). The amended terms of reference were approved by the Council at its thirteenth session under resolution 414 (XIII). Subsequently, "Viet-Nam" became eligible for full membership under Council resolution 517 (XVII).

299/ E S C (XI), Suppl. No. 8 (E/1710).

300/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, p. 102, para. 3.

301/ See the reports of the Economic and Social Council to the General Assembly: G A (V), Suppl. No. 3 (A/1345), paras. 44-65; G A (VI), Suppl. No. 3 (A/1884), paras. 94-99; G A (VII), Suppl. No. 3 (A/2172), paras. 85-93; and G A (VIII), Suppl. No. 3 (A/2430), paras. 71-83.

1. Functional commissions and committees

181. During the meetings of the functional commissions, sub-commissions, standing and sessional committees and ad hoc committees held since 1950, statements have been made by members of these organs supporting the announcement of the Central People's Government of the People's Republic of China that that Government did not recognize the right of "the representative of the Kuomintang Group" to represent China. By draft resolutions introduced in the subsidiary organs of the Council, it was proposed to exclude "the representative of the Kuomintang Group", and to seat representatives of the Central People's Government of the People's Republic of China.

182. When the subsidiary organs of the Council first upheld the rulings of their presiding officers to the effect that they were not competent to effect changes in their membership, or that the draft resolutions were out of order, the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR withdrew from the meetings. 302/ They resumed participation in the committees of the Council at the resumed eleventh session of the Council.

183. Thereafter, the decisions of the commissions and committees of the Council regarding the representation of China are set forth below in summary form.

1. Draft resolutions submitted on that subject were rejected, 303/ declared inadmissible, 304/ or ruled out of order. 305/

2. Some commissions decided not to consider the matter, 306/ or to postpone any further consideration of the question. 307/

3. Other commissions, sub-commissions or committees upheld by vote the ruling of the Chairman that the subsidiary organ concerned was not competent to deal with the question. 308/

4. Still other commissions adopted motions calling for the observance of the terms of General Assembly resolution 396 (V), under which the question of the representation of a Member State in the United Nations was to be considered by the General Assembly or by its Interim Committee. 309/

184. In those cases in which no draft resolution or motion was introduced on the question of the representation of China, statements by members of the committees or commissions on this question were incorporated in the records. 310/

302/ For example, the Population Commission: representative of the USSR (E/CN.9/SR.52); the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities: representatives of the USSR and Poland (E/CN.4/Sub.2/SR.47); Interim Committee on Programme of Meetings: representative of the USSR (E/C.4/SR.17).

303/ See E/CN.7/SR.100, p. 5 (fifth session of the Commission on Narcotic Drugs).

304/ See E/CN.9/SR.63, p. 4 (sixth session of the Population Commission).

305/ See E/CN.2/SR.54, p. 6 (sixth session of the Transport and Communications Commission).

306/ See E/CN.6/SR.82, p. 5 (fifth session of the Commission on the Status of Women).

307/ See E/CN.7/SR.156, p. 3 (seventh session of the Commission on Narcotic Drugs).

308/ For example, the Economic and Employment Commission, E/CN.1/SR.106, p. 4.

309/ See E/CN.6/SR.101, p. 6 (sixth session of the Commission on the Status of Women).

310/ The Technical Assistance Committee, E/TAC/SR.58, p. 4; the Commission on Human Rights, E/CN.4/SR.411; the Commission on Narcotic Drugs, E/CN.7/SR.224, p. 6.

185. In connexion with the confirmation of the members of the functional commissions by the Council, statements have also been made in plenary meeting of the Council regarding the question of the representation of China. 311/ Moreover, while the practice of the Council has been to confirm the members of the functional commissions by tacit consent, representatives of the Council have requested that a vote be taken to confirm the nomination of members designated by the Republic of China, 312/ the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR, and the USSR.

2. The Economic Commission for Asia and the Far East

186. At the sixth session of ECAFE, after considering a proposal by which the expulsion of the representative of the Government of the Republic of China would have been called for, the Commission resolved that, without raising the question of its competence to decide upon these subjects, it wished that the matter be decided by a higher body of the United Nations. The representative of the USSR stated that his delegation would not participate in the work of ECAFE so long as "the representative of the 'Kuomintang Group' continued to sit on the Commission, and that his delegation would not be bound by any decisions of the Commission adopted in its absence". 313/

187. The representative of the USSR resumed participation in the work of the Commission at its seventh session. Motions by the USSR calling for the expulsion of the representative of the Government of the Republic of China, as well as of the representatives of the Republic of Korea and of the State of Viet-Nam, and calling for the recognition of the representative of the Central People's Government of the People's Republic of China were rejected by the Commission. 314/

188. At its eighth, 315/ ninth, 316/ and tenth 317/ sessions, the Commission decided to adjourn consideration of the question of the representation of China, Korea and Viet-Nam.

