

## SHORT COMMENT ON REGULATORY ROLE OF UNITED NATIONS IN PROMOTING ECONOMIC GROWTH AND DEVELOPMENT

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### *Abstract*

*International law is a dynamic law. It has been changing since its inception. However, in last four decades changes have been so radical and tremendous that was not witnessed in the last four centuries. The process of change has resulted in reconstruction and development of international law, and at the same time, has created many faceted problems because of demand of future changes. The most significant change that has taken place is the emergence of a number of territories, which hitherto were colonies, into independent states. One of the promising developments of the present century in inter-state relations has been the proliferation of international organisations.*

*The failure of the League of Nations on the one hand and the horror and ruthless destruction caused by the Second World War on the other hand distributed many minds especially in Allied countries. They expressed the desire to establish peace even when the war was in progress. In order to achieve it, frantic efforts to create an international organisation had begun as early as in 1941. Deliberations became intense after the termination of the War which resulted in the creation of the United Nations Organisation on October 24, 1945.*

*The United Nations has been assigned by the charter, the general task of promoting progress and international co-operation in economic, social, health, cultural, educational and related matters. However, it was contemplated that by autonomous international organisations established by intergovernmental agreements, outside the United Nations.*

*The specialised agencies and the United Nations affiliated functional agencies have a greater role to play in fostering international co-operation and in improving the life conditions of the people of the World. There is hardly any phase of international life that does not come within purview of this organisation.*

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## **BRETTON WOODS CONFERENCE**

Bretton Woods Conference commonly known as Bretton Woods Financial and Monetary System was held from July 1 to July 22, 1944. The Bretton Woods Financial and Monetary System was the gathering of 730 delegates from 44 nations at the Mount Washington Hotel, situated in Bretton Woods, New Hampshire, and United States.

The Bretton Woods Agreement created the International Monetary Fund and World Bank, which was set up to provide financial assistance to the countries during the First World War phase. They set up the fixed exchange rate of the US Dollar as the international reserve currency.

The Bretton Woods System collapsed between 1968 and 1973. During the 1960, the US dollar value was fixed against gold, which was seen overvalued. The crisis marked the collapse of Bretton wood system.

## **REGULATORY ROLE OF THE UNITED NATIONS**

The International Organisation also is known as the United Nations came into force in 1945 after the failure of League of Nations during the World War II. In 1945, 51 countries signed the United Nation's Charter to dedicate to maintain international peace and security between the countries. It is to be noted that the name of the organisation 'United Nations' was taken from the Declaration of the United Nations and adopted in tribute to the memory of Roosevelt who suggested it.

The preamble of the United Nations is preceded by the words 'Charter of the United Nations'. It indicated the title of that legal instrument and the name of the organisation constituted by it.<sup>1</sup> The charter is a multilateral treaty, albeit a treaty having certain special characteristics.<sup>2</sup> The term 'charter' was regarded more appropriate designation of the Constitution of the international community than the Covenant, the name given to the Statute of the League of Nations. The term 'Charter' refers to the contents of the Treaty whereas the term Covenant refers to the contract form of the contents.<sup>3</sup> The United Nation Organ is not a super national organisation like a federal government.

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<sup>1</sup> Kelsen, 'The Law of the United Nations' (1950) p.3

<sup>2</sup> Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), ICJ Report, 1962, p.157.

<sup>3</sup> *Supra* note 1

The purpose for which the United Nations was established is laid down in Article I of the Charter. They are as follows –

- 1) To maintain International Peace and Security
- 2) To develop friendly relations among the nations
- 3) To achieve international co-operations
- 4) To make the United Nations an International Forum for Harmonisation

The United Nations is an association of States but like other organisations it carries out its functions through organs composed of individuals which in most cases act as representatives of the States. Chapter III of the Charter comprising of Articles 7 and 8 describe the organs of the United Nations. Article 7 provides that organs may be of two kinds i.e., principal organs and subsidiary organs. Principal organs are those organs whose names are mentioned in the Charter under Article 7. They are General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice and Secretariat. The subsidiary organs are those which may be established in future in accordance with the provisions of the charter.<sup>4</sup>

The failure of the League of Nations on the one hand and the horror and ruthless destruction caused by the Second World War on the other hand distributed many minds especially in Allied countries. They expressed the desire to establish peace even when the war was in progress. In order to achieve it, frantic efforts to create an international organisation had begun as early as in 1941. Deliberations became intense after the termination of the War which resulted in the creation of the United Nations Organisation on October 24, 1945. The United Nations has been assigned by the charter, the general task of promoting progress and international co-operation in economic, social, health, cultural, educational and related matters. However, it was contemplated that by autonomous international organisations established by intergovernmental agreements, outside the United Nations

The constituent instruments describe the structure, purposes and main guidelines of the organisation's activities. International organisations are established for specific purposes. The purposes of the international organisations are more important in establishing legitimacy. There cannot be any organisation without any purpose.

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<sup>4</sup> Dr. H.O Agarwal, International Law and Human Rights, p. 404 – 405, Ed. 21, Central law Publication

The UN works in a variety of ways to promote economic and social growth. The specialized agencies cover the entire economic and social endeavour.

### **UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)**

The United Nations Conference on Trade and Development was established in 1945 and was one of the principal organs of the UN's General Assembly dealing with trade, investment and development issues in developing countries. It provides a forum for intergovernmental deliberations. UNCTAD is the part of UN Secretariat. UNCTAD has approximately 190 members and the Headquarter is situated in Geneva, Switzerland. The policy making body of the UNCTAD meets every four years to formulate and set policy guidelines. The main functions of UNCTAD are:

1. To promote international trade between developed and developing countries with a view to accelerate economic development
2. To promote activities designed to help developing countries in the areas of trade and capital flows.
3. To review and facilitate the coordination of activities in the field of international trade.
4. To negotiate trade agreements
5. To formulate principles and policies on international trade and related problems of economic development.

### **UNITED NATIONS COMMISSION FOR INTERNATIONAL TRADE LAW (UNCITRAL)**

When it became clear that the International Law Commission would not find time to take up questions of private law, the United Nations Commission for International Trade Law (UNCITRAL) was established by the General Assembly by adopting Resolution 2250 (XXXI) on December 17, 1966. In establishing the commission, the General Assembly recognised that disparities in national laws governing international trade created obstacles to the flow of trade, and it regarded the Commission as the vehicle by which the United Nations could play a more active role in reducing or removing these obstacles.<sup>5</sup> The Assembly gave the commission the general mandate to further the progressive harmonization and unification

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<sup>5</sup> Available at: <http://www.uncitral.org/uncitral/en/about/origin.html> (Accessed on 22/04/2018)

of the law of international trade. The commission has since come to be the core legal body of the United Nations system in the field of International trade Law.

The Commission was originally composed of 29 governmental experts in the field of international trade law within the United Nations. Its membership was extended in 1973 to 36 and again in 2002 to 60 states.

The UNCITRAL has also adopted Model Law on different topics such as Model Law on International Commercial Arbitration (1985), Model Law on Procurement of Goods and Construction (1993) Model Law on Procurement of Goods, Construction and Services (1994) and Model Law on International Commercial Conciliation (2002) and Model Legislative Provision on Privately Financed Infrastructure Project (2003)

### **UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANISATION (UNIDO)**

UNIDO was established on January 1, 1967 as an integral part of the United Nations system. Its purpose was to promote and accelerate the industrialization of the developing countries which emphasis on manufacturing section. In the Second General Conference of the UNIDO held in Lima (Peru), it was recommended that UNIDO be a specialised agency of the United Nations. In September 1975, a Resolution 3362(S-VII) was adopted at the Seventh Special Session of the General Assembly of the United Nations wherein the Lima recommendation was endorsed, and a committee was established to draw up a constitution for the new agency. The Constitution was established to draw up a Constitution for the new agency. The Constitution of UNIDO as a specialised agency was adopted by consensus on April 8, 1979 by a conference on Plenipotentiaries.<sup>6</sup> Consequently, on June 21, 1985 UNIDO became a specialized agency.

The principal organ of the UNIDO is the Industrial development Board consisting of members of the United Nations or of the intergovernmental agencies associated with the United Nations, elected by the General Assembly for a period of three years. A permanent Committee was established in 1972 as a subsidiary organ, to oversee the implementation of UNIDO programmes when the Board is not in session. Overall responsibility for UNIDO activities rests with the Executive Director, who is appointed by the Secretary General.<sup>7</sup>

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<sup>6</sup> *Supra* note 4

<sup>7</sup> *Supra* note 4

The primary objective of the UNIDO is the promotion of Industrial development in the developing countries with a view to assisting the establishment of a new economic order. It also promotes industrial development and co-operation on global, regional, national and secretariat levels. UNIDO also assists developing countries in establishing and operating industries, provides a forum and acts as an instrument to serve developing and industrialized countries in their contracts, consultations and negotiations; and develop special measures designed to promote co-operation among developing countries and between the developed and developing countries.<sup>8</sup>

### **NEW INTERNATIONAL ECONOMIC ORDER (NIEO)**

A number of states have attained political Independence; they are fighting for their economic rights and equality. They therefore, have made a call for the creation of the New International Economic Order (NEIO). At present, it has acquired the most pressing challenge before the international community mainly because ‘power’ prevails over the ‘number’.

New International Economic Order is an economic and political concept with envisaged the need of fundamental changes in the concept of international trade and development for the economic development. It redresses the economic imbalances between the developed and the developing countries. The establishment of NIEO is based on equity, sovereignty, common interest and equality and cooperation among the states, irrespective of their social and economic development.

### **CARTAGENA COMMITTEE**

The Head of the State and the Government of the Rio Group, meeting in the city of Cartagena de Indies, on the occasion of the XIV summit of the Head of State and the Government of the Rio Group, reaffirm the unshakable committee to peace, strengthening of democracy and promotion of social and economic development of the peoples, as principles that guide the actions of the Governments, in both their domestic and international policies.<sup>9</sup>

### **INTERNATIONAL LABOUR ORGANISATION (ILO)**

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<sup>8</sup> *Supra* note 4

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Available

at:

<http://www.ohchr.org/EN/Issues/RuleOfLaw/CompilationDemocracy/Pages/CartagenaCommitment.aspx>  
(Accessed on 22/04/2018)

ILO was established after the First World War on April 1919, as a part of Treaty of Versailles and was associated with League of Nations. The Constitution was drafted by the Labour Commission between January and April 1919 set up by Peace Conference, which first met at Paris and then at Versailles. On October 9, 1946, the amending constitution was signed by the Montreal which became the International Labour Organisation Amendment, 1946. ILO became the first specialized agencies of United Nations with an objective of improvement of labour standards and conditions throughout the world.

The ILO consists of:

- a) International Labour Conference (known as General Conference),
- b) Governing Body (known as Executive Council) and,
- c) International Labour Office (known as Secretariat).

International Labour Conference is the supreme body of International Labour Organisation which generally meets annually at ILO headquarters in Geneva. The first International Labour Conference was first met in Washington in October 1919. The Governing Body which is also known as Executive Council meets three to four times in a year at Geneva. The Director of International Labour Office (secretariat) is elected by governing body in Geneva.

The main objective of ILO in promoting economic growth and development is the improvement of labour standards and conditions throughout the world. It has drafted number of conventions and recommendations for International Labour Code, covering variety of subjects such as relating to employment, unemployment, employment of women and children, working hours, industrial health and security, social security freedom of association, trade unions. There are 186 members of the ILO. Member states are required to make regular reports to ILO regarding the adoption of standards.

### **GENERAL AGREEMENT ON TRADE AND TARIFFS (GATT)**

Foreign trades without any restriction on either import or export of goods is called Free Trade. Due to various reasons, countries create hurdle in the free flow of goods and services across the nations. These could be by way of levying import tariffs or duties, by way of quantitative restrictions.

