Preface

This paper is intended to explain in what manner and forms international economic organizations (IEOs) participate in the two main stages of the international legal process: law-making and law-implementation.* Intensive development of international economic institutions in the post-Second World War period gave birth to a vast legal practice in this field, which has been examined in numerous juridical studies but still needs a generalized analysis. As E.-U. Petersmann rightly noted, "an explanatory 'theory of the law of international economic organizations' based on comparative and systematic inquiries into the 'infrastructure', objectives, basic legal norms, steering instruments, procedures, organs and activities of international organizations, could greatly contribute to the understanding and reform of the institutional framework of the world economy."[3] The same idea was stressed by P. van Dijk: " . . . a comparative analysis of these organization may lead to the formulation of certain general features of the law of international economic organizations as part of a general theory of international economic law, from which conclusions may be drawn as to the legal structure and contents of the existing international economic order and concerning the question of which changes are needed to make it a more just and equitable order which benefits all States".[4]

This study is not concerned with the substantive problems of IEOs' activities, nor does it tackle all numerous institutional and legal issues.[5] These matters will be touched on only in so far as they are related to law-making and law-implementation within the framework of IEOs. The subject-matter of the present inquiry necessarily deals with a lot of procedural and technical issues, as well as a number of quotations from various documents. Thus the author

[3] E.-U. Petersmann. International Economic Theory and International Economic Law: On the Tasks of a Legal Theory of International Economic Order. – In: The Structure and Process of International Law / Ed. by St. J. Mcdonald and D.M. Johnston. Hague, 1983, p. 258–259.

[4] Supervisory Mechanisms in International Economic Organizations. P. van Dijk: General Editor. Deventer, Kluwer, 1984, p. XIX.

[5] For instance, such essential facets of the IEOs' legal existence as privileges and immunities, legal responsibility, withdrawal from membership, etc. are basically beyond the scope of the present research.

*The facts and developments are analysed in this study as they were on 1 June 1993.

must apologize for those parts of his presentation which will inevitably be somewhat dry. I hope that this shortcoming will be partially compensated by my efforts to focus on the analysis of the legal facets of IEOs which have not yet been comprehensively examined.[6]

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The emergence of the early elements of institutional mechanism in the economic sphere dates back to the last century when the first administrative unions came into being (1865 – the International Telegraphic Bureau, 1874 – the Universal Postal Union, 1875 – the Metric Union, 1886 – the International Copyright Union)[7]. The general premises for this process were the formation of the world market and increasing internationalization of economic life,[8] which, however, did not appear to suffice for the establishment of a comprehensive institutional mechanism for economic cooperation in that period. Practically, until the UN system was formed, only separate fragments of such mechanism existed (e.g. the League of Nations, the Genoa Conference of 1922, the Geneva Conference of 1927, the London Conference of 1933, the first commodity organs, and some others). The scope and intensity of international economic relations of that time meant that their mainly bilateral treaty regulation was sufficient to ensure the individual economic interests of interacting States. The attempts at multilateral cooperation in the economic field did not have any considerable effect. However, following the world economic crisis of 1929–1933 which showed the danger of free-market anarchy and trade wars, the idea of global IEOs started to conquer the minds of scholars and politicians.[9]

In the post-war period the international community had to face the new realities, which led to increasing economic interdependence of States. A coherent institutional mechanism started to be formed, first, at the global level, primarily within the framework of the UN system. The initial steps towards the establishment of multilateral regulation of trade and finance were inspired by the USA, the most powerful State of that time, which planned to use a shift from

[6] The early versions of Chapter II, Chapter 5 and Third Part of this study were originally published in: S.A. Voitovich. The Concept and Classification of the International Economic Organizations as the Subjects of International Law. – In: Gosudarstvo i Pravo, 1992, No. 5, p. 97–104; S.A. Voitovich. Normative Acts of the International Economic Organizations in International Law-Making. – In: 24 JWT 4(1990) 21–38; S.A. Voitovich. The Law-Implementing Functions of International Economic Organizations. – In: GYIL 34 (1991) 230–253. The author wishes to thank the publishers for the permission to reproduce these articles.

[7] See more details in: G.I. Mangone. A Short History of International Organization. Westpoint, 1975, p. 67–97.

[8] F. Moravetsky. The Functions of International Organization. Moscow, 1976, p. 41 (in Russian). All the titles and quotations have been translated from Russian by the author of the present volume.

[9] See G. Anulova. The IMF and IBRD in the World Economy: a view from new positions. – In: World Economy and International Relations, 1990, N1, p. 111 (in Russian).

protectionism to liberalization in international economic relations for its economic expansion on a world scale.[10] The European States, whose economies had suffered heavily during the war, were able to do nothing other than support the US efforts in order to use foreign capitals for their economic restoration. Under these conditions, the first global IEOs (the IMF, the IBRD, the GATT, the FAO) emerged.

In the 1950s–1990s the new factors, such as scientific and technical revolution, decolonization, regional economic integration, global economic problems (New International Economic Order, international economic security, energetic and food problems, etc.), as well as the radical reforms in Eastern and Central Europe, gave more weight to the necessity for institutional instruments and caused a considerable rise of global and regional IEOs. At present, together with States, they are the main actors affecting the state and development of the international economic order.[11]

It should be noted that, unlike political and some specialized institutions of the UN system, the first global economic organizations initially met with a restrained, not to say reluctant, attitude on the part of the USSR. Their holding aloof was for two main reasons: (1) a simplified view holding that market-oriented IEOs were useless for a planned-economy State; (2) a fear of being debarred from active decision-making by an overwhelming majority of the Western Member States. Things had changed by the mid-80s. The Soviet economy of the "perestroika" period (1985–1991) was trying to turn towards the market on both a national and international scale, and this inevitably raised the question of membership of the global IEOs. This trend became more marked in the new independent States that emerged from within the borders of the former Soviet Union after its dramatic dissolution in late 1991. Their economies, confronting the exigency of economic survival and gradual adjustment to market economy conditions, make pressing demands for deeper integration into the world economy; this is unthinkable now without broad participation in the world-wide and regional IEOs.

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In the present volume the term "IEOs" is used in a broad sense, to denote all intergovernmental organizations dealing *prevailingly* (or *considerably* in the case of international organizations of general competence) with international economic problems. Since practically every international organization one way or another touches on financial and other economic issues in its activity, the stress here is on the prevailing or considerable involvement of an IEO in the coordination of the Member States' economic policies. Such an approach to a

[10] See A. Cassese. International Law in a Divided World. Oxford, 1986, p. 325.

[11] This statement does not mean an underestimation of multinational corporations as another protagonist of international economic scenarios, which basically operate at the non-interstate level, and therefore are intentionally left out of consideration.

certain extent narrows the applied notion of IEOs, although its margins may be arguable. In general, the distinction between the IEOs as a *functional category*[12] and other international organizations is made in order to concentrate on the institutional foundation of the international economic order and the impact of intensifying institutionalization on international economic law.

The author does not presume to compete with the extensive literature on individual IEOs, on which he strongly relied for his research. The purpose of this study is basically *comparative analysis* and *generalization* in order to see some common "wood" behind the individual "trees".

Obviously, it is hardly possible to embrace all the numerous IEOs in one comparatively short inquiry. For this reason, the present writer intentionally does not consider well-examined specialized organizations partly involved in economic problems such as the ILO, the ICAO, the WHO and some others. Several IEOs have not been covered by the analysis due to the lack of available information on them. Nonetheless, this study is based on the normative instruments and accessible elements of practice of about fifty organizations.

The author is aware that there are certain limits to his academic study since it is not a result of personal experience, but of the outside observation of the IEOs. A great deal of internal mechanisms of the IEOs' law-making and law-implementation has inevitably been hidden from the author's view.

In sum, the present inquiry modestly continues the efforts of P. van Dijk, P.I.B. Kohona, E.U. Petersmann, I. Seidl-Hohenveldern, P. Verloren van Themaat and many other scholars in contributing to the legal theory of IEOs, leaving, in turn, enough space for the following researchers, and, hopefully, making their work somewhat easier.

[12] See Stephen Zamora. Voting in International Economic Organizations. – In: AJIL, 1980, vol. 74, No 3, p. 568.