G. The power of subsidiary organs of the Council to adopt rules of procedure

189. The Council has laid down the rules of procedure of its functional commissions and has provided that certain of its own rules shall govern the proceedings of its committees. In the case of the Commission on International Commodity Trade, the Council has requested that Commission to consider its rules of procedure at its first session and to make recommendations thereon. 318/

190. With respect to the regional economic commissions, the Council, in laying down their terms of reference, specified that each commission "shall adopt its own rules of procedure, including the method of selecting its Chairman". 319/ Accordingly, the three

311/ See, for example, E S C (XV), 681st mtg., paras. 54-61.

312/ See, for example, E S C (XVII), 791st mtg., paras. 50-55.

313/ See G A (V), Suppl. No. 3 (A/1345), para. 44; and E S C (XI), Suppl. No. 8 (E/1710), para. 250.

314/ E/CN.11/SR.79, pp. 8-12; E/CN.11/SR.80, pp. 3-6.

315/ E/CN.11/344, pp. 21-25.

316/ E/CN.11/363, pp. 28-30.

317/ E S C (XVII), Suppl. No. 3 (E/2553), para. 168.

318/ E S C resolution 557 H (XVIII).

319/ See footnote 124 above.

regional economic commissions have adopted their own rules of procedure 320/ and have reported any amendments to these rules to the Council in their annual reports.

191. On occasions, the Council has addressed recommendations to the commissions regarding amendment of their rules in certain respects. At its sixth session, the Council requested 321/ ECAFE to consider adding a provision on consultation with non-governmental organizations to its rules of procedure, and the Commission did so at its third session.

192. At its thirteenth session, the Council recommended 322/ to the regional economic commissions to amend their rules concerning the date and place of their sessions, and to consider the desirability of revising their rules on consultative relations with non-governmental organizations. At its eighth session, ECAFE amended 323/ its rules accordingly, and ECLA amended 324/ its rules at the meeting of its committee of the whole in 1952 and at its fifth session.

193. At its seventh session, the view was expressed 325/ by ECE that no change in its rules on consultation with non-governmental organizations was necessary, since, on the one hand, they worked satisfactorily, and, on the other hand, they were in conformity with the spirit of the rules laid down by the Council under resolutions 288 (X) and 414 (XIII). 326/

194. With regard to the recommendation of the Council to amend the rules of the Commission relating to date and place of sessions, some members of the Commission considered 327/ that the rules should be amended, while others contended that there was no need to do so. The views set forth below were among those expressed. It was stated that: (1) the Commission owed it to the Council to accord to the recommendation of the Council the consideration it deserved; (2) since the current rules of procedure regarding the date and place of sessions had given rise to no difficulties in practice, the Commission should defer any action on the recommendation of the Council, which was not couched in mandatory terms, and inform the Council that the appropriate rules had proved satisfactory and that they did in fact fulfil the purposes of the relevant part of Council resolution 414 (XIII). By a resolution adopted by the Commission, 328/ it considered that the current practice for fixing the dates of sessions of ECE was satisfactory to participating Governments and had contributed to the necessary co-ordination of the programme of sessions of all United Nations organs.

320/ Its rules of procedure were adopted by ECE at its first session in May 1947. Rules of procedure of ECAFE had been drawn up at its first session in June 1947, and were confirmed and adopted at its second session in November 1947. Its rules of procedure had been adopted by ECLA at its first session in June 1948.

321/ E S C resolution 133 D (VI).

322/ E S C resolution 414 (XIII), section C.I.

323/ E S C (XIV), Suppl. No. 3 (E/2171), p. 21.

324/ E S C (XIV), Suppl. No. 2 (E/2185), p. 21, resolution 40; E S C (XVI), Suppl. No. 3 (E/2405), p. 36, resolution 71 (V).

325/ E/ECE/SR.7/5.

326/ E S C (XIV), Suppl. No. 5 (E/2187), p. 20, resolution 3.

327/ E/ECE/SR.7/5 and 25.

328/ E S C (XIV), Suppl. No. 5 (E/2187), p. 20, resolution 2.