The difference between the nation's total payment to foreign countries, including movements of capital and gold, investments, tourist spending etc, and its total receipt from the foreign countries. It is a statistical statement which summaries for specific period transactions between residents of the country and rest of the world. Balance of payments position indicates various signals in businesses. The policies of the nation are highly affected by the position and status of its Balance of Payment

GATT was founded in 1947 with 23 member counties and covers international trade and goods. Earlier it was not recognised as an organisation but merely a legal agreement between the nations. GATT brings orderly growth is global trade by means of progressive reduction in tariff and non- tariff barriers. There were 8 GATT rounds, including the Uruguay round. The final Act concluding the Uruguay round and officially establishing the WTO regime was signed on 15 April, 1994, during the ministerial meeting at Marrakesh, Morocco. The organisation was created in 1949 and run till 1993 then it was taken by the World Trade Organisation in 1995.

It suggested the full use and development of resources of the world community and the enhancement of production and exchange of goods besides reciprocal and mutually beneficial arrangements involving significant reduction of tariffs and a gradual elimination to other barriers of trade. Despite the interest of various nations to protect self interest, this organisation continued till 1990.<sup>10</sup> India was a signatory to the GATT, which was a binding contract on 128 countries by 1994.<sup>11</sup>

## **WORLD TRADE ORGANISATION (WTO)**

The World Trade Organisation (WTO) is the international organisation dealing with the rules of trade between nations. As of February 2005, 148 countries are Members of the WTO. In becoming members of the WTO, countries undertake to adhere to the 18 specific agreements annexed to the Agreement establishing in WTO. They cannot choose to be party to some agreements but not others (with the exception of few 'plurilateral' agreements that are not obligatory).<sup>12</sup>

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<sup>10</sup> Amit Sen, *WTO/TRIPS and Patent Rights in Indian Perspective*, The Law of Intellectual Property Rights, Edited by Shiv Sahai Singh, 70(2002)

<sup>11</sup> Available at: [https://www.wto.org/english/thewto\\_e/gattmen\\_e.htm](https://www.wto.org/english/thewto_e/gattmen_e.htm) (Accessed on 20/04/18)

<sup>12</sup> Available at: [http://www.who.int/medicines/areas/policy/wto\\_trips/en/](http://www.who.int/medicines/areas/policy/wto_trips/en/) (Accessed on 20/04/18)



The main difference between GATT and WTO are as follows:

1. GATT was ad hoc and provisional. The WTO and its agreements are permanent. WTO has a sound legal basis because members have ratified the WTO agreements and the agreements themselves describe how the WTO is to function,
2. The WTO has members. GATT was officially only a legal text with no legal organisation,
3. GATT dealt with trade in goods. The WTO covers services and intellectual property as well,
4. The WTO dispute settlement is faster, more automatic than the old GATT system, which was based on consensus of all members. Majority cannot block WTO rulings,
5. GATT 1947 has been updated and exists as GATT 1994. It operates with other WTO Agreements.<sup>13</sup>

## **CONCLUSION**

The provisions have put the specialized agencies into a special position. They are not the organs of the United Nations yet they have relationship with the United Nations. However, in spite of this relationship, the specialized agencies are independent international organisations. Membership in the United Nations is not an indispensable condition for membership in the specialized agencies. They perform a number of functions in the economic, social, cultural, educational and health fields. Specialized agencies are the several inter-governmental organisations established to deal with specific international problems. International Law lays down the procedure for the settlement of those disputes which arises when a party presents to another a specific claim based upon an alleged breach of law, and latter rejects it. The specialised agencies and the United Nation affiliated functional agencies have a greater role to play in fostering international co-operation and in improving the life conditions of the people of the World. There is hardly any phase of international life that does not come within purview of this organisation.

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<sup>13</sup> Harin Wardha, WTO and Third World Trade Challenges, Commonwealth, 2002