§383 In the previous chapter we discussed in some detail rules concerning the institutional aspects of international organs in general. It appeared that organs of international organizations have aspects in common, for they all exercise functions attributed to them by states, they must all be composed in a certain way, and they all require rules for their functioning. But this does not alter the fact that these organs perform different tasks within the organization, and so require different rules to this end. Thus, while we have focused in the previous chapter on institutional similarities, we shall now concentrate on the dissimilarities in order to do justice to the wide variety of tasks performed by the organs of an organization.

We begin by dissecting the creatures that are international organizations, to lay bare the organs and their tasks. In doing so, we shall see that different organs within one organization perform different functions. At the same time, however, we see large similarities when comparing the functions of some of the organs to those of organs of other organizations. Thus, while there is diversity within an organization, there is also a pattern of resemblance between organs of different organizations. There is unity within diversity. Organizations usually have at least one plenary organ, composed of representatives of all member states. Almost all organizations have a secretariat. Most organizations have a non-plenary, executive organ. Some organizations have parliamentary or judicial organs. In this chapter and in Chapter Five we shall compare these organs. However, first some attention shall be devoted to the classification of international organs, and the structure of our analysis shall be explained.

I. Classifying international organs

§384 Different criteria might be used in order to classify international organs. The most fundamental criteria are the function of the organs and the status of their members (government representatives or independent members).¹ Employing the latter criterion would essentially result in comparisons of organs independent of the member states, of organs composed of government representatives, and of all kinds of ‘intermediate’ organs. But the composition of organs depends to a large extent upon their function (see above, §267-271), which seems therefore to be the most basic criterion. Moreover, we shall learn more about the architecture

of international organizations when using this criterion because the status of the members of organs indicates only which organs are and which organs are not independent of the member states. Furthermore, by looking at the functions of international organs we will better understand the development of the structure of international organizations.

However, although we shall adopt the function of organs as a basic criterion, the status of their members is still highly relevant. Policy-making organs may be composed of government representatives as well as independent persons. Therefore, to an extent we shall also use the status of members criterion in order accurately to reflect current practice.²

§385 If we use these criteria and look at the development of the institutional structure of international organizations, we can see that policy-making and administrative functions were attributed to the early international organs.

For example, the Universal Postal Union (created in 1874; called the General Postal Union between 1874 and 1878) originally had two organs: a Congress (a policy-making organ) and a Bureau (Secretariat). The Congress was composed of representatives of all member states. The periodicity of this organ was in fact the only difference between this organ and traditional diplomatic conferences (the UPU Congress met – and continues to meet – every five years). The Bureau was created to administer the operation of the organization: to collect, publish and distribute information, circulate proposals, publish a journal, and so forth. The International Telegraph Union, established in 1865, had a similar structure.³

The institutional structure of international organizations became more complex when, alongside the plenary policy-making organ and the secretariat, it was felt necessary to create a third, non-plenary organ having a policy-making function but meeting more frequently than the plenary organ. This organ was usually charged with carrying out the daily business of the organization between the sessions of the plenary organ and also with overseeing the secretariat. The need for such an organ exists particularly in universal organizations. Here decision-making is usually slow due to the size of membership. For reasons of effectiveness and efficiency it is therefore often decided to create a third, non-plenary organ to carry out the two abovementioned – and possibly other – functions. And thus we come to the

² Klepacki, op. cit. note 1, at 2, has criticized this approach, because of the simultaneous or alternating use of criteria. In our opinion, however, this is justified because in practice these criteria are used simultaneously. Organs performing the same function (e.g. policy-making functions) may be composed of government representatives as well as independent persons. Organs composed of independent persons may perform completely different functions (international secretariats, judicial organs). If one wants to do justice to the nuances of practice, it is inevitable that one must use different criteria at the same time. Therefore, it is not surprising that this is, in fact, done by Klepacki too. In his chapter on the functions of international organs (Chapter IV), a classification is made on the basis of legal status of the members. Paragraph 2 of this chapter deals with “organs of international functionaries (officials)”, and is divided into sub-paragraphs on the basis of the function of the organ (executive-governing, administrative, dispute settlement).

³ See L.S. Woolf, International Government 186-216 (1916). Formally, a third organ (the Conference) was included in the institutional structure of UPU; however, this organ met only once (in 1876) and played no role subsequently.