H. The participation in the work of the subsidiary organs of the Council of other organs of the United Nations, specialized agencies, inter-governmental organizations and non-governmental organizations

195. The Council has made provisions for the participation without voting rights in the work of its subsidiary organs of representatives of the following: Governments not members of these organs, other subsidiary organs, specialized agencies, inter-governmental organizations and non-governmental organizations.

1. The participation of Members of the United Nations

196. It was provided under rule 72 of the rules of procedure of the functional commissions and rule 76 of the rules of procedure of the Council that a commission or a committee "may invite any Member of the United Nations" to participate without the right to vote in its deliberations on matters of particular concern to the Member. 329/ The terms of reference and rules of procedure of the regional economic commissions contain similar provisions.

197. On occasion, non-members of the United Nations have been invited to participate without voting rights in the deliberations of subsidiary organs of the Council. 330/

2. The participation of members of other subsidiary bodies

198. The terms of reference of the functional commissions have made no provision for representation of other subsidiary bodies, with the exception of those of the Population Commission under which "In order to maintain close liaison between the Population Commission and other bodies... [the] Commission shall invite representatives from the Economic and Employment Commission, Statistical Commission and the Social Commission". 331/ It was also specified that these representatives would not have the right to vote. The Commission on Narcotic Drugs has been authorized 332/ under its terms of reference to appoint, in a consultative capacity, representatives of bodies created under the terms of international conventions on narcotic drugs.

3. The participation of specialized agencies

199. In accordance with Article 70, the Council has made arrangements for representatives of specialized agencies to participate without voting rights in the deliberations of its subsidiary organs. 333/ These arrangements, contained in the agreements concluded between the United Nations and the specialized agencies, formed the basis for rule 73 of the rules of procedure of the functional commissions and rule 78 of the rules of procedure of the Council. Similarly, the terms of reference of ECE, ECAFE and ECLA provide for the participation of specialized agencies in their deliberations.

4. The participation of inter-governmental organizations 334/

200. Except in the case of the regional economic commissions, there has been no general provision covering the participation in the deliberations of subsidiary organs of the Council of inter-governmental organizations other than those brought into

329/ See also in this Repertory under Article 69.

330/ See also in this Repertory under Article 69.

331/ E S C resolution 3 (III).

332/ E S C resolution 1/9.

333/ See also in this Repertory under Article 70.

334/ See also in this Repertory under Articles 57, 63 and 70.

relationship with the United Nations under Article 63 as specialized agencies. However, at its thirteenth session, the Council, by resolution 412 B (XIII), decided to invite "to the sessions of the Council, as observers, those international regional organizations accorded similar privileges by the General Assembly", namely, the Organization of American States 335/ and the League of Arab States. 336/ In the terms of reference of ECE and ECAFE a provision was included under which the Commission concerned may invite representatives of any inter-governmental organizations to participate in a consultative capacity in its considerations of any matter of particular concern to that agency or organization; 337/ in the case of ECLA the relevant provision states that "The Commission ... may invite observers from such other inter-governmental organizations as it may consider desirable in accordance with the practices of the Council". 338/ The Council, by various resolutions, has authorized specific inter-governmental organizations to participate in the work of some of its subsidiary bodies. For example, the terms of reference of the Committee on the Finances of the International Refugee Organization 339/ specified that representatives of the Inter-governmental Committee on Refugees and of the United Nations Relief and Rehabilitation Administration (UNRRA) were to be invited in a consultative capacity. In another case, the Council, under resolution 262 H (IX), noted with approval that relations had been established by appropriate bodies of the United Nations with the Caribbean Commission. Participation of representatives of appropriate organs of the Organization of American States in meetings of ECLA was specifically provided for in paragraph 9 of the terms of reference of the Commission.

5. *The participation of non-governmental organizations*

201. The participation of non-governmental organizations in the work of the subsidiary organs of the Council is dealt with in this Repertory under Article 71. Provisions relating to their participation in the work of the functional commissions and of the Council are contained in rules 5, 7, 74 and 75 of the rules of procedure of the functional commissions and in rules 83 and 86 of the rules of procedure of the Council. The terms of reference and rules of procedure of the regional economic commissions also provided for the participation of non-governmental organizations in their work.

I. Delegation of power to and by organs established by the Council

1. *Delegation of power to organs established by the Council*

202. Under Article 62 (1), the Council "may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters". In practice, the Council has, in this connexion, conferred limited powers upon its commissions, since, under their terms of reference, they may make studies on their own initiative. 340/ No question relating to the delegation of power has, however, arisen in this connexion, since the Council has exercised supervision over the work of its commissions. Furthermore, under resolution 557 B (XVIII), the Council has instructed the commissions and their subsidiary bodies "To submit to the Council for prior approval all requests for new studies or other projects which would require additional budgetary provisions or substantial changes in the work programmes".

335/ G A resolution 253 (III).

336/ G A resolution 477 (V).

337/ E S C (XIII), Suppl. No. 1 (E/2152), appendix II, p. 98, para. 12, and p. 100, para. 11.

338/ Ibid., p. 102, para. 7 (a).

339/ E S C resolution 2/2.

340/ See paras. 135-141 above.

203. Under Article 62 (1), the Council may also make recommendations to "Members of the United Nations, and to the specialized agencies concerned". ^{341/} The Council has delegated powers of this nature ^{342/} to its regional economic commissions only, which have been authorized, under their terms of reference, to make recommendations on any matter within their competence to their member Governments and, in the case of ECAFE and ECLA, to their associate members, to Governments admitted in a consultative capacity, ^{343/} and to the specialized agencies concerned. They were authorized to do so, however, only on the specific condition that they submit for the prior consideration of the Council any "proposals for activities that would have important effects on the economy of the world as a whole". ^{344/}

204. It is to be noted that the membership of ECE and ECAFE includes, as members or associate members, States not Members of the United Nations, and that Italy, a State which is not a Member of the United Nations, participates in a consultative capacity in the work of ECLA. The three regional economic commissions may therefore, under their terms of reference, make recommendations to States not Members of the United Nations.

205. In practice, ECAFE and ECLA have often addressed recommendations to Governments. Recommendations to Governments by ECE have generally been formulated by its subsidiary bodies, and have received the implicit endorsement of the Commission when the reports of these bodies have been considered at its annual sessions.

206. The power of the regional economic commissions to make recommendations to "the specialized agencies concerned", has frequently been exercised by ECAFE and ECLA. For example, by resolution E, adopted at its second session, ^{345/} ECAFE resolved to "recommend immediately to the Food and Agriculture Organization of the United Nations that a food programme with respect to Asian and Far Eastern territories... be formulated as early as practicable". Similarly, ECLA, by resolution 15 (IV), adopted at its fourth session, recommended that "the International Bank for Reconstruction and Development pay effective and timely attention to agricultural development projects". In addition, ECAFE and ECLA have sometimes addressed requests to specialized agencies to undertake studies, sometimes on a joint basis. ^{346/} However, by

^{341/} Article 62 (1) also provides that the Council may make recommendations to the General Assembly; the question of power for a functional commission of the Council to make recommendations to the General Assembly is dealt with in paras. 211-215 below.

^{342/} It should be noted, however, that the Technical Assistance Committee has adopted resolutions making recommendations to Governments.

^{343/} In the case of ECE, this reference to Governments admitted "in a consultative capacity" is limited to those admitted under paragraph 8 of its terms of reference, that is to say, certain European countries not Members of the United Nations. In the case of ECAFE and ECLA, there is no equivalent limitation; therefore, unlike ECE, they are apparently empowered to make recommendations to Members of the United Nations not members of their respective commissions, participating in a consultative capacity under paragraph 8 in the case of ECAFE, and paragraph 6 in the case of ECLA, of their terms of reference.

^{344/} A recent example of the application of the provision is to be found in ECE resolution 5 (IX), under which the question of possible inter-regional trade consultations to the Council is dealt with (E S C (XVIII), Suppl. No. 3 (E/2556), p. 27).

^{345/} E S C (VI), Suppl. No. 8 (E/606 and Corr. 1).

^{346/} See, for example, E S C (VII), No. 12 (E/839), annex I, pp. 25 and 26; and E/CN.12/128.

resolution 557 B (XVIII), the Council laid down that its prior approval was required with regard to any requests by commissions for new studies or projects to be undertaken by the specialized agencies if these would involve substantial changes in the latter's work programmes or additional budgetary provisions.

2. Delegation of power by organs established by the Council

207. The regional economic commissions established by the Council have, on occasion, delegated powers to their own subsidiary bodies, as when setting up permanent committees.

208. These commissions have specifically empowered certain of their subsidiary bodies to make recommendations directly to Governments. For example, the terms of reference of the Coal Committee of ECE state:

"Provided that the approval of all governments directly concerned is given, the Committee may make recommendations direct to interested governments on any questions which fall within its technical field of competence and do not involve any general principle or policy." 347/

209. The terms of reference 348/ of the Committee on Industry and Trade of ECAFE state that the Committee may provide technical advice to Governments on request, and that its decisions in this respect "shall be implemented without awaiting the approval of the Commission unless the approval can be obtained within three weeks after the close of the meeting of the Committee". In practice, however, the Committee has not had occasion to use this authority, since its meetings to date have been followed immediately by the annual sessions of the Commission at which its reports and recommendations have been approved.

210. The Committee of the Ministers of Economy on Economic Co-operation in Central America of ECLA has listed 349/ the following among its functions:

"To propose to the participating governments such concrete measures as are directed toward the gradual and limited integration of the economies of the Central American countries, and the necessary co-ordination of their domestic programmes of economic development".

J. The binding quality of the decisions of organs established by the Council

211. As noted above, the recommendations of the regional economic commissions may be addressed directly to Governments and to specialized agencies. Furthermore, the question of the binding quality of the decisions of subsidiary organs on the Council itself has been raised in two main instances.

212. As noted in the study on Article 71, rule 10 of the rules of procedure of the Council stipulated that any decision of its Committee on Non-Governmental Organizations not to include in the agenda of the Council any items proposed by non-governmental organizations was to be final, and some of the members of the Council have objected to the application of this provision.

213. The question of the right of the Council to amend recommendations prepared by the Commission on Human Rights at the request of the General Assembly has been dealt

347/ E S C (XIII), Suppl. No. 6 (E/2002), appendix I, para. II.

348/ E S C (IX), Suppl. No. 13 (E/1329), section IV, p. 55.

349/ E/CN.12/AC.17/24, p. 42, rule 10.

with in this Repertory under Article 60. In this connexion, the question of the competence of the Council was first raised 350/ at the fourteenth session of the Council. At the eighteenth session of the Council, Article 68 was invoked to support the view that the competence of the Council was not limited to the mere transmission of recommendations of one of its subsidiary organs to the General Assembly. In the case in point, the General Assembly had, under resolution 637 C (VII), requested the Commission on Human Rights to submit "through the Economic and Social Council" its recommendations regarding the international respect for the right of peoples to self-determination, and the request had been transmitted to the Commission by the Council under resolution 510 (XVI). When the Social Committee of the Council, at its eighteenth session, considered the recommendations of the Commission, it was contended that, under Article 68, the Commission fell under the authority of the Council, and that the General Assembly could not establish a direct relationship between itself and a subsidiary organ of the Council. The Commission had been set up to assist the Council in the performance of its functions, and the latter was therefore entitled to change and to refer back any draft resolution which the Commission might submit for possible consideration by the General Assembly.

214. In a clarification of the legal position requested from the Secretariat of the United Nations the latter, while holding that the Council could normally not contravene or disregard a General Assembly instruction within its area of responsibility, concluded 351/ that the Council retained full authority to consider the recommendations of the Commission, and to refer them back to the Commission for further study prior to their eventual transmission to the General Assembly. One representative, while accepting the conclusion just stated declared that the opinion expressed by the Secretariat had been based too narrowly on Article 60 and did not resolve the problem of reconciling the authority of the General Assembly with the powers of the Council which was not a subsidiary organ of the Assembly. Consideration should be given to the provisions, inter alia, of Article 68 which defined the relationship between the Council and its commissions. The division of power created by the Charter could not be ignored. The Council had to assess the desirability of the recommendations of the Commission which could not have been prepared without the resolution of the Council transmitting the request of the General Assembly to the Commission.

215. The Council adopted resolution 545 G (XVIII), under which it noted that various representatives had expressed opinions on the substance of the recommendations of the Commission, and referred the recommendations back to the Commission, together with the records of the meetings of the Council and the Social Committee on this matter "so that it may reconsider them in the light of the Council's discussions". 352/

350/ E S C (XIV), 666th and 668th mtgs.

351/ E/AC.7/SR.290, pp. 11 and 12.

352/ For texts of relevant statements, see:

E/AC.7/SR.289: Belgium, pp. 17 and 18;

E/AC.7/SR.290: France, pp. 9-11; United States, pp. 13-16; Venezuela, p. 8;

E/AC.7/SR.291: Belgium, pp. 5-8; Canada, pp. 15-17;

E/AC.7/SR.292: Norway, pp. 8 and 9; United Kingdom, pp. 4-8.

