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COMMITTEE ON THE PEACEFUL USES OF THE  
SEA-BED AND THE OCEAN FLOOR BEYOND  
THE LIMITS OF NATIONAL JURISDICTION

EXAMPLES OF PRECEDENTS OF PROVISIONAL APPLICATION, PENDING  
THEIR ENTRY INTO FORCE, OF MULTILATERAL TREATIES, ESPECIALLY  
TREATIES WHICH HAVE ESTABLISHED INTERNATIONAL ORGANIZATIONS  
AND/OR REGIMES

Report of the Secretary-General

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## INTRODUCTION

1. At the 93rd meeting of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, held on 6 April 1973, the Rapporteur of Sub-Committee I introduced a recommendation of the Sub-Committee that the Secretary-General be asked to make a factual study of examples of precedents of the provisional application of multilateral treaties. The Main Committee adopted the recommendation.

2. The wording of the recommendation put forward by Sub-Committee I was as follows:

"Sub-Committee I recommends to the Main Committee that the Secretary-General be requested to describe factually, for the Sub-Committee's use at its summer session in 1973, examples of precedents of provisional application, pending their entry into force, of all or part of multilateral treaties, especially treaties which have established international organizations and/or régimes.

"This recommendation is not a pronouncement on, nor does it prejudice in any way, the nature, characteristics, forms or structure of the régime and machinery for the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction which are to be established, in the general context of the Law of the Sea to be considered at the forthcoming Conference. It does not constitute a recommendation on the advisability of the concept of provisional application of the régime and machinery, or on the relevance of past precedents. Nor does it prejudice the question whether only that part of a treaty relating to the régime and machinery concerning the sea-bed area beyond the limits of national jurisdiction and its resources would apply provisionally or whether provisions relating to other questions of the Law of the Sea would also apply provisionally. These questions have not been discussed by the Sub-Committee." 1/

3. The present study, which has been made by the Secretary-General pursuant to the Committee's request, describes the arrangements made in a number of cases in order to give provisional effect to treaties establishing international organizations or régimes. In keeping with the terms of the request, the study does not purport to give a comprehensive survey of all the issues which may be involved or to relate these to matters before the Committee, nor to examine all the examples which might be cited. In a number of cases the provisional arrangements described were mentioned during the Sub-Committee's discussions at the 1973 spring session. To these others have been added in order to illustrate the nature of steps taken in the course of establishing a variety of organizations or régimes. Having regard to the wording of the request and the views expressed in the course of the Sub-Committee's discussions, the examples set out below are cases in which

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1/ A/AC.138/SC.I/L.20.

provisional measures were taken with respect to multilateral treaties that subsequently came into force, thereby establishing international organizations or régimes of a non-provisional character; instances in which the arrangements made remained provisional have not therefore been included.

4. The first four cases which are examined concern the arrangements made to cover the period between the date of preparation of the constitutional instrument of four specialized agencies, the International Civil Aviation Organization (ICAO), the Inter-Governmental Maritime Consultative Organization (IMCO), the International Refugee Organisation (IRO) and the World Health Organization (WHO), and the entry into force of that instrument following ratification or other act of formal acceptance. <sup>2/</sup> Much the same pattern was followed in the case of the preparatory body established before the entry into force of the IAEA Statute. The three remaining cases illustrate a different approach as regards the nature of the treaty arrangements which were made.

5. In the case of the specialized agencies and the International Atomic Energy Agency (IAEA), it was considered desirable, pending the establishment of the permanent body, to adopt a separate instrument which would enter into force at once or within a short time, providing for the establishment of a body which might act as the preparatory organ for the new organization and, to an extent which varied according to the nature of the case, perform some of its functions. An arrangement of this kind, in which there were two instruments, normally both of them treaties, one (the constitution) dependent on ratification or other act of subsequent approval, and the other, capable of early application, specifying the preparatory arrangements to be made until the major instrument came into operation, is distinct from the procedure whereby the main treaty is itself formally brought into provisional effect. It was the latter course which was followed in the case of the international commodity agreement examined and the two regional treaties.

6. The International Sugar Agreement, 1968, which is studied as an example of the kind of arrangements made in major recent commodity agreements, itself provided for the possibility that States might agree to apply the Agreement on a provisional basis, pending ratification or formal act of acceptance, with the full range of rights, duties and responsibilities involved thereby coming into operation before the Agreement entered into force definitively.

7. In the case of the two regional treaties, the arrangements made were basically of the same character in that they provided for the provisional application of the agreement in question, although in these instances this effect

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<sup>2/</sup> These cases are examined as examples only. Broadly similar arrangements were made in respect of many other bodies, including the United Nations itself and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

was achieved through the use of separate treaty instruments. <sup>3/</sup> Thus the 1964 European Fisheries Convention was accompanied by a Protocol of the same date, providing that States which had ratified or approved the Convention might proceed to apply that latter instrument on a provisional basis. The facts relating to the European Central Inland Transport Organization were somewhat more complex; an agreement was concluded, which came into force upon signature, providing for the provisional application of another agreement, then only in draft form, relating to the establishment and operation of the proposed Organization. The draft agreement was itself then signed at a later date.

8. The two patterns which have just been distinguished - and no doubt there could be others, or refinements upon this distinction - reflect the two articles in the Vienna Convention on the Law of Treaties dealing with the question of the entry into force and the provisional application of treaties. The two provisions are set out below.

#### "Article 24

##### Entry into force

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.

2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.

3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.

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<sup>3/</sup> Amongst other examples which might be mentioned of the use of the same procedure, particular reference may be made to the Agreement providing for the provisional application of the Draft International Customs Conventions on Touring, on Commercial Road Vehicles and on International Transport of Goods by Road, United Nations Treaty Series, vol. 45, p. 149. That Agreement, which entered into force on 1 January 1950, provided, as its title indicates, for the provisional application, as between the parties, of the draft instruments in question. The Agreement was to be regarded as denounced by the parties concerned as and when the various conventions came into force. As a result of successive denunciations, the Agreement, including two Additional Protocols (*ibid.*, vol. 45, p. 158 and vol. 65, p. 319), was terminated on 1 January 1965, in respect of the Draft International Customs Convention on the International Transport of Goods by Road, and on 1 January 1966 in respect of the Draft International Customs Conventions on Touring and on Commercial Road Vehicles.

4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text."

#### "Article 25

##### Provisional application

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:

(a) The treaty itself so provides; or

(b) The negotiating States have in some other manner so agreed.

2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty."

9. According to these provisions the provisional application of a treaty only occurs, strictly speaking, when the treaty itself so provides or the negotiating States have in some other manner so agreed. The International Sugar Agreement, 1968, is an example of a multilateral treaty which itself expressly provides for provisional entry into force, under specified conditions. The two regional arrangements which are described illustrate the adoption of other means - in these cases, the conclusion, by simplified means, of a separate treaty - whereby the major treaty is brought into force provisionally.

10. Whereas these cases therefore illustrate the application of article 25, the other examples described below - and which include the main cases referred to in speeches made during the session of the Committee held in spring 1973 - are instances in which recourse was had to the adoption of a separate instrument, again, usually by simplified means, in order to make provisional organization arrangements pending the entry into force of the major treaty and the establishment of the permanent body. These cases may thus be regarded as particular examples of the application of article 24 so far as the manner of entry into force of the treaty instruments in question is concerned, and indeed of the other provisions of the Vienna Convention generally. <sup>4/</sup> Although linked in their history and in the reason why they were concluded, they are in fact instances in which two instruments were concluded, applicable in succession in different periods of time, as well as in their formal aspects.

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<sup>4/</sup> An exception should be made, however, of the Preparatory Committee of IMCO, which was established by a Conference resolution.

11. The following table summarizes, in a comparative form, the arrangements made with respect to the cases described in the present study.

<u>Provisional organization or régime</u>	<u>Main instrument and requirement for bringing it into effect</u>	<u>Means by which provisional organization or régime established</u>	<u>Time taken to bring provisional organization or régime into effect</u>
Provisional International Civil Aviation Organization	Convention on International Civil Aviation. Ratification or adherence by 26 States required	Agreement, requiring signature followed by acceptance by 26 States	7 months (7 December 1944-6 June 1945)
Preparatory Committee of IMCO	IMCO Constitution. 21 States, 7 of which had 1,000,000 g.t. of shipping, had to become parties	Resolution of United Nations Maritime Conference, 1948	Took effect on adoption, 6 March 1948
Preparatory Commission of the IRO	IRO Constitution. 15 States, providing 75 per cent of the budget, had to become parties	Agreement, requiring signature, coming into force when 8 States had signed the IRO Constitution	Two weeks (15-31 December 1946)
Interim Commission of WHO	WHO Constitution. 26 States had to become parties	Agreement, requiring signature	Took effect on signature, 22 July 1946
Preparatory Commission of IAEA	IAEA Statute. Ratification required by 18 States, including 3 out of 5 specially named	Annex to IAEA Statute	Took effect when IAEA Statute opened for signature, 26 October 1956

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<u>Provisional Organization or régime</u>	<u>Main instrument and requirement for bringing it into effect</u>	<u>Means by which provisional organization or régime established</u>	<u>Time taken to bring provisional organization or régime into effect</u>
International Sugar Organization	International Sugar Agreement, 1968. Entered into force definitively when a specified proportion of exporting and importing States had deposited formal instruments	By an article in Agreement expressly providing that States might indicate their willingness to apply the Agreement provisionally	The Agreement was adopted on 24 October 1968 and came into effect provisionally on 1 January 1969. It then came into effect definitively on 17 June 1969
Régime established under 1964 European Fisheries Convention	1964 European Fisheries Convention. Ratification or approval by 8 States required	1) Protocol of Provisional Application, requiring signature by at least 2 States. 2) A State which had ratified or approved the Convention might then apply the Convention provisionally, before it had come into force, after notifying the depositary State	1) The Protocol itself entered into force 9 days after signature (9-18 March 1964). 2) Two States agreed to apply the Convention provisionally on 11 September and 1 October 1964 respectively.

<u>Provisional organization or régime</u>	<u>Main instrument and requirement for bringing it into effect</u>	<u>Means by which provisional organization or régime established</u>	<u>Time taken to bring provisional organization or régime into effect</u>
European Central Inland Transport Organization	Agreement concerning the establishment of a European Central Inland Transport Organization. The Agreement was only in draft form when it was provisionally brought into force. When completed it came into force on signature.	Agreement concerning a Provisional Organization for European Inland Transport, which brought the draft Agreement into force provisionally	The Agreement concerning a Provisional Organization came into effect on signature, 8 May 1945

12. The account given below of each of the examples has been divided under four subheadings: establishment; functions; organization; and financial arrangements. The heading "establishment" covers the circumstances in which the arrangements in question were entered into, their general nature and the relationship of those arrangements to the permanent body or treaty. The tasks assigned to the provisional body or established under the provisional régime are dealt with under the next heading, "functions". In most cases the provisional bodies studied were designed either to carry out the preparations necessary for the establishment of the future machinery and the smooth functioning of the permanent régime, or actually to commence, on a provisional basis, the execution of the responsibilities of the permanent body. The exact mixture of functions varies from case to case. Of the examples studied, two, the Preparatory Committee of IMCO and the Preparatory Commission of IAEA performed functions which come closest to being merely those of "preparatory" character, concerning, for example, the drawing up of the agenda of the first formal meeting of the permanent body, preparation of a draft budget and rules of procedure, study of the site of the headquarters, and similar matters. The provisional arrangements made with respect to the three other specialized agencies, ICAO, IRO and WHO, were more extensive in that, in these instances, besides making administrative arrangements for the permanent body, some of the substantive functions of the latter were also assumed. The Provisional Civil

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Aviation Organization, which is the clearest example of this type, had largely the same structure as the permanent body and performed a number of regulatory functions until the permanent organization came into being. In the case of the International Sugar Agreement, 1968, the full range of functions was assumed by the organization during the provisional period. Somewhat special considerations apply in the case of the two regional arrangements, but here too the full range of functions involved was brought into early application.

13. The heading "organization" describes the nature of the organizational arrangements made with respect to the provisional body or régime. Lastly, the heading "financial arrangements" describes the methods used in order to finance the provisional arrangements. It may be noted that in the case of the future specialized agencies (other than ICAO) and the IAEA, the Secretary-General was requested to make a loan from United Nations funds, to be repaid when the permanent body was established.

14. From the nature of the case, most of the examples studied were relatively short-lived, and the records and documents now available are not always complete or do not provide detailed information as regards all aspects of their operation. It is difficult in some cases to determine with precise accuracy exactly when these provisional bodies or arrangements came to an end and the exact procedures followed in order to terminate or transfer their responsibilities. In the following study, therefore, though the Secretary-General has endeavoured to present the information in as uniform and complete a way as possible, it was not always feasible to cover the issues in an identical and equally specific manner in all instances.

## THE PROVISIONAL INTERNATIONAL CIVIL AVIATION ORGANIZATION

### Establishment

15. The International Civil Aviation Conference, held in Chicago from 1 November to 7 December 1944, adopted the following instruments: the Interim Agreement on International Civil Aviation; the Convention on International Civil Aviation; the International Air Services Transit Agreement; the International Air Transport Agreement; and Drafts of Technical Annexes (Annexes A to L). 5/

16. The Convention on International Civil Aviation laid down various general principles and obligations relating to the conduct of international civil aviation and provided for the establishment of the International Civil Aviation Organization (ICAO). The Interim Agreement on International Civil Aviation, which was adopted to cover the period until the Convention came into force, 6/ established the Provisional International Civil Aviation Organization (PICAO), 7/ an organization of "a technical and advisory nature of sovereign States for the purpose of collaboration in the field of international civil aviation" (article I, section 1). The articles of the Interim Agreement fell into two main groups. The first seven related to the organizational aspects of PICAO, which paralleled those of the future permanent body. The remainder dealt mainly with substantive

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5/ Final Act and Related Documents, International Civil Aviation Conference, 1944, United States Government Printing Office, Washington, 1945. For the records of the Conference see Proceedings of the International Civil Aviation Conference, Chicago, Illinois, 1 November-7 December 1944, two vols., United States Printing Office, Washington, 1948. The Convention on International Civil Aviation is contained in United Nations Treaty Series, vol. 15, p. 295, and the Interim Agreement, ibid., vol. 171, p. 345.

6/ Article 91 provided that the Convention was subject to ratification by signatory States and would come into force 30 days after the deposit of instruments of ratification or adherence by 26 States. Fifty-two States were represented at the Conference.

7/ This body replaced the more limited "Interim Council" originally envisaged in item 4 of the agenda of the Conference. According to the invitation to the Conference, dated 11 September 1944, sent out by the United States, the "Interim Council" was to act "as the clearing house and advisory agency during the transitional period". Its functions would have included receiving and considering recommendations from working committees dealing with the establishment of air transport services on a provisional basis, reporting on desirable revisions in routes and services during the interim period, and maintaining liaison with participating countries.

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issues and corresponded to various provisions of the Convention on International Civil Aviation. 8/ The Interim Agreement thus provided, broadly speaking, on an interim basis, what the Convention on International Civil Aviation stipulated in more extensive as well as more permanent form.

17. The Interim Agreement was open to States which signed it at the Conference and to certain non-signatory States. 9/ Signatory States were required to inform the United States at the earliest possible date whether signature on their behalf constituted an acceptance of the Agreement and an obligation binding them (article XVII). Non-signatory States could accept the Interim Agreement upon notification that they accepted it as a binding obligation. The acceptance of 26 States was required to bring it into force (article XVII). The Interim Agreement was opened for signature on 7 December 1944, the same day as the Convention, and the necessary number of acceptances was received by 6 June 1945, on which day the PICAQ came into being. 10/

8/ The subjects dealt with and the treaty references are set out below:

Subject	Interim Agreement	Convention
Flight over territory of member States	article VIII	Chapter II, articles 5-16
Measures to facilitate air navigation	" IX	" IV, articles 22-28
Conditions to be fulfilled with respect to aircraft	" X	" V, articles 29-36
Airports and air navigation facilities	" XI	" XV, articles 68-76
Joint operating organizations and arrangements	" XII	" XVI, articles 77-79
Undertakings of member States in respect of filing of contracts and agreements with other member States, filing of reports by airlines, and applications of aviation practices.	" XIII	" XIV, article 67 " XVII, articles 81 and 83

9/ "Any State, a Member of the United Nations and any State associated with them, as well as any State which remained neutral during the present world conflict" (article XVII).

10/ The depositary Government, the United States, announced that a total of 30 acceptances had been received by that date. For a list of the 51 States which submitted notifications of acceptance, see United Nations Treaty Series, vol. 171, p. 346.

18. Article I, section 3, of the Interim Agreement provided that PICA0 was established until "a new permanent convention on international civil aviation shall have come into force or another conference on international civil aviation shall have agreed upon other arrangements". It was specified that the interim period was in any case not to exceed three years from the entry into force of the Interim Agreement. The exercise of any functions assigned to PICA0 were to cease on completion or be transferred to another organization (article VII). The Convention on International Civil Aviation entered into force on 4 April 1947, on which date ICAO came into operation. The Interim Council continued to operate under the provisions of the Interim Agreement until the beginning of the First ICAO Assembly, when the permanent council was elected. In accordance with article VII of the Interim Agreement the records and property of PICA0 were transferred to ICAO.

19. PICA0 was given "such legal capacity as may be necessary for the performance of its functions" and full juridical personality "wherever compatible with the constitution and laws of the State concerned" (article I, section 4).

#### Functions

20. Both the functions and the structure of PICA0 were similar to those of the permanent organization. This was intended to ensure working continuity and to allow the transfer to take place with little more than formal changes.

21. Besides the specific functions assigned under the Interim Agreement to the Interim Assembly, the Interim Council and specialized committees, 11/ PICA0 was also required to carry out certain functions under the International Air Services Transit Agreement and the International Air Transport Agreement. 12/ In addition

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11/ See paras. 23, 28 and 29 below.

12/ Article VI of the Interim Agreement. Members of the Interim Assembly and the Interim Council who had not accepted these Agreements had no vote on any matter referred to these bodies under the provisions of the relevant Agreement.

The International Air Services Transit Agreement (the "two freedoms Agreement") provided for the granting of the right of transit and the right to land for non-traffic purposes in respect of scheduled international air services. United Nations Treaty Series, vol. 84, p. 389. The International Air Transport Agreement (the "five-freedom Agreement") provided for the granting of (a) the right of transit; (b) the right to land for non-traffic purposes; (c) the right to put down passengers, mail, and cargo taken on in the territory of the State whose nationality the aircraft possessed; (d) the right to take on passengers, mail and cargo destined for the territory of the State whose nationality the aircraft possessed; (e) the right to take on passengers, mail and cargo destined for the territory of any other contracting States and the right to put down passengers, mail and cargo coming from any such territory. United Nations Treaty Series, vol. 171, p. 387.

the Chicago Conference adopted several resolutions requesting PICAQ to perform various tasks. PICAQ was asked to transmit to participating States recommendations relating to amendments of the Draft of Technical Annexes to the International Civil Aviation Convention (resolution II); and to give consideration to the question of the publication of flight documents and forms in representative languages of areas through which major international air routes operate (resolution IX). The Conference also recommended that the matters on which it had not been possible to reach agreement during the Conference (e.g. questions relating to the sections of an international air convention relating primarily to air transport) should be studied by the Interim Council, which was asked to submit a report, with recommendations, to the Interim Assembly.

