

ARTICLE 7

Table of Contents

	<u>Paragraphs</u>
Text of Article 7	
Introductory Note	1 - 8
A. Principal organs	1
B. Subsidiary organs	2 - 8
Analytical Summary of Practice	9 - 23
A. Nature of subsidiary organs	9 - 21
1. Subsidiary organs, committees and commissions	9 - 13
2. Characteristics of subsidiary organs	14 - 20
a. Membership	15
b. Structure	16
c. Scope of activities	17
d. Powers	18
e. Method of reporting	19
f. Duration	20
3. Common features	21
B. Organs established by treaty	22 - 23

TEXT OF ARTICLE 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

INTRODUCTORY NOTE

A. Principal organs

1. Article 7 (1) establishes the six principal organs of the United Nations. These organs are discussed in the studies in this Repertory dealing with the Articles of the Charter relating specifically to the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat.

B. Subsidiary organs

2. Article 7 (2) gives general authority to establish subsidiary organs "in accordance with the present Charter". Article 22 grants the General Assembly specific authority to set up "such subsidiary organs as it deems necessary for the performance of its functions". Article 29 grants identical powers to the Security Council. The studies in this Repertory relating to Articles 22 and 29 contain lists of the subsidiary organs established by the General Assembly and the Security Council respectively, and are concerned with the specific questions which have arisen in connexion with those subsidiary organs.

3. Article 68 prescribes that 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". The Council is also empowered by rule 26 of its rules of procedure to set up "such committees as it deems necessary". A discussion of the various types of bodies established by the Council, and of the questions related to them is to be found in this Repertory under Article 68. Reference should also be made to the study in this Repertory relating to Article 72, which deals with the rules of procedure of the Council.

4. The Trusteeship Council has established a number of committees in accordance with rule 66 of its rules of procedure. These committees are dealt with in this Repertory under Article 90, which empowers the Trusteeship Council to adopt its own rules of procedure.

5. As regards the Secretariat, the Secretary-General, in performing his duties under the Charter, has found it necessary on several occasions to establish bodies for the purpose of advising him and making recommendations on a variety of subjects. The Review Board, established by the Secretary-General to advise him on permanent

appointments, is an example of such a body. In other cases, the Secretary-General has been required by a principal organ to establish advisory bodies. For example, the General Assembly, by resolution 13 (I), has required the Secretary-General to set up an International Civil Service Commission to advise on methods and standards of recruitment.

6. In addition to the principal organs, some subsidiary organs have been empowered to set up their own subsidiary bodies. For example, the Conciliation Commission for Palestine, a subsidiary organ of the General Assembly, was authorized by General Assembly resolution 194 (III) to appoint such subsidiary bodies and to employ such technical experts as it deemed necessary; the Executive Board of the United Nations International Children's Emergency Fund (UNICEF), another subsidiary organ of the General Assembly, was empowered by General Assembly resolution 57 (I) to set up such committees as it deemed advisable.

7. There are a number of questions, such as that of the powers of decision granted to subsidiary organs, and that of the binding effect of decisions of subsidiary organs, which, although they have arisen in connexion with subsidiary organs of the General Assembly, concern other subsidiary organs as well. These, and other questions, are treated in this Repertory under Article 22. The scope of the present study is therefore limited primarily to a discussion of the nature of subsidiary organs in general.

8. The Analytical Summary of Practice considers first the term "subsidiary organs" as applied to such bodies as commissions, committees and, in particular, the Main Committees of the General Assembly. Then the characteristics of subsidiary organs are considered, a broad indication being given of the differences and common features among the various types of subsidiary organs. Finally, the Analytical Summary of Practice deals with certain organs established by treaty, which are within the framework of the United Nations, but possess some features differentiating them from the subsidiary organs. It does not deal with the Military Staff Committee, established under Article 47 of the Charter, which is treated in this Repertory under that Article.

ANALYTICAL SUMMARY OF PRACTICE

A. Nature of subsidiary organs

1. *Subsidiary organs, committees and commissions*

9. The term "subsidiary organ" does not appear to have been defined by any organ of the United Nations. In the practice of the United Nations such expressions as "Commissions", "committees", "subsidiary organs", "subsidiary bodies" and "subordinate bodies" have been used interchangeably. ^{1/} For the purpose of the present study all such bodies will be treated as falling within the scope of the term "subsidiary organs" in Article 7.

^{1/} For example, General Assembly resolution 207 (III) refers to "the functional commissions and other subsidiary bodies of the Economic and Social Council"; General Assembly resolution 409 B (V) refers to "subsidiary organs" and General Assembly resolution 409 C (V) to "subordinate bodies" of the Council. General Assembly resolution 231 (III), appendix A, lists as subsidiary organs such bodies as advisory committees to the General Assembly, commissions of the Economic and Social Council, visiting missions of the Trusteeship Council, committees of experts advisory to the Secretary-General, commissions of inquiry or conciliation et cetera.

10. There is some, although not conclusive, indication that the Main Committees of the General Assembly may not have been considered as subsidiary organs but rather as an integral part of the Assembly. For example, a distinction has been made in the rules of procedure of the Assembly between Committees and subsidiary organs. Chapter XIII of the rules is entitled "Committees"; chapter XVII, entitled "Subsidiary organs of the General Assembly", contains a single rule (present rule 162) which provides that the rules relating to the procedure of committees of the General Assembly shall apply to the procedure of any subsidiary organ, unless the General Assembly or the subsidiary organ decides otherwise.

11. During the discussions at the second session ^{2/} of the General Assembly concerning the adoption of this rule, representatives in the Sixth Committee objected to the recommendation ^{3/} that the rule be placed in a separate chapter of the rules of procedure. It was stated that this would be tantamount to a decision that committees were not subsidiary organs of the General Assembly and no such distinction had been made by the Charter. If a committee continued to function between two sessions of the General Assembly, it in all probability became a subsidiary organ. An amendment ^{4/} was accordingly offered to transfer the rule to the end of the chapter of the rules dealing with committees. Against this, it was argued that a committee was not usually a subsidiary organ, but was part of the Assembly itself. The amendment to transfer the rule was rejected by the Sixth Committee by 25 votes to 8.

12. The question was raised again at the fourth session. ^{5/} In its report ^{6/} to the General Assembly, the Special Committee on Methods and Procedures had proposed an amendment to the rule regarding the discussion of committee reports to the effect that questions on which a Main Committee had submitted a report should not be discussed in plenary meeting unless, after a vote taken without debate, at least one-third of the Members present and voting indicated that they considered discussion necessary. ^{7/} Some representatives opposed the amendment on the ground that, under the Charter, the Main Committees were subsidiary bodies, and the General Assembly was supposed to assess or reassess their work. The proposed limitation on discussion in plenary meeting of the Committees' reports would change those subsidiary organs into principal organs by preventing the Assembly from reviewing their work. Against this it was contended that the Main Committees were not auxiliary organs, but were integral parts of the Assembly, being identical with it in composition. Whether the Assembly sat in plenary meeting or in committee, it remained the Assembly. The amendment, with some minor modifications, was adopted by the General Assembly by 28 votes to 24, with 3 abstentions. ^{8/}

13. At the thirteenth session of the Economic and Social Council, a similar question relating to the role of the committees of the whole was discussed, in connexion with proposals ^{9/} to limit discussion anew in plenary meeting of an item already discussed by a committee of the whole. In opposition to the proposed limitations it was stated ^{10/} that the committees were merely subsidiary bodies to which the Council could

^{2/} G A (II), 6th Com., 57th mtg., pp. 142-144.

^{3/} G A (II), 6th Com., annex 4 c (A/C.6/182/Corr.1/Corr.2), pp. 270 and 271, rule 149 A.

^{4/} G A (II), 6th Com., pp. 273 and 274, annex 4 g (A/C.6/186), para. 12.

^{5/} G A (IV), 6th Com., 147th mtg., paras. 31, 48 and 57.

^{6/} G A (IV), Suppl. No. 12 (A/937), para. 27.

^{7/} See also in this Repertory under Article 21.

^{8/} G A (IV), Plen., 236th mtg., para. 147.

^{9/} E/AC.24/L.58 and E/AC.24/L.65.

^{10/} E/AC.24/SR.97, page 6.

not delegate its own functions and responsibilities. The proposals were eventually rejected. 11.

2. Characteristics of subsidiary organs

14. Subsidiary organs of the United Nations vary widely with respect to their membership, structure, scope of activity, powers, method of reporting, and duration.

a. MEMBERSHIP

15. Subsidiary organs are frequently composed of States. Their membership may include all Member States, as in the case of the Interim Committee of the General Assembly, 12/ a number of specified Member States, as in the case of special or ad hoc committees or, as in the case of the Executive Board of UNICEF, 13/ certain non-member States as well. Other subsidiary organs are composed of individuals; for instance, the functions of an organ of the United Nations are vested in the office of the United Nations Mediator in Palestine, 14/ consisting of a single person, while a number of experts, appointed in their individual capacity, constitute the Investments Committee. 15/ In some instances, as in the case of the Technical Assistance Board, 16/ a subsidiary organ is composed of the executive heads, or their representatives, of the United Nations and specialized agencies.

b. STRUCTURE

16. The majority of subsidiary organs are committees or commissions which function only when in session and lack any permanent or interim machinery. Some subsidiary organs, however, notably the "operational agencies", 17/ function on a continuing basis, with an organizational structure comprising an executive head and staff and one or more governmental committees or boards exercising policy-making or advisory powers with respect to the programmes carried out by the agencies. 18/ Others, such as the regional commissions of the Economic and Social Council and the political commissions set up by the General Assembly or by the Security Council, have some features common to both types of structure.

11/ See also in this Repertory under Article 72.

12/ G A resolutions 111 (II), 196 (III) and 295 (IV).

13/ G A resolutions 57 (I) and 802 (VIII).

14/ G A resolution 186 (S-2).

15/ G A resolution 82 (I), annex 1, section 25.

16/ E S C resolution 222 (IX).

17/ These include the United Nations Children's Fund (UNICEF), established under General Assembly resolution 57 (I), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), established under General Assembly resolution 302 (IV), the United Nations Korean Reconstruction Agency (UNKRA), established under General Assembly resolution 410 (V), the United Nations High Commissioner for Refugees, an office established under General Assembly resolution 428 (V), and the Technical Assistance Board (TAB), established under Economic and Social Council resolution 222 (IX).

18/ For further reference to UNICEF, UNRWA, UNKRA and the High Commissioner for Refugees in this connexion, see in this Repertory under Article 22. For further reference to TAB, see in this Repertory under Articles 66 (2) and 68.

C. SCOPE OF ACTIVITIES

17. Some subsidiary organs, such as the Collective Measures Committee, 19/ have been set up for the purpose of preparing studies to be submitted to a principal organ. Others, as, for example, the United Nations Commission for India and Pakistan 20/ have been given functions of a political nature, such as mediation and conciliation. Subsidiary organs have been established to assist the General Assembly in the discharge of its financial and budgetary responsibilities; the Advisory Committee on Administrative and Budgetary Questions 21/ belongs to this category. Some organs, principally the Commission on Human Rights, have the function of promoting the recognition of different aspects of human rights. Others, the "operational agencies", have been charged with the execution of programmes of relief and rehabilitation. While the scope of activity of some organs, such as the functional commissions, is world-wide, others, notably the regional commissions, operate in a limited area. Finally, the Administrative Tribunal 22/ and the United Nations Tribunals in Libya 23/, and Eritrea 24/ have judicial functions. 25/

D. POWERS

18. The powers of many subsidiary organs are limited to reporting and making recommendations to a principal organ, while others, such as the regional economic commissions, may make recommendations directly to Governments and specialized agencies. Some organs are empowered to make final decisions in such matters as the allocation of funds (for example, the Executive Board of UNICEF), the adoption of rules of procedure (for example, the United Nations Special Committee on the Balkans established by General Assembly resolution 109 (II)), the establishment of their own subsidiary organs (for example, the Conciliation Commission for Palestine established by General Assembly resolution 194 (III)) and the calling of an international conference (the Disarmament Commission established by General Assembly resolution 502 (VI)). Certain organs, such as UNICEF, have the power to make agreements with Governments, to enter into contracts, to sue and to take any other legal action required in the performance of their functions. The Administrative Tribunal, a subsidiary organ of the General Assembly, has the power to make decisions binding upon the Organization.

E. METHOD OF REPORTING

19. Normally, subsidiary organs report to, and are directed by, the principal organ which has established them. In some cases, however, subsidiary organs report to, and receive directives from, another principal organ. For example, the Atomic Energy Commission, which was established by General Assembly resolution 1 (I), reported to the Security Council. In other instances, subsidiary organs report jointly to the

19/ G A resolution 377 D (V).

20/ S C resolution of 20 January 1948, S C, 3rd yr., Nos. 1-15, 230th mtg., pp. 130 and 131.

21/ G A resolutions 14 A (I) and 15 (I).

22/ G A resolution 351 (IV).

23/ G A resolution 388 (V).

24/ G A resolution 530 (VI).

25/ The International Court of Justice, in its Advisory Opinion entitled "Effect of Awards of Compensation made by the United Nations Administrative Tribunal", I C J. Reports 1954, p. 61, has stated: "There can be no doubt that the Administrative Tribunal is subordinate in the sense that the General Assembly can abolish the Tribunal by repealing the Statute, that it can amend the Statute and provide for review of the future decisions of the Tribunal and that it can amend the Staff Regulations and make new ones."

parent organ and another principal organ. For example, the office of the High Commissioner for Refugees, a subsidiary organ of the General Assembly, has been required to report to the Assembly through the Economic and Social Council and to follow policy directives laid down by the Assembly or by the Council.

f. DURATION

20. Some subsidiary organs, such as the Advisory Committee on Administrative and Budgetary Questions, have been established on a "permanent" or standing basis, without indication of duration. They continue in existence indefinitely, unless specifically abolished. The sessional committees, for example the Main Committees of the General Assembly and the committees of the Economic and Social Council function during the sessions of the principal organ concerned. Frequently, subsidiary organs are created on an ad hoc basis, for a limited time or for the accomplishment of a particular purpose, and are generally required to report to the principal organ concerned at a subsequent session.

3. Common features

21. Despite the wide range of differences, there appear to be some features common to all subsidiary organs. These are:

- (a) A subsidiary organ is created by, or under the authority of, a principal organ of the United Nations;
- (b) The membership, structure and terms of reference of a subsidiary organ are determined, and may be modified by, or under the authority of, a principal organ;
- (c) A subsidiary organ may be discontinued by, or under the authority of, a principal organ.

B. Organs established by treaty

22. There are examples of organs existing within the framework of the United Nations, which have some features differentiating them from the subsidiary organs mentioned in the preceding paragraphs. These include the Permanent Central Opium Board (PCOB), 26/ the Drug Supervisory Body, 27/ and the International Bureau for Declarations of Death. 28/ The Appeals Committee, to be established when the Opium Protocol of 1953 29/ comes into force, will be a similar organ. The PCOB and the Drug Supervisory

-
- 26/ Established by the Agreement Concerning the Manufacture of, Internal Trade in, and use of Prepared Opium signed on 11 February 1925, as amended by the Protocol of 1946 approved by General Assembly resolution 54 (I) (United Nations Publication, Sales No.: 1950.V.1).
 - 27/ Established by the International Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, signed on 13 July 1931, as amended by the Protocol of 1946 approved by General Assembly resolution 54 (I).
 - 28/ Established by the Secretary-General under the terms of the Convention on the Declaration of Death of Missing Persons, signed on 6 April 1950 (United Nations Publication, Sales No.: 1950.V.1).
 - 29/ Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of International and Wholesale Trade in, and Use of Opium, signed on 23 June 1953 (United Nations Publications, Sales No.: 1953.XI.6).

Body have been considered as "organs of the United Nations" for the purpose of General Assembly resolution 774 (VIII), 30/ and they appear to have been regarded as "other organs", as distinguished from "subsidiary bodies", in General Assembly resolution 875 C (IX).

23. While the subsidiary organs referred to in the section entitled "Nature of subsidiary organs" of the present study have been created by decision of an organ of the United Nations, the bodies referred to in this section have been established by, or under the authority of, a treaty. They differ, therefore, from the above-named subsidiary organs in that their terms of reference, having been laid down by treaty, cannot be modified by a principal organ of the United Nations. On the other hand, they are generally subject to the administrative procedures of the United Nations. For example, their expenses are included in the budget of the United Nations, their staffs are appointed by the Secretary-General 31/ and, in this sense, they may be considered as part of the Organization.

30/ See also G A (VIII), Annexes, a.i. 68, p. 2, A/2516, para. 9. It should also be noted that, before the establishment of the United Nations, the PCOB had apparently been regarded as an organ of the League of Nations. (See League of Nations document O.C. 669 of 1 October 1927, Advisory Committee on Traffic in Opium and other Dangerous Drugs, Report of Sub-Committee on the relations of the Advisory Committee and the Central Board.)

31/ In the case of the PCOB, the secretary and staff are appointed by the Secretary-General on the nomination of the Board and subject to the approval of the Economic and Social Council (article 20 of the Convention of 1925 as amended by the Protocol of 1946). The secretariat of the PCOB acts also as secretariat of the Drug Supervisory Body.

