

PREFACE

The basis for the present study of the law of international organizations was created on the occasion of a visit to London in the Spring of 1989. There, I discussed with Professor Henry G. Schermers, a specialist on international institutional law from Leyden University in the Netherlands, a case which at that time was pending before the English courts and which concerned the International Tin Council, headquartered in London. The idea was raised to investigate that case and to embody it by way of a case-study in a general work on the legal position of intergovernmental organizations. It was decided to tackle in this study the question of the legal status, privileges and immunities of intergovernmental organizations as distinct legal entities, and to leave to a later date research on the specific question of the responsibility under international law of these subjects of international law.

The present book is the result of approximately four years of research into the legal position of intergovernmental organizations, with a particular emphasis on the United Nations. The United Nations was chosen as the prime object of study because of the ready availability of resources, combined with the present author's personal experience inside this organization. Consequently, other intergovernmental organizations, especially those operating in Europe such as the European Union, receive relatively little consideration in this study. Although the European Union is an intergovernmental organization, its unique nature as a supranational organization with its own court, the European Court of Justice, which is the competent organ to hear cases in which the EU is in any way involved, sets it aside from other international organizations. The study was started at Leyden University, the Netherlands, in the Fall of 1989, under the supervision of Professor Henry G. Schermers. After a three-month stay at the Office of Legal Affairs, Office of the Legal Counsel (Dr. Carl-August Fleischhauer), United Nations Headquarters in New York during the Summer of 1990, I continued my research during 1990-91 as a graduate student at the Harvard Law School in Cambridge, Massachusetts, U.S.A., and as an associate in the Amsterdam law firm of Houthoff. The study was finalized between 1992 and early 1994 during my tenure as a legal assistant to Registrar Eduardo Valencia-Ospina of the International Court of Justice in The Hague. It was submitted as a doctoral thesis at Leyden University Law School, the Netherlands, on 20 June 1994. I want to thank the supervisors of my thesis, Prof. Henry G. Schermers (Chairman; Leyden University), Prof. Leo J. Bouchez (Utrecht University), H.E. Judge George H. Aldrich (Iran-U.S. Claims Tribunal, The Hague), H.E. Prof. Peter H. Kooijmans (Minister for Foreign Affairs of the Netherlands), Prof. Detlev F. Vagts (Harvard Law School; Co-Editor-in-Chief, AJIL) and Dr. Niels M. Blokker (Leyden University), for their support in the preparation of this book.

I hope the reader will find traces of my combined civil law/common law education and international experience described above, in both the style, approach and resources used for the present work.

By giving a compact review of some of the fundamental questions relating to the legal position of international organizations, I hope to provide a better understanding of the operation of these important subjects of international law.

I gratefully acknowledge my debt of gratitude to Professor Ignaz Seidl-Hohenveldern for his expert comments on an early draft of this study and for providing me with updated information on the subject-matter. I am also grateful to Professor Sompong Sucharitkul, formerly ILC Special Rapporteur on 'Jurisdictional immunities of States and their property,' who offered his expert advice in the preparation of the early research stages.

A special debt of gratitude is extended to Dr. Carl-August Fleischhauer, The Legal Counsel of the United Nations Secretariat at the time of my stay at the Office of Legal Affairs of the United Nations in 1990, for providing me with an opportunity to gain first-hand knowledge of the practice of the United Nations relating to the subject-matter of the present study. The able supervision of Ralph Zacklin and Serguei Tarassenko, of the Office of the Legal Counsel, is gratefully remembered. The stay at United Nations Headquarters was made possible through grants from the Leyden University Fund and the Mordenate College Foundation, Leyden, the Netherlands.

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Peter H.F. Bekker

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