### Organization

22. The Interim Assembly was composed of all States which had accepted the Interim Agreement. Annual sessions could be convened by the Interim Council. Each State had one vote.

23. The Interim Assembly was empowered to take action upon the reports and matters referred to it by the Council, to establish subsidiary commissions and committees, to approve the annual budget, to determine financial arrangements, and to delegate to the Council such powers and authority as might be necessary for the discharge of the duties of the organization (article II). It could also deal with matters within the sphere of action of the organization not specifically assigned to the Council.

24. The first and only session of the Interim Assembly was held in May 1946. The session discussed, among other things, the steps to be taken to expedite the coming into force of the Convention on International Civil Aviation 13/ and to ensure a smooth transition from provisional to permanent status without interruption in the work.

25. The Interim Council was composed, under article III, section 1, of the Interim Agreement, of up to 21 member States elected by the Interim Assembly for a period of two years. It was specified that, in the election of Interim Council members, adequate representation was to be given to: (a) States of chief importance in air transport; (b) States, not otherwise included, making the largest contribution to the provision of facilities for international civil air navigation; and (c), States, not otherwise included, whose election would ensure the representation of all major geographical areas. For a period of about nine months (August 1945 to May 1946) the place of the twenty-first member of the Council was left open in order to meet the requirements laid down concerning the composition of the Interim Council. Individual representatives serving on the Interim Council could not be actively associated with the operation of an international air service or have a financial interest in such a service (article III, section 2).

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13/ PICAQ Journal, vol. 1, No. 6, June 1946, pp. 40-41. At that time only five States had ratified the Convention.

26. The Interim Council had a President and three Vice-Presidents. Meetings of the Council were convened by the President, who acted as the Council's representative and performed such functions on its behalf as were assigned to him (article III, section 3).

27. Non-Council members were allowed to participate in the deliberations of the Council whenever the decision to be taken specifically concerned them. Neither a Council nor a non-Council member could vote in any matter involving a dispute in which they were engaged.

28. The powers, duties and functions of the Interim Council were similar to those of the permanent Council as provided for in the Convention on International Civil Aviation. <sup>14/</sup> Besides certain organizational matters (e.g. the appointment of the Secretary-General, preparation of the budget and establishment of subsidiary organs), the Interim Council's responsibilities included the following: (a) to maintain liaison with member States and to call upon them for such pertinent data and information as might be required in order to give consideration to recommendations made by them; (b) to receive, register and hold open to inspection by member States, all existing contracts and agreements relating to routes, services, lending rights, airport facilities or other international air matters to which any member State or any airline of a member State was a party; (c) to supervise and co-ordinate the work of the technical committees and working groups and committees (e.g. the financial committee); (d) to make recommendations on technical matters to member States of the Interim Assembly, individually or collectively; (e) when expressly requested, to act as an arbitration body on any differences arising among member States relating to international civil aviation matters; <sup>15/</sup> and (f), on direction of the Assembly, to convene the first Assembly when the Convention on International Civil Aviation came into force.

29. Technical committees: Three technical committees, established pursuant to the Interim Agreement, performed specialized functions laid down in the Agreement (article III, section 6). The purposes of the Committee on Air Navigation were to secure the highest practical degree of uniformity in regulations, standards and procedures in all matters which might facilitate, improve and promote air navigation. It was particularly concerned with the development of "international standards" and "recommended practices" with respect to such matters as communications systems, navigation aids, air traffic control practices, airworthiness of aircraft, licensing of operating and mechanical personnel, and registration and identification of aircraft. The Committee on Air Transport dealt with such questions as international air traffic, facilities, subsidies, tariffs, costs of operation, and organization and operation of air services.

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<sup>14/</sup> Articles 54 and 55 of the Convention correspond generally to the powers, duties and functions of the Interim Council as provided for in article III of the Interim Agreement.

<sup>15/</sup> The Interim Council might render an advisory report, or, if the parties expressly agreed in advance, give a binding decision.

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These two committees also had technical divisions composed of experts from member States. The Committee on International Convention on Civil Aviation was created "to continue the study of an international convention on civil aviation" (article III, section 6.3.C.). This provision was included in the draft of the Interim Agreement at the time when it was considered unlikely that the Convention could be completed at the Chicago Conference. The mandate of the Committee was retained after the Convention was completed, in view of the possibility that amendments might be necessary. Although it proved unnecessary to convene another conference on civil aviation, the Interim Council decided to establish the Committee. Upon the recommendation of the Interim Council, the Committee was retained in the permanent organization. All three Committees continued their existence in the same form for some time within the framework of ICAO. 16/

30. The Secretary-General: article IV of the Interim Agreement provided that the Secretary-General should be the chief executive and administrative officer of PICA0 and responsible to the Interim Council. He was required to follow the policies of the Interim Council and given full power and authority to carry out the duties assigned to him. He reported to the Council through the President who, as the representative of the Council, decided whether the matter could be settled directly or had to be referred to the Council. He was authorized to appoint the staff of the secretariat necessary for the functioning of the various organs of the PICA0. The Secretary-General was also responsible for investigations undertaken by the technical staff of the secretariat regarding disputes, complaints or hardship of member States under the provisions of the Transit and Transport Agreements. 17/ The purpose of such investigation was to gather facts relating to these matters, for submission to the Interim Council through the President.

#### Financial arrangements

31. An advance of approximately \$20,000 was made by the host country in order to finance the PICA0 in its early stages. Member States were invited to make advance payments of their contributions to cover the initial expenses until budgetary provisions could be made. The expenses were then proportioned by the Interim Assembly among the member States in terms of their capacity to pay (article V). Financial regulations were drawn up and a five-member Finance Committee established. 18/ The Interim Assembly was authorized to suspend the voting right of any member State that failed to discharge its financial obligations within a reasonable period. The Interim Agreement provided that each member State should bear the expenses of its own delegates to the Interim Assembly, the Interim Council, and to committees or subsidiary working groups.

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16/ PICA0 document 2781, C/323 and PICA0 Monthly Bulletin, March 1947, p. 2.

17/ See, e.g., article II, section 1, of the International Air Services Transit Agreement and article IV, section 2, of the International Air Transport Agreement.

18/ PICA0 document 1091, C/82, PICA0 Journal, vol. 1, No. 1, p. 82.

THE PREPARATORY COMMITTEE OF THE INTER-GOVERNMENTAL MARITIME  
CONSULTATIVE ORGANIZATION

Establishment

32. The United Nations Maritime Conference, which met from 19 February to 6 March 1948, was convened by the Economic and Social Council in order to consider the establishment of an intergovernmental maritime organization. 19/ The Conference opened for signature and acceptance the Convention on the Inter-Governmental Maritime Consultative Organization (IMCO). Article 60 provided that the Convention would enter into force when 21 States, of which seven would each have a total tonnage of not less than 1 million gross tons of shipping, had become parties. 20/ In order that the Organization, once established, might begin its work without delay, the Conference adopted a resolution setting up the Preparatory Committee of IMCO. 21/ The resolution specified that the first meeting of the Preparatory Committee should be held immediately after the conclusion of the Conference and that it should cease to exist upon resolution of the first session of the IMCO Assembly (paragraphs 3 and 7). A considerable period in fact elapsed until the conditions set out in article 60 were met and it was not until 17 March 1958 that the IMCO Convention entered into force. 22/

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19/ The Final Act and related documents, including the IMCO Convention, are contained in United Nations Treaty Series, vol. 289, p. 3 et seq. The Conference used as a basis for discussion a draft agreement prepared by the United Maritime Consultative Council. It may be noted that an Agreement for a Provisional Maritime Consultative Council entered into force on 23 April 1947; United Nations Treaty Series, vol. 11, p. 107.

20/ States might become parties by: (a) signature without reservation as to acceptance; (b) signature subject to acceptance followed by acceptance; or (c) acceptance (article 57).

21/ Annex A to the Final Act. Two other resolutions dealt with the convening of a Conference on Safety of Life at Sea and the report of a preparatory committee of experts on co-ordination of safety at sea and in the air.

22/ In a letter of 10 April 1959, addressed to the United States Mission, concerning the fulfilment of the conditions required by article 60, the Legal Counsel of the United Nations stated inter alia that "The determination of the tonnage was made on the basis of the Lloyds Register, in consultation with the Chairman of the Preparatory Committee of the Inter-Governmental Maritime Consultative Organization". The letter is reproduced in annex V to the written statement of the Government of the United States of America, I. C. J. Pleadings, Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization, p. 163.

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### Functions

33. The functions of the Preparatory Committee, as set out in paragraph 2 of the Conference resolution, were designed to enable IMCO to begin its operations as soon as possible after the IMCO Convention had gained the necessary acceptance. The Preparatory Committee was required to convene the first session of the IMCO Assembly within three months from the entry into force of the Convention. In order that the first session might proceed without delay, the Preparatory Committee was asked to submit to the Governments represented at the United Nations Maritime Conference, and to any other Governments which had signed or accepted the Convention, the provisional agenda for the first session and necessary documents and recommendations relating thereto, including

- (i) Proposals for the implementation of the functions of IMCO and a budget for the first two years,
- (ii) Draft rules of procedure,
- (iii) Draft financial and staff regulations.

In addition it was asked to suggest a scale of members' contributions to the budget of IMCO. The Preparatory Committee was also requested, under paragraph 2 (d) and (e) of the Conference resolution, to prepare a draft annex to the Convention on the Privileges and Immunities of the Specialized Agencies and to enter into negotiations with the United Nations with a view to the preparation of a relationship agreement between the United Nations and IMCO, on the basis of a draft approved by the Conference.

34. The Preparatory Committee held in all four sessions. <sup>23/</sup> Following an initial session in March 1948, the Committee met again in November 1948 when it took action on administrative and financial matters and made preparations for the first session of the IMCO Assembly, including the adoption of a provisional agenda and draft rules of procedure. Thereafter there was a pause in activity until 1957. In that year it was decided that, in view of the long period since the conclusion of the Convention in 1948, the preparations for the first session would need more thorough exploration. Owing to changes in the situation which continued to occur, however, it was inconvenient to start these preparations before the Convention was in force. Accordingly the Governments of States which had become parties to the Convention agreed by correspondence, effective 11 November 1957, that the Assembly should be convened within six months, instead of three, from the date the Convention came into force. <sup>24/</sup> After the Convention came into force on 17 March 1958, the parties again agreed by correspondence, effective 1 June 1958, to further extend

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<sup>23/</sup> See generally IMCO/A.I/1, "Opening of the session by the Chairman of the Preparatory Committee and presentation of the report of the Preparatory Committee to the Assembly".

<sup>24/</sup> Ibid., paras. 4-5.

the date of the convening of the Assembly, and accepted the proposal of the Chairman of the Preparatory Committee that he request the Secretary-General to make preliminary arrangements for convening the IMCO Assembly in January 1959. Owing to the heavy schedule of meetings taking place within the United Nations during 1958, facilities could not be made available before that time.

35. The third session of the Preparatory Committee was then held on 3 and 4 June 1958. The Committee took additional measures and revised some of its former preparations in the light of events which had occurred since the second session in 1948. It also revised the provisional agenda for the first session of the IMCO Assembly. During this session the Committee examined the draft agreement between the United Nations and IMCO adopted by the United Nations Maritime Conference. A joint meeting was held between representatives of the Preparatory Committee and the United Nations Committee on Negotiations with Inter-Governmental Agencies. The General Assembly had approved the relationship agreement in resolution 204 (III) of 18 November 1948, although it could not come into force until it had been approved by the IMCO Assembly as well. The fourth session was held in London on 5 January 1959, immediately before the convening of the first session of the IMCO Assembly.

36. The first session of the IMCO Assembly was held from 6 to 19 January 1959. The Preparatory Committee submitted the documents it had been asked to prepare, for the consideration of the Assembly, which thereupon took the necessary action. The Assembly also adopted a resolution dissolving the Preparatory Committee.

37. It may be noted that, since the functions given to the Preparatory Committee under the Conference resolution related exclusively to the administrative and organizational requirements for bringing the future agency into operation, the preparatory body did not assume responsibility for the performance of substantive functions assigned to IMCO in several international instruments concluded after the 1948 Conference. The 1948 International Convention for the Safety of Life at Sea, 25/ and the 1954 International Convention for the Prevention of Pollution of the Sea by Oil, 26/ conferred functions and duties on IMCO which had been provisionally performed by the United Kingdom, pursuant to provisions in those agreements. At its first session the IMCO Assembly resolved, on the recommendation of the Preparatory Committee, to accept the functions and duties involved, and also to assume responsibility for the 1948 International Regulations for Preventing Collisions at Sea, 27/ which had likewise been carried out by the United Kingdom.

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25/ United Nations Treaty Series, vol. 164, p. 113.

26/ Ibid., vol. 327, p. 3.

27/ Ibid., vol. 191, p. 3.

### Organization

38. The Preparatory Committee consisted of representatives of 12 States named in the Conference resolution: Argentina, Australia, Belgium, Canada, France, Greece, India, Netherlands, Norway, Sweden, United Kingdom and United States. It elected a Chairman and adopted its own rules of procedure. Observers of other States attended the third session.

39. Staff: paragraph 6 of the Conference resolution provided that the Preparatory Committee might enter into agreement with the Secretary-General concerning the provision of personnel and other secretarial services under mutually satisfactory arrangements. The Preparatory Committee secretariat which was established continued to function until after the first session of the IMCO Assembly.

### Financial arrangements

40. Paragraph 5 of the Conference resolution provided that the expenses of the Preparatory Committee, other than those of the members, should be met from funds advanced by governments, which could be set out against future contributions to IMCO, or loaned by the United Nations. The Preparatory Committee was empowered to explore the feasibility of obtaining a loan from the United Nations and, if mutually acceptable, to enter into a loan agreement. The obligation under any such loan, it was stated, would be considered by the Governments represented at the Conference as a first claim for repayment by IMCO within the first two years of its existence. The United Nations in fact advanced funds for the expenses of the Preparatory Committee and for the first session of the IMCO Assembly, which were subsequently repaid. 28/

## THE PREPARATORY COMMISSION OF THE INTERNATIONAL REFUGEE ORGANIZATION

### Establishment

41. The Preparatory Commission of the International Refugee Organization (IRO) was established by the Agreement on Interim Measures to be taken in respect of Refugees and Displaced Persons, signed at New York on 15 December 1946. 29/ The Agreement entered into force on 31 December 1946, after eight States had signed the

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28/ IMCO/A.I/13 and 14.

29/ United Nations Treaty Series, vol. 18, p. 122.

Constitution of IRO, 30/ as required under article 9 of the Agreement. The Preparatory Commission was charged with the task of taking "all necessary and practicable measures for the purpose of bringing the Organization into effective operation as soon as possible" (article 2 (a)). Article 8 of the Agreement provided that the Preparatory Commission was to cease to exist upon the election of the Director-General of IRO, at which time its property, assets and records were to be handed over to the permanent body.

### Functions

42. Pending the establishment of IRO, the Preparatory Commission was called upon to perform broadly the same functions as the proposed permanent body with respect to refugees and displaced persons. 31/ These included arrangements for the orderly transfer of responsibilities from various existing organizations concerned with refugees and functions relating to the repatriation of refugees, identification, registration and classification, care and assistance, legal and political protection, transport, and the resettlement of refugees and displaced persons in countries able and willing to receive them. The Executive Secretary put forward a number of measures, approved by the Preparatory Commission, which aimed at the effective implementation of the provisions for repatriation. The Executive Secretary was instructed to get in touch with Members of the United Nations with a view towards enlisting their co-operation and generosity with respect to immigration. The Executive Secretary also submitted for consideration a plan according to which governments would agree to accept whatever might be determined as their reasonable share of the total number of refugees and displaced persons requiring resettlement. Although most of these plans were not implemented, they paved the way for the subsequent conclusion by IRO of bilateral agreements with individual governments willing to accept refugees as immigrant settlers.

43. Besides such operational functions as it was called upon to perform, the Preparatory Commission was authorized to arrange for the convening of the IRO General Council as soon after the entry into force of the IRO Constitution as practicable; to prepare the provisional agenda for the first session and documents relating thereto; to suggest plans for the programme for the first year of IRO; and to prepare draft financial and staff regulations and draft rules of procedure for the IRO General Council and Executive Committee (article 2).

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30/ Ibid., vol. 18, p. 3. The Constitution was opened for signature on 15 December 1946. Under the provisions of article 18 of the IRO Constitution, States might become parties by: (i) signature without reservation as to approval; (ii) signature subject to approval followed by acceptance; (iii) acceptance. It was specified that the Constitution was to come into force when at least 15 States, whose required contributions to part I of the operational budget amounted to 75 per cent of the total, had become parties.

31/ See generally Holborn, The International Refugee Organization, Its History and Work, 1946-1952.

44. The IRO Constitution came into force on 20 August 1948, and the Preparatory Commission convened the first session of the IRO General Council on 13 September 1948. During its first session the General Council took a number of steps essential to the establishment of IRO, including the election of the Director-General, thus terminating the preparatory body.

#### Organization

45. The Preparatory Commission was composed of a representative of each Government which signed the IRO Constitution (article 1). The Director of the Inter-governmental Committee on Refugees, the Director-General of the United Nations Relief and Rehabilitation Agency and the Director of the International Labour Organisation were invited to attend in a consultative capacity.

46. Committees: the Preparatory Commission established an Advisory Committee which made recommendations concerning the action required to enable IRO to enter into effective operation and advised the Executive Secretary on the preparatory measures undertaken.

47. Executive Secretary: an Executive Secretary was appointed who performed such duties as the preparatory body determined and was responsible for the appointment and direction of the staff (article 5).

#### Financial arrangements

48. Article 6 of the Agreement provided that the expenses of the Preparatory Commission were to be met by advance contributions from governments, deductible from subsequent contributions to IRO, and from such funds and assets as were transferred from existing organizations. These arrangements proved unsatisfactory and during its initial period the Preparatory Commission faced considerable difficulties owing to shortage of funds. When no advance contributions were made, the Commission decided to appeal to the Secretary-General to make an advance from the Working Capital Fund of the United Nations, as had been done in the case of the Interim Commission of the World Health Organization, 32/ and in accordance with resolution 68 C (I), adopted by the General Assembly on 14 December 1946, concerning the Working Capital Fund. In response to this request the Secretary-General agreed to place at the disposal of the Preparatory Commission the sum of \$250,000 in order to meet salaries and administrative expenses, subject to subsequent reimbursement. The Secretary-General also made available the services of members of the Refugee Division of the Secretariat and provided office accommodation and other forms of assistance. 33/

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32/ See para. 59 below.

33/ Holborn, op. cit., p. 62.

## THE INTERIM COMMISSION OF THE WORLD HEALTH ORGANIZATION

### Establishment

49. The Constitution of the World Health Organization (WHO) was signed on 22 July 1946, at the International Health Conference held in New York. <sup>34/</sup> As the Constitution was not to enter into force until 26 States Members of the United Nations had become parties, <sup>35/</sup> an Arrangement for the establishment of the Interim Commission of WHO <sup>36/</sup> was concluded at the Conference, on the same day as the WHO Constitution itself was opened for signature. The Arrangement entered into force for all signatories on the date it was signed (article 12).

50. The purpose of the Interim Commission was to make the necessary preparations for the first session of the World Health Assembly and to carry on certain essential tasks which could not be interrupted or delayed pending the coming into force of the WHO Constitution and the establishment of WHO. The Arrangement provided that the Interim Commission "shall cease to exist upon resolution of the Health Assembly at its first session, at which time the property and records of the Interim Commission and such of its staff as may be required shall be transferred to the Organization" (article 11).

### Functions

51. Under article 2 of the Arrangement the Interim Commission was given the following functions:

(a) To convoke the first session of the World Health Assembly not later than six months after the Constitution came into force;

(b) To prepare and submit to the signatories of the Arrangement the provisional agenda for the first session of the World Health Assembly, and necessary documents and recommendations thereto, including:

(i) Proposals as to programme and budget for the first year of WHO,

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<sup>34/</sup> WHO Constitution, United Nations Treaty Series, vol. 14, p. 185. For the proceedings and final act of the Conference, see WHO Interim Commission, Official Records of WHO, No. 2, Proceedings and Final Act of the International Health Conference, held in New York 19 June-22 July 1946.

<sup>35/</sup> Article 79 of the WHO Constitution provided that States might become parties by: (i) signature without reservation as to approval; (ii) signature subject to approval followed by acceptance; or (iii) acceptance. Acceptance requires the deposit of a formal instrument with the Secretary-General.

<sup>36/</sup> Arrangement concluded by the Governments represented at the International Health Conference, United Nations Treaty Series, vol. 9, p. 33. (Hereafter referred to as the "Arrangement".)

- (ii) Studies regarding location of the headquarters of WHO,
- (iii) Studies regarding the definition of geographical areas with a view to the establishment of regional organizations as contemplated in chapter XI of the Constitution,
- (iv) Draft financial and staff regulations;
- (c) To enter into negotiations with the United Nations with a view to the preparation of an agreement or agreements as contemplated in Article 57 of the Charter and article 69 of the Constitution;
- (d) To take the necessary steps to effect the transfer from the United Nations to the Interim Commission of the functions, activities and assets of the League of Nations Health Organization, and to take similar action with respect to the Office international d'hygiene publique;
- (e) To take over various health functions assigned to the United Nations Relief and Rehabilitation Administration;
- (f) To enter into the necessary arrangements with the Pan American sanitary organization and various intergovernmental regional health organizations, with a view to giving effect to article 54 of the Constitution;
- (g) To establish effective relations and enter into negotiations with a view to concluding agreements with other intergovernmental organizations as contemplated in article 70 of the Constitution;
- (h) To study the question of relations with non-governmental international organizations and with national organizations in accordance with article 71 of the Constitution, and to make interim arrangements with such bodies;
- (i) To undertake initial preparations for revising, unifying and strengthening existing international sanitary conventions, and to review existing machinery and undertake preparatory work with regard to the revision and establishment of various international health statistics;
- (j) To establish effective liaison with the Economic and Social Council and its commissions;
- (k) To consider any urgent health problem brought to its notice by any government, to give technical advice in regard thereto, to bring urgent health needs to the attention of governments and organizations which may be in a position to assist, and to take such steps as may be desirable to co-ordinate any assistance so provided.

52. The Interim Commission was also called upon to submit a report of its activities to the first session of the World Health Assembly (article 10).

53. It was originally expected that the Interim Commission would be in existence only for a short period. Owing to delays in ratification of the Constitution the Interim Commission remained in being for nearly two years. The activities undertaken by the Interim Commission during this period covered all the functions listed above, particular attention being given to the assumption of functions of earlier health organizations and the integration of existing regional health organizations and non-governmental bodies, technical activities, and preparations for the first World Health Assembly. The Interim Commission had to undertake a good deal of technical work which could not await the inauguration of the permanent organization. In doing so it was obliged to establish an order of priority, so as to ensure effective action within the resources available, and its work had to be adjusted to the complex machinery of the United Nations and its specialized agencies, and of other official and voluntary bodies. 37/

54. As regards preparations for the first World Health Assembly, the Interim Commission realized that the permanent organization would hardly be able during the first year of its existence to develop hard and fast programmes for all the health matters requiring international attention. In drawing up the agenda and drafting the first year's programme, the Commission accordingly suggested an order of priority with respect to the items involved and indicated the cases in which, in its view, action should be initiated. 38/

55. The Interim Commission thus had to undertake a number of tasks which had not been foreseen at the International Health Conference in 1946. The policies and methods of work it adopted had a considerable influence on those of WHO itself in its early years.

#### Organization

56. The Interim Commission consisted, under the terms of article 1 of the Arrangement, of 18 States entitled to designate persons to serve on it. Each of these States were required to designate a person technically qualified in the field of health. The International Health Conference, at its 14th meeting, adopted a motion stating that membership of the Interim Commission would constitute a prior claim to membership of the WHO Executive Board to be elected by the first World Health Assembly. The Commission was entitled to elect its Chairman and other officers and to adopt its own rules of procedure (article 4). It met not less than once every four months (article 7).

57. Committees: the Interim Commission was empowered to establish such committees as it considered desirable (article 3). The Commission set up five committees, through which much of its work was carried on:

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37/ WHO, Official Records of WHO (Report of the Interim Commission to the First World Health Assembly: Activities), No. 9. Geneva 1948.

38/ WHO, Official Records of WHO (Report of the Interim Commission to the First World Health Assembly: Provisional Agenda), No. 10. Geneva 1948



- (i) Committee on Administration and Finance
- (ii) Committee on Relations
- (iii) Committee on Technical Questions
- (iv) Committee on Priorities
- (v) Committee on Headquarters<sup>39/</sup>

58. An Executive Secretary was appointed by the Interim Commission, to act as its chief technical and administrative officer (article 5). He was ex officio secretary of the Interim Commission and all committees established by it, and had direct access to national health administrations, as well as performing such other functions and duties as the Commission determined. He was authorized to appoint such technical administrative staff as might be required (article 6). Pending the recruitment of staff the Executive Secretary was instructed to utilize such technical and administrative assistance as the Secretary-General might make available. At the outset the Interim Commission was largely dependent upon the United Nations for its personnel and administrative services, and was guided by United Nations precedents in regard to staff and financial regulations and procedures. <sup>40/</sup>

#### Financial arrangements

59. The Secretary-General agreed, following consultation with a committee of the Conference, to make an allotment for 1946 of up to \$300,000 from the United Nations Working Capital Fund, and he expressed his belief that the General Assembly would be willing to appropriate such further funds, up to \$1 million as might be necessary for 1947 <sup>41/</sup> Should these funds be insufficient the Commission was authorized to accept advances from governments against their future obligations to WHO (article 8). The Executive Secretary was required to prepare budget estimates for the Interim Commission, which were subject to its review and approval (article 9).

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<sup>39/</sup> WHO, The First Ten Years of WHO, Geneva 1958, p. 55.

<sup>40/</sup> Ibid., p. 69.

<sup>41/</sup> WHO. Interim Commission, Official Records of WHO, No. 2. Proceedings and Final Act of the International Health Conference. Held in New York from 19 June to 22 July 1946, p. 29.

THE PREPARATORY COMMISSION OF THE INTERNATIONAL  
ATOMIC ENERGY AGENCY

Establishment

60. In the course of meetings<sup>42/</sup> held in 1955 and 1956 to draw up the Statute of the International Atomic Energy Agency (IAEA), it was proposed that a body should be established to take preparatory measures between the signature of the IAEA Statute and its entry into force. Accordingly, an Annex, entitled "Preparatory Commission", was attached to the draft instrument submitted to the Conference convened to consider the Statute of IAEA, held at United Nations Headquarters from 20 September to 26 October 1956. <sup>43/</sup> The Statute <sup>44/</sup> was opened for signature on 26 October 1956 and came into force on 29 July 1957. <sup>45/</sup> Article XXI, paragraph G, of the Statute provided that "the Annex to this Statute shall come into force on the first day this Statute is open for signature". <sup>46/</sup> The Annex, providing for the establishment of the Preparatory Commission, thus came into force on 26 October 1956. <sup>47/</sup>

61. It was stated in the Annex that the Preparatory Commission "shall remain in existence until the Statute comes into force and thereafter until the General Conference has convened and a Board of Governors has been selected in accordance with article VI." (Annex, paragraph A). The Preparatory Commission held its last meeting on 26 September 1957, immediately prior to the fulfilment, on 3 October 1957, of the conditions laid down for its dissolution.

Functions

62. The functions of the Preparatory Commission, as set out in paragraphs C.3 to C.7 of the Annex, were to make preparations for the operation and work of IAEA. Paragraphs C.3 and C.4 of the Annex charged the Preparatory Commission with the tasks of making the necessary arrangements for the first session of the IAEA General Conference and for the designation of the Board of Governors of IAEA, in accordance with the relevant provisions of the Statute. Following the entry into force of the Statute on 29 July 1957, the Preparatory Commission convened the first session of the General Conference, for which it prepared the provisional

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<sup>42/</sup> These were meetings of the Negotiating Group and "Working Level Meetings".

<sup>43/</sup> For the proceedings of the Conference see IAEA/CS/1 to /13.

<sup>44/</sup> United Nations Treaty Series, vol. 276, p. 4. See generally P. Szasz, Law and Practices of the International Atomic Energy Agency, IAEA Legal Series, No. 7, 1970.

<sup>45/</sup> Under article XXI, paragraph E, of the Statute entry into force required ratification by 18 States, including at least three of the following five States named in the Statute: Canada, France, USSR, United Kingdom and United States.

<sup>46/</sup> Some 70 States signed the Statute on the first day, 26 October 1956, and a further 10 States within the 90-day period allowed for signatures.

<sup>47/</sup> At the Conference the functions of the Preparatory Committee were amended to include certain additional functions, but no basic changes were made in the draft which had been prepared. See IAEA/CS/Annex I/Amend.2.

agenda and draft rules of procedure. The items to be dealt with by the Conference were divided by the Preparatory Commission into two parts: a provisional agenda, for the initial, regular session; and a recommended list of items for a special session. The principal task of the regular session was to elect members of the Board of Governors. Immediately following that election and the establishment of the Board of Governors, the regular session of the General Conference was adjourned and the special session convened, to deal with items for which action by the Board was required.

63. Under paragraph C.5 of the Annex the Preparatory Commission was requested to make studies, reports and recommendations for the initial meetings of the General Conference and the Board on subjects of concern to the IAEA requiring immediate attention. These subjects included the financing of the Agency, the programmes and budget for the first year, technical problems relevant to advance planning of IAEA operations, and the establishment of a permanent staff. Plans relating to these matters were set out in a report, "The Programme, Staff, Budget and Financing of the Agency during its First Year", 48/ submitted to the General Conference by the Preparatory Commission. Attached to the report were draft resolutions concerning appropriations for the initial financial period of the Agency, the establishment of a Working Capital Fund and voluntary contributions.

64. The Preparatory Commission was also asked to deal with the question of the location of the permanent headquarters of IAEA. The Conference on the IAEA Statute adopted a recommendation addressed to the Preparatory Commission, requesting it to be guided by the expressed preference of the Conference that the headquarters of the Agency should be established in Vienna. In response to this request the Preparatory Commission recommended to the IAEA General Conference that the Agency's permanent seat be located in Vienna. 49/ The Commission was authorized under paragraph C.6 to make recommendations concerning the provisions of a headquarters agreement defining the status of the Agency and the rights and obligations of the Agency and the host Government. On the basis of negotiations with the Austrian Government, the Commission submitted to the Board an almost complete draft of the headquarter's agreement. 50/

65. Pursuant to paragraph C.7 (a) the Preparatory Commission entered into negotiations with the United Nations on the draft of a relationship agreement. 51/ The result was submitted to the General Conference and to the Board of Governors. In accordance with paragraph C.7 (b), the Commission also submitted recommendations concerning the guiding principles for relationship agreements between the Agency and the specialized agencies. 52/

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48/ See ED. IAEA/GC.1/1-Gov/1.

49/ GC/(S)/18.

50/ Ibid.

51/ IAEA/GC.1/3-Gov/4/Add.1.

52/ IAEA/GC.1/4-Gov/5.

### Organs

66. The Preparatory Commission was composed of representatives of 18 States, 12 of which were named in the Annex 53/ and 6 54/ chosen by the Conference of the IAEA Statute. The Preparatory Commission was authorized to elect its own officers, adopt rules of procedure, meet as often as necessary, determine its own place of meeting and establish such committees as it deemed necessary (paragraph C.1). Its first meeting was convened by the President of the Conference on the IAEA Statute. Pursuant to its temporary rules of procedure a President and a Vice-President were elected, who held office throughout the existence of the Commission. Permanent rules of procedure were prepared by the Executive Secretary, on the basis of standard United Nations rules, and after examination by a drafting committee, adopted at the Commission's 8th meeting.

67. Committees: the Commission established the following Committees:

A working group of the whole, to study and make recommendations with respect to the programme and activities of the Agency;

A committee on permanent facilities, to assist the Executive Secretary in preparing a report on the Agency's needs in respect of facilities, and the availability of such facilities; and

Several ad hoc committees, such as the working group to review the draft agenda for the General Conference.

68. Executive Secretary: under the authority granted to it, the Preparatory Commission appointed an Executive Secretary. The Commission originally felt that it could not legally employ anyone beyond the date of its own existence. This consideration later appears to have been outweighed by the practical desirability of providing for staff continuity during the initial period of the Conference and the Board. 55/ The Executive Secretary's contract was accordingly prolonged, as were most staff appointments, to a date 30 days after the closing of the first General Conference. The Executive Secretary served ex officio as Secretary-General of the first regular session of the General Conference and of the special session. He was designated Acting Director-General of the Agency and held office until the first Director-General assumed his post on 1 November 1957.

69. Draft Staff Regulations were prepared by the Executive Secretary on the basis of those of the United Nations and, after revision by the drafting committee, were adopted at the ninth meeting of the Commission. The draft Staff Regulations provided that periods of service with the Preparatory Commission might, at the discretion of the Director-General, be considered as if they had been periods of service with the IAEA itself.

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53/ Australia, Belgium, Brazil, Canada, Czechoslovakia, France, India, Portugal, South Africa, USSR, United Kingdom and United States.

54/ Argentina, Egypt, Indonesia, Japan, Pakistan and Peru were elected by secret ballot at the 39th meeting of the Conference.

55/ IAEA/PC/OR.51, p. 10.

Financial arrangements

70. The Preparatory Commission was authorized, under paragraph B of the Annex, to secure a loan from the United Nations in order to cover its expenses and to make the necessary arrangements for repayment of the loan by the Agency. It was also provided that, should these funds be insufficient, the Commission might accept advances from governments, to be deducted from their subsequent contributions.

71. Under General Assembly resolution 981 (X) of 16 December 1955 the Secretary-General was authorized to grant loans from the Working Capital Fund to preparatory commissions of agencies to be established by intergovernmental agreement under the auspices of the United Nations and to finance their work pending the receipt by the agencies concerned of sufficient contributions under their own budgets. With the concurrence of the Advisory Committee on Administrative and Budgetary Questions, as required under the resolution, the Secretary-General acceded to a request for a loan totalling \$624,000. Since this met the full amount required, the Commission did not solicit any advances from governments. The sum was subsequently repaid by IAEA, following receipt of contributions.

THE INTERNATIONAL SUGAR AGREEMENT, 1968<sup>56/</sup>Establishment

72. The text of the Agreement was established by the United Nations Sugar Conference, 1968, which met at Geneva from 17 April to 1 June 1968 and from 23 September to 24 October 1968. It was adopted by the Conference at its final plenary meeting held on 24 October 1968. <sup>57/</sup> The Agreement was designed, in the words of its preamble, to raise the level of international trade in sugar, to maintain a stable price which would be reasonably remunerative to producers, to provide adequate supplies for importers, to bring world production and consumption into closer balance, to facilitate the co-ordination of sugar marketing policies and the organization of the market, and to provide for active participation in, and growing access to, the markets of the developed countries for sugar from the developing countries. The International Sugar Organization was established, as the

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<sup>56/</sup> A considerable number of commodity agreements have been applied provisionally, either under the terms of the agreement itself or of a protocol. The main reason for this has been the need to establish the organizational arrangements, including the quota system, at the start of the commodity year (or "quota year") in question. In addition there is the consideration that since commodity agreements are usually for a fixed duration (e.g. for a period of five years) and succeed one another, it is important that there should be no gap in time between the cessation of responsibilities under one agreement and the application of the next.

While the extremely complex nature of these agreements, and the different commodities involved, have prevented precisely identical procedures being adopted in all instances, the relevant provisions of the International Sugar Agreement, 1968, and the related practice, are set out below as an example of the arrangements made in a relatively recent and typical case. The provisions of this Agreement are similar to those contained in the International Coffee Agreement, 1968, which entered into force provisionally on 1 October 1968 and definitively on 30 December 1968, in accordance with article 62, paragraphs (1) and (2), of that Agreement, United Nations Treaty Series, vol. 647, p. 3. The International Coffee Agreement, 1962, also entered into force provisionally for six months under a generally parallel arrangement, *ibid.*, vol. 469, p. 169. The International Agreement on Olive Oil, 1956, was, in effect, brought into effect provisionally, as between a limited number of States, under a Protocol amending the International Agreement on Olive Oil, 1956, *ibid.*, vol. 336, p. 177 and vol. 302, p. 121.

<sup>57/</sup> United Nations Treaty Series, vol. 654, p. 3. For the report of the Conference, see United Nations Sugar Conference, 1968, Summary of Proceedings, TD/SUGAR.7/12.

successor to the Council set up by the 1958 International Sugar Agreement,<sup>58/</sup> to administer the provisions of the Agreement and to supervise its operations. In a series of chapters the Agreement made provision for the operation of a quota system and the regulation of exports; the use of support measures and provisions relating to access to markets; the maintenance of stocks at agreed levels; the conduct of an annual review; and for the performance of various ancillary responsibilities, by the Organization or by States parties.

73. As regards its final clauses, elaborate arrangements were made in chapter XVII of the Agreement. The Agreement was open for signature until 24 December 1968 by any Government invited to the Conference (article 59). Article 60 provided that the Agreement was subject to ratification, acceptance or approval by signatory Governments, in accordance with their respective constitutional procedures. Except as provided in article 61, instruments of ratification, acceptance or approval were to be deposited with the Secretary-General not later than 31 December 1968. If, however, a signatory Government was unable to comply with the requirements of article 60 within the time-limit specified, it might notify the Secretary-General that it was undertaking to seek ratification, acceptance or approval as rapidly as possible and in any case not later than 1 July 1969 (article 61, paragraph (1)). Any Government permitted to accede,<sup>59/</sup> under conditions established by the International Sugar Council in agreement with that Government, might also notify the Secretary-General that it was undertaking to satisfy the constitutional procedures required to accede to the Agreement as rapidly as possible, and at least within six months of the conditions being established (*ibid.*). Any Government, furthermore, which gave a notification to the Secretary-General, might, if the Council was satisfied that it could not deposit a formal instrument by 1 July 1969, be permitted to deposit such an instrument at a later date but in any case not later than 31 December 1969 (article 61, paragraph (2)). Any such Government was to have the status of an observer until it had indicated that it would apply the Agreement provisionally.

74. Article 62, entitled "indication to apply the agreement provisionally", is reproduced below.

"(1) Any Government which gives a notification pursuant to article 61 may also indicate in its notification, or at any time thereafter, that it will apply the Agreement provisionally.

"(2) During any period the Agreement is in force, either provisionally or definitively, and before the deposit of its instrument of ratification, acceptance, approval or accession or the withdrawal of its indication, a Government indicating that it will apply the Agreement provisionally shall be a provisional Member of the Agreement until the time-limit contained in the notification given under article 61 expires. If, however, the Council is

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<sup>58/</sup> United Nations Treaty Series, vol. 385, p. 137.

<sup>59/</sup> Accession was permitted under the terms of article 64.

satisfied that the Government concerned has not deposited its instrument owing to difficulties in completing its constitutional procedures, the Council may extend that Government's provisional Member status under some later specified date.

"(3) A provisional Member of the Agreement shall, pending ratification, acceptance or approval of, or accession to the Agreement, be regarded as being a Contracting Party thereto."

75. Article 63 distinguished between the entry into force of the Agreement "definitively" and "provisionally", as follows:

"(1) The Agreement shall enter definitively into force on 1 January 1969, or on any date within the following six months, if by that date Governments holding 60 per cent of the votes of the exporting countries and 50 per cent of the votes of the importing countries in accordance with the distribution established in Annex B have deposited their instruments of ratification, acceptance or approval with the Secretary-General of the United Nations. It shall also enter definitively into force at any time thereafter that it is provisionally in force and these percentage requirements are satisfied by the deposit of instruments of ratification, acceptance, approval or accession.

"(2) The Agreement shall enter provisionally into force on 1 January 1969, or on any date within the following six months, if by that date Governments holding the number of votes required under paragraph (1) of this article have deposited their instruments of ratification, acceptance or approval or have indicated that they will apply the Agreement provisionally. During the period the Agreement is provisionally in force Governments that have deposited an instrument of ratification, acceptance, approval or accession as well as those Governments that have indicated that they will apply the Agreement provisionally shall be provisional Members of the Agreement.

"(3) On 1 January 1969, or on any date within the following 12 months and at the end of each subsequent six-month period during which the Agreement is provisionally in force, the Governments of any of those countries which have deposited instruments of ratification, acceptance, approval or accession may decide to put the Agreement definitively into force among themselves in whole or in part. These Governments may also decide that the Agreement shall enter provisionally into force, or continue provisionally in force, or lapse."

76. A number of Governments made the notifications provided for in article 61, paragraph (1), and indicated that they would apply the Agreement provisionally, pursuant to article 62, paragraph (2). 60/ The Agreement entered into force

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60/ For the list of the States concerned and the relevant dates, see Multilateral Treaties in respect of which the Secretary-General performs Depositary Functions, List of Signatures, Ratifications, Accessions, etc., as at 31 December 1971, ST/LEG/SER.D/5, United Nations Publication, Sales No. E.72.V.7, p. 363.



provisionally on 1 January 1969, in accordance with article 63, paragraph (2), and definitively on 17 June 1969, in accordance with article 63, paragraph (1). It may be noted that article 70, paragraph (1), provided that the Agreement was to remain in force for five years from the beginning of the quota year in which it first entered into force, whether provisionally or definitively, unless terminated earlier by the Council by special vote.

### Functions

77. During the period that it was in force provisionally, the Agreement was applied as a whole as between the States which had agreed to apply the Agreement provisionally or had submitted a formal instrument. Provisional Members were regarded as Contracting Parties in accordance with the terms of article 62, paragraph (3). The International Sugar Council was empowered to perform the full range of functions entrusted to it, concerning, for example, the operation of the quota system and the maintenance of stocks. The Council, which held several sessions during the provisional period, also established the conditions of accession of a number of governments and agreed, under article 61, paragraph (2), to extend the time-limit for the deposit of formal instruments. 61/

### Organization

78. The International Sugar Council consisted of all Members of the Organization. It elected a Chairman and Vice-Chairman each quota year. It was provided that, as a general rule, the Council should hold one regular session each half of the quota year (article 8). As already noted, the Council held several sessions during the period that the Agreement was in force provisionally.

79. Executive Committee: the Agreement provided for the election of an Executive Committee, consisting of eight exporting and eight importing Members (article 14). Many of the functions of the Council might be delegated to the Executive Committee (article 16).

80. Executive Director: the Council, after having consulted the Executive Committee, might appoint the Executive Director, who in turn might appoint the staff (article 19).

### Financial arrangements

81. It was provided that the expenses necessary for the administration of the Agreement were to be met by annual contributions from Members, who were to be assessed in proportion to the number of the votes accorded to them under the Agreement (chapter V, articles 21-24).

61/ At its second session, held 28-30 May 1969, the Council decided that, considering the number of still outstanding instruments from Members which were signatory Governments, and the difficulties foreseen by many of them in securing a deposit of their instruments by 1 July 1969, the date referred to in article 61, the time-limit should be extended to 31 December 1969. A similar extension was given in respect of the deposit of instruments of accessions, under terms which had been agreed upon. Text of the decision, ibid., p. 363, foot-note 3. Further extensions were subsequently given in respect of accessions.

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THE EUROPEAN FISHERIES CONVENTION OF 9 MARCH 1964

Establishment

82. Following a conference held in London, the Governments of Austria, Belgium, Denmark, France, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom adopted a Fisheries Convention defining, in the words of the preamble, "a régime of fisheries of a permanent character" applicable off the coasts of the States concerned. 62/ Article 14 of the Convention provided that the Convention should be open for signature from the date of its adoption, 9 March 1964, to 10 April 1964, and be subject to ratification or approval by the signatory Governments. The Convention required the deposit of instruments of ratification or approval by eight signatory Governments to bring it into force. 63/ It was further provided that

"If, however, on 1 January 1966, this condition is not fulfilled, those Governments which have deposited their instruments of ratification or approval may agree by special protocol on the date on which the Convention shall enter into force. In either case the Convention shall enter into force with respect to any Government that ratifies or approves thereafter on the date of deposit of its instrument of ratification or approval." 64/

The Convention was specified to be of unlimited duration (article 15).

83. A Protocol of Provisional Application of the Fisheries Convention was concluded on the same day, 9 March 1964. 65/ Article 1 of the Protocol stated

"The Contracting Parties will raise no objection if a Government which has ratified or approved the Fisheries Convention opened for signature at London on 9 March 1964, applies provisionally the provisions of the Convention, having first notified its decision to the Government of the United Kingdom of Great Britain and Northern Ireland."

84. Under article 3 the Protocol was opened for signature from 9 March 1964 to 10 April 1964. It entered into force "when it has been signed by two Governments as between those Governments, and in respect of any Government which signs it thereafter on the date of signature by that Government" (article 3). In accordance with this provision the Protocol came into force upon signature, in respect of the following 12 States on the dates indicated.

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62/ United Nations Treaty Series, vol. 581, p. 57.

63/ The United Kingdom was the depositary Government.

64/ Article 14 also specified that any State might accede to the Convention after it had come into force, upon such conditions as might be agreed by it with the Contracting Parties.

65/ United Nations Treaty Series, vol. 581, p. 76.

State	Date of signature	Date of entry into force
United Kingdom . . . . .	9 March 1964	18 March 1964
Ireland. . . . .	18 March 1964	18 March 1964
Denmark. . . . .	31 March 1964	31 March 1964
Belgium. . . . .	1 April 1964	1 April 1964
Netherlands. . . . .	7 April 1964	7 April 1964
Portugal . . . . .	7 April 1964	7 April 1964
Spain. . . . .	8 April 1964	8 April 1964
Sweden . . . . .	8 April 1964	8 April 1964
Federal Republic of Germany. . . . .	9 April 1964	9 April 1964
France . . . . .	10 April 1964	10 April 1964
Italy. . . . .	10 April 1964	10 April 1964
Luxembourg . . . . .	10 April 1964	10 April 1964

85. Article 2 specified that the provisional application of the Fisheries Convention by a Contracting Party would entail the establishment of a list of arbiters provided for in annex II to the Convention. It also provided that:

"A Contracting Party which has provisionally applied the provisions of the Convention shall be bound by its provisions, in particular article 13, and shall not object if they are invoked by a Government which has signed the present Protocol and the Convention, even if the latter Government has not yet ratified or approved the Convention, with a view to settling a dispute raised by this provisional application." 66/

86. Upon the entry into force of the Convention, the Protocol "shall automatically cease to have effect as between Governments which have become parties to the Convention" (article 4). The Protocol also ceased to have effect as regards any Government which notified the United Kingdom Government of its decision not to ratify or approve the Convention (article 4).

87. Two States, the United Kingdom and Ireland, indicated their decision to apply the Convention provisionally, in accordance with article 1 of the Protocol, the effective dates of such provisional application being 11 September 1964 and 1 October 1964 respectively. 67/ The Convention itself came into force on 15 March 1966, when the eighth instrument of ratification or approval by a signatory State was received. 68/

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66/ As regards the arrangements for the settlement of disputes, see paragraph 91 below.

67/ Ibid., vol. 581, p. 58.

68/ United Kingdom Treaty Series, No. 35 of 1966.

### Functions

88. Under the terms of the Convention each Contracting Party agreed to recognize the right of any other Party to establish a fishery régime, as defined in articles 2 to 6 of the Convention. Each coastal State had an exclusive right to fish, and exclusive jurisdiction in matters of fisheries, within the belt of six miles measured from the baseline of its territorial sea (article 2). Within the belt between six and 12 miles, the right to fish might be exercised only by the coastal State and by such Contracting Parties whose fishing vessels had habitually fished there between 1 January 1953 and 31 December 1962 (article 3). Fishing vessels of such other Contracting Parties were not to direct their fishing effort towards fish stocks or fishing grounds substantially different from those they had habitually exploited (article 4). Within the six to 12 mile belt the coastal State was empowered to regulate the fisheries and to enforce such regulations (including regulations to give effect to internationally agreed measures of conservation) on a non-discriminatory basis. The coastal State was to inform the other Parties concerned of such regulations and to consult with them (article 5).

89. Further provisions stated that, once a Contracting Party applied the régime, any right to fish which it might thereafter grant to a non-Contracting Party would extend automatically to other Contracting Parties (article 8). Arrangements were also made for the granting of transitional rights, in the case of fishermen of other Contracting Parties who had habitually fished in the initial six mile belt (article 9), <sup>69/</sup> and for the maintenance or establishment of special fisheries régimes as between specified States or in particular areas (article 10). Annex I of the Convention listed the waters adjacent to the coasts of the Contracting Parties to which the Convention was applicable.

### Organization

90. No organization as such was established under the Convention, or under the Protocol. Each coastal State was permitted to establish and apply a fishery régime in the areas off its coasts in conformity with the conditions laid down under the Convention.

91. As regards the settlement of disputes however, unless the parties agreed to another method of peaceful settlement, any dispute which arose between Contracting Parties was, by agreement, to be submitted to arbitration in accordance with the provisions of annex II to the Convention (article 13). Annex II specified that, within three months of signature of the Convention, or accession thereto, each

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<sup>69/</sup> The granting of such transitional rights by two States was dealt with in two separate instruments, the Agreement as to Transitional Rights between the United Kingdom and Belgium, the Federal Republic of Germany, France, Ireland and the Netherlands, and the Agreement as to Transitional Rights between Ireland and Belgium, the Federal Republic of Germany, France, the Netherlands, Spain and the United Kingdom. Both Agreements entered into force upon signature on 9 March 1964. United Nations Treaty Series, vol. 581, pp. 83 and 89.

signatory or acceding Government should nominate five persons to undertake the duties of arbiters. A list of such arbiters was to be maintained by the depository Government. In the event that the parties agreed to proceed to arbitration, the Tribunal was to consist of five members, each party was to nominate one member, the other three being chosen by agreement from among the nationals of third States whose names appeared in the list. If the nomination was not made within one month, the President of the International Court of Justice might be asked to make the nomination, after consulting the parties. The President might consult the Director-General of the Food and Agriculture Organization and the President of the International Council for the Exploration of the Sea.

## THE EUROPEAN CENTRAL INLAND TRANSPORT ORGANIZATION

Establishment

92. As part of plans for the post-war rehabilitation of Europe, a conference was called in London in October 1944 to consider the establishment of a European central inland transport organization. The conference continued in session and on 8 May 1945 the Governments of Belgium, France, Luxembourg, the Netherlands, Norway, the United Kingdom and the United States signed 70/ and brought into force the Agreement concerning a Provisional Organization for European Inland Transport (hereafter referred to as the Provisional Agreement). 71/ Annexed to the Provisional Agreement was a Draft Agreement concerning the Establishment of a European Central Inland Transport Organization (hereafter referred to as the ECITO Agreement). The signatory Governments agreed, under article 1 of the Provisional Agreement, "to bring the Draft Agreement provisionally into force between them in respect of the territories in Continental Europe under their authority". The European Central Inland Transport Organization thus came into provisional existence on 8 May 1945. The purpose of the Provisional Agreement was to make provision for mutual co-operation in the territories in question "during such period as may elapse" before ECITO's formal establishment (preamble). This in fact occurred four months later, on 27 September 1945, when the ECITO Agreement was signed 72/ by Belgium, Czechoslovakia, France, Greece, Luxembourg, the Netherlands, Norway, the USSR, the United Kingdom, the United States and Yugoslavia. Denmark and Poland signed the ECITO Agreement later.

93. During the intervening period ECITO thus functioned on a provisional basis, the only organizational difference being that a five-member "Provisional Executive for European Inland Transport" 73/ was established instead of the seven-member Executive Board provided for in the ECITO Agreement. The short period involved meant that relatively little practice emerged. The example is, however, of interest as being one in which, instead of a provisional body being established with limited powers, the full range of responsibilities were assumed and the

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70/ Signature was the only requirement for bringing the Provisional Agreement into force.

71/ Great Britain Treaty Series, No. 2 (1945), Cmd. 6640, and United States Executive Agreements, Series 458.

72/ The ECITO Agreement came into force for each member State on the date of signature (article XIII).

73/ Provisional Agreement, article II.

organization itself brought into operation, on a provisional basis.<sup>74/</sup> The following account therefore summarizes the functions and organization of ECITO, in order to indicate the nature of the body involved.

#### Functions

94. ECITO was established as a "co-ordinating and consultative organ" (ECITO Agreement, article 1). Its principal tasks were "to co-ordinate efforts to utilize all means of transport for the successful completion of the war and for the improvement of transport communications so as to provide for the restoration of normal conditions of economic life" (article 1). It was concerned with all forms of transport by road, rail or waterway within the territory of Europe in which the organization operated (article X).

95. ECITO was given authority to perform any legal act appropriate to its objectives and purposes and had the power to acquire, hold and convey property, to enter into contracts and undertake obligations, to designate or create subordinate organs and to review their activities (article IV). It was specified, however, that it had no power to own transport equipment and material except with the unanimous consent of the Council.

96. The executive functions of ECITO were stated as being to carry out studies of technical conditions affecting international transport and to give to the Governments concerned technical advice and recommendations directed to restoring and increasing the carrying capacity of the European transport systems and co-ordinating the movement of traffic of common concern on those systems (article VII, paragraph 1). Specific tasks assigned to ECITO included the following: the collection of information concerning transport requirements and assistance in realizing such requirements; determination of the allocation and distribution of transport equipment and material; arranging with member Governments to make mobile transport equipment and material available; the restoration of transport equipment and material to the Government to whom, or to whose nationals, it belonged, subject to the temporary use of such equipment in the place where it was found when it was needed there for essential transport operations; the arrangement of a census of rolling stock and other transport equipment and material; recommendations with respect to projected traffic movements and transport

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<sup>74/</sup> It may be noted that it was not apparently intended to establish ECITO itself as a permanent body, but merely as one to deal with the immediate post-war situation. Article XIII of the ECITO Agreement provided that ECITO was to remain in existence for two years after the general suspension of hostilities. It thereafter remained in force, subject to the right of any member Government, 18 months after the general suspension of hostilities, to give six months' notice of withdrawal.

On 27 September 1947, in pursuance of a decision of the ECITO Council and also taking into account a resolution adopted by the Economic Commission for Europe expressing the opinion that ECITO should be terminated, a liquidator was appointed by the Executive Board to take all necessary steps for the liquidation of the assets and liabilities of ECITO. The ECITO Council held its final meeting on 29 September 1947, after which the residual functions of ECITO were assumed by the Inland Transport Committee of the Economic Commission for Europe.

charges; the study of measures to be taken to rehabilitate transport systems; at the request of the member Government concerned, the rendering of practical assistance in the operation of transport; and the co-ordination of European transport, in particular as regards a unified clearing system for traffic operations between different countries and the facilitation of frontier crossings.

#### Organization

97. The Council: each member Government was represented on the Council which determined the broad policies of the organization. It met not less than twice a year when convened by the Executive Board (article III, paragraphs 2-4).

98. The Executive Board: the Executive Board consisted of seven members appointed by the Council, including one member nominated by France, the USSR, the United Kingdom and the United States (article III, paragraphs 5-8). As mentioned earlier, under the Provisional Agreement the Executive Board was replaced by a five-member Provisional Executive, which carried out the same functions. The Executive Board performed the executive functions assigned to ECITO. Most member Governments designated representatives for purposes of consultation and communication with the Board. Liaison was maintained with governmental authorities through regional offices in Europe and Washington. ECITO also entered into relations with the Economic and Social Council, particularly its Transport and Communications Commission.

99. Director-General: The Executive Board appointed a Director-General to direct the technical and administrative work of the organization (article III, paragraph 7). He was responsible for the appointment of staff.

#### Financial arrangements

100. The administrative expenses of ECITO were divided proportionately among the member Governments, each Government undertaking to contribute its share in the currency, or currencies, agreed upon by that Government with the Executive Board (article V, paragraph 1). Each Government was required to provide facilities for the transfer into other currencies of contributions held by the organization in its currency. No expenses other than administrative expenses could be incurred except under the authority of the Council. If proposals for non-administrative expenses were approved by the Council, the expenses were met by contributions which member Governments agreed to make, or in such other manner as member Governments agreed upon (article V, paragraph 2).