

Workshop to develop a Recommendation  
to clarify the management of ‘.int’

Geneva, 15-16 September 2003

**WORKSHOP DOCUMENT**

**Source:** Treaty Section, Office of Legal Affairs, United Nations

**Title:** Requests for assistance relating to the administration of the .int Internet domain  
(International Telecommunication Union)

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**Note**

Date: 29 July 2003

Source: Treaty Section, Office of Legal Affairs, United Nations

***Requests for assistance relating to the administration of the .int Internet domain  
(International Telecommunication Union)***

***Issue***

The Treaty Section recently received a request from Mr. Richard Hill of the ITU TSB seeking advice relating to the administration of the **.int top-level Internet domain**. Specifically, he sought assistance on the definition of the term “*International Treaty Organization*”.

***Definition of “International Organization”***

The Treaty Section deals with the issue of “international organization” on a regular basis in the discharge of the Secretariat’s functions under art. 102 of the Charter. International organizations are eligible to register treaties pursuant to Article 102 of the Charter. (See arts. 4 and 10 of the *Regulations to Give Effect to Article 102 of the Charter of the United Nations*, and, on the definition of the term “treaty”, the *Glossary* in the *Treaty Handbook*, available at <http://untreaty.un.org/English/TreatyHandbook/hbframeset.htm>).

The definition of the term “international organization” in international law has been developed over the years. The Office of the Legal Counsel adopted an approach to this issue from the Organization’s early days. In a note dated 24 September 1946, Oscar Schachter, then Legal Advisor and Director of the UN Legal Department, defined an “intergovernmental organization” as an “*international organization established by an intergovernmental agreement*”. He also said that “[a]ll international engagements are not necessarily contained in Treaties or Conventions...”

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*[W]hat is most important is that the Constitution makes it clear that it is the Governments which are members of the Organization.”* This definition negatively mirrors the definition of non-governmental organization provided by ECOSOC Resolution no. 2/3 of 21 June 1946: a non-governmental organization is “*any international organization which is not established by intergovernmental agreement*”. The above legal opinion has been reaffirmed later. (See United Nations *Juridical Yearbook*, 1982, 179-180, on the heavy reliance of the Organization on the existence of a formal intergovernmental agreement for determining the character of an international organization, and for exceptions to this rule.)

Despite early uncertainties, the definition of the term “international organization” has evolved also to include entities other than those created by treaty. In fact, today there are a number of intergovernmental organizations not established by treaty. These are recognized as capable of acting as international juridical persons and even of concluding treaties. For example, the Preparatory Commission for the Comprehensive Test-Ban Treaty (CTBT PrepCom) was established by a resolution of the meeting of the states signatories to the treaty (Res. CTBT/MSS/Res/1 of 19 November 1996). The CTBT PrepCom has concluded and registered with the UN Secretariat a number of treaties.

The *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties* addresses the matter in paras. 98-99. It states that “[T]he treaty usually identifies the organizations to which participation is open or specifies the characteristics and competence that the organization must possess.”

The following criteria usually assist in determining whether an entity is an intergovernmental organization: a constitutive treaty (we note that this is not always a reliable criterion given the international organizations established recently through other mechanisms); organs indicating a permanent autonomous structure for the achievement of definite goals, as mandated by the parties to the constitutive instrument; international legal personality separate from that of the States which established it (this aspect has been extensively discussed by judicial tribunals. E.g., the International Court of Justice in the *Reparations* case, 1949, and in the *Certain Expenses* case, 1962, and the House of Lords in the *International Tin Council* case, 1990).

Therefore, it is suggested that the term “*international organization*” be used in the proposed ITