5.1 Internal Legislation of Intergovernmental Organizations

Organizational and functional regulations enacted by the organization

The basic provisions concerning the internal organization of an intergovernmental organization are laid down in its constitution. However, the drafters of a constitution cannot and do not purport to provide an exhaustive set of rules for the internal operation of the organization. Most organizations therefore find it necessary already at the outset to enact general legal rules to implement and to supplement the constitutional provisions. And this process continues as the organization grows and gains experience, establishes new (subsidiary) organs, and assumes new functions. The following are some of the most common types of such legislation:

a. Rules of procedure for the various deliberate organs.

b. Staff regulations adopted by the plenary organ and detailed staff rules enacted by the head of the secretariat.¹

c. Financial regulations and audit procedures.

d. Terms of reference for organs not provided for in the constitution, such as statutes of administrative tribunals,² the Statute of the International Law

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¹ The United Nations Staff Regulations were adopted originally by General Assembly resolution 590 (VI) and later amended on a number of occasions. See also the Regulations for the United Nations Joint Staff Pension Fund, adopted originally by General Assembly resolution 248 (III) and amended by a great number of subsequent resolutions, and the United Nations Staff Assessment Plan, adopted originally by General Assembly resolution 239 (III). The specialized agencies have adopted staff regulations and rules modeled upon those of the United Nations. The European Communities have adopted common staff regulations of 29 February 1968 (as amended) entitled “The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities” (Council Regulation No. 259/68 as amended).

² Citations below.
Commission, the resolution establishing the United Nations Children’s Emergency Fund (UNICEF) and the terms of reference of the regional Economic Commissions of the United Nations.

Irrespective of their different denominations these are in the present book referred to generally as regulations. Important regulations are enacted by majority decisions of the plenary organ (e.g. the UN General Assembly) or by the other deliberative organs concerned. Exceptionally, they are laid down in annexes to the constitutional convention, e.g. the FAO Financial Regulations—a cumbersome method. Less important or more detailed regulations are enacted by the Secretariat, but only pursuant to authorization from the competent deliberative organ if they are directed to member States or their representatives (as opposed to officials of the organization). The regulations and rules have suffered innumerable amendments, but the basic substantive features of organizational regulations are similar in various IGOs.

The regulations are mostly of an organizational nature, i.e., they concern the organizational set-up rather than the substantive functions of the organization. But intergovernmental organizations enact regulations also in functional matters. However, as pointed out below, such regulations require specific authority if they establish new obligations for member States, private individuals or other parties having a legal existence outside the organization (extended jurisdiction). Prominent examples are the World Health Regulations adopted by the World Health Organization pursuant to Articles 21–22 of its constitution, and the Regulations on the Registration and Publication of Treaties and International Agreements, enacted by the United Nations General Assembly to give effect to the provision in Article 102 of the Charter and containing detailed rules which are required to implement the general provisions contained in that article, not to mention the important substantive regulations enacted by the European Community and other supranational organizations.

The regulations may be adopted by resolution of a deliberative organ of the organization or enacted by the Secretariat.

The examples above are mostly comprehensive sets of rules, arranged in articles and/or sections, similar to statutes and regulations enacted by States.

3 General Assembly resolution 174 (II) as amended.
4 General Assembly resolution 57 (I) and 417 (V) as amended.
5 The first by ECOSOC resolution 36 (IV) establishing the Economic Commission for Europe.
6 On the distinction between organizational and functional matters, see above chapter 4.3.
7 The regulations are discussed below, chapter 6.