

ARTICLE 7

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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. During the period under review, no question arose bearing on Article 7 (1). 1/

1/ Article 7 (1) was referred to in the course of debate on certain agenda items. For example, at the ninth session of the General Assembly, during the discussion of the question of requests for hearings and the report of the Trusteeship Council to the Assembly, some representatives in the Fourth Committee maintained that although according to Article 7 (1), the Trusteeship Council was a principal organ, Articles 85 and 87 made it clear that in exercising the functions in regard to trusteeship, the Council was an auxiliary to the General Assembly. See GA (IX), 4th Com., 398th mtg., para. 17; 444th mtg., para. 24. See also in this Supplement, under Articles 85 and 87.

B. Subsidiary organs

2. The practice regarding the establishment of subsidiary organs by the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council is examined in this Supplement under Articles 22, 29, 68 and 90 respectively.

3. As regards the Secretariat, the Secretary-General has continued to set up various bodies found to be necessary to assist him in the performance of the functions entrusted to him by the provisions of the Charter or by other United Nations organs in accordance with the Charter. For instance, a Medical Expense Review Committee was established 2/ in June 1955 to survey the then existing medical insurance arrangements for staff members at the Headquarters of the United Nations.

4. During the ninth and tenth sessions of the General Assembly, the question of the relationship of the proposed International Atomic Energy Agency to the United Nations became the subject of extensive debate. The discussion, in so far as it is relevant to Article 7 (2), is examined in the Analytical Summary below.

ANALYTICAL SUMMARY OF PRACTICE

A. Nature of subsidiary organs

5. The characteristics and common features of the subsidiary organs of the United Nations have been described in the Repertory. 3/

6. In a document entitled "Summary of internal Secretariat studies of constitutional questions relating to agencies within the framework of the United Nations", the existing agencies were classified as (a) subsidiary organs of the United Nations, (b) specialized agencies and (c) special bodies. It was stated therein that: 4/

"A subsidiary organ is one which is established by or under the authority of a principal organ of the United Nations in accordance with Article 7, paragraph 2, of the Charter, by resolution of the appropriate body. Such an organ is an integral part of the Organization."

B. Organs established by treaty

7. After the General Assembly had decided 5/ to include in the agenda of its ninth session the item of international co-operation in developing the peaceful uses of atomic energy, the Secretary-General decided, on 29 September 1954, to appoint a Secretariat committee to study the appropriate methods for the calling of a scientific conference and the question of relations between the United Nations and the international agency to be set up. Pursuant to a request made 6/ in the First Committee, the document prepared by the Secretariat committee and referred to in the preceding paragraph was made available to members of the First Committee. 7/ The document mentioned certain special bodies 8/ such as the Permanent Central Opium Board

2/ ST/ADM/SER.A/318.

3/ See in the Repertory, vol. I, under Article 7, paras. 9-21.

4/ G A (IX), annexes, a.i. 67, p. 13, A/C.1/758, paras. 1 and 2.

5/ G A (IX), Plen., 478th mtg., para. 43.

6/ G A (IX), 1st Com., 710th mtg., para. 23.

7/ Ibid., 717th mtg., paras. 1-3.

8/ See also in the Repertory, vol. I, under Article 7, paras. 22 and 23.

and the Drug Supervisory Body and stated 9/ that "on the one hand, like the specialized agencies, they have been established by treaty and, on the other, while enjoying wide operational autonomy, they have a position within the United Nations similar in some respects to that of subsidiary organs." Two alternative types of procedure to bring a new special body, established by treaty, within the United Nations framework were envisaged in the document. In regard to the first alternative, it was stated 10/ that

"... If the special body were analogous to a subsidiary organ, a procedure similar to that adopted in the case of the Permanent Central Opium Board and the Drug Supervisory Body might be found appropriate. Under this procedure, the rights, obligations and functions of the new body within the United Nations framework would be specified in its constituent instrument and accepted by the United Nations (presumably by the General Assembly). There would be no need of formal agreement between the two organizations, although arrangements would have to be made to implement the general provisions of the treaty."

8. During the consideration by the General Assembly, at its ninth and tenth sessions, of the question of peaceful uses of atomic energy, the following were among the views expressed concerning the relationship of the proposed International Atomic Energy Agency to the United Nations. 11/ One representative envisaged the proposed Agency "as a United Nations agency operating under the General Assembly on the same lines as the United Nations Children's Fund." 12/ Another representative said that the proposed Agency should be assimilated to the Atomic Energy Commission established by General Assembly resolution 1 (I) because, in his opinion, the two organs had the same aim and should have the same basis and similar tasks and conditions of work. 13/ Still another representative considered that the relationship of the proposed Agency to the United Nations "would be governed by Article 7, paragraph 2, of the Charter," and the responsibility of the proposed Agency to the General Assembly, the Security Council or any other organ "would be governed by the general law of the United Nations." 14/ The view was also expressed 15/ that the Agency should be set up by and within the United Nations as an integral part of the Organization so that it would be adding to the strength of the world Organization and drawing strength from it.

9. At the ninth session of the General Assembly, an amendment to a seven-power draft resolution concerning the proposed Agency was submitted by the Soviet Union according to which the General Assembly would recommend that the Agency be "responsible to the General Assembly and, in the cases provided for by the Charter of the United Nations, to the Security Council." 16/ This amendment was rejected 17/ by 43 votes to 5, with 12 abstentions. The main argument against the amendment was that the veto power of the Security Council should not be made applicable to the activities of the proposed Agency, whereas there was little objection to the establishment of some sort of relationship

9/ G A (IX), annexes, a.i. 67, p. 13, A/C.1/758, para. 9.

10/ Ibid., para. 36.

11/ For the discussion of the question whether the status of the proposed Agency should be assimilated to that of a specialized agency, see in this Supplement, under Article 57.

12/ G A (IX), 1st Com., 712th mtg., para. 22.

13/ Ibid., 715th mtg., paras. 35 and 36; 720th mtg., paras. 36 and 37.

14/ Ibid., 725th mtg., para. 3.

15/ G A (X), 1st Com., 765th mtg., paras. 18-20.

16/ G A (IX), annexes, a.i. 67, p. 21, A/C.1/L.106/Rev.1.

17/ G A (IX), 1st Com., 725th mtg., para. 60.

between the Council and the proposed Agency. One representative pointed out 18/ that since there was no formal proposal to make the proposed Agency a subsidiary organ of the Security Council, it was useless to discuss the veto in the abstract.

10. In a statement made before the First Committee at the tenth session of the General Assembly, the Secretary-General explained 19/ that "the Agency should not, in his view, be considered a priori as a part of the United Nations Organization."

11. The prevailing opinion at both the ninth and tenth sessions of the General Assembly was that the proposed Agency should be brought into a relationship with the United Nations closer than that between the United Nations and the specialized agencies; no further reference was made to the possibility of establishing the Agency as a subsidiary organ of the United Nations. 20/

18/ Ibid., 717th mtg., para. 18.

19/ G A (X), 1st Com., 770th mtg., para. 45.

20/ For General Assembly resolutions 810 A (IX) and 912 II (X) adopted as a result of discussion, see in this Supplement, under Article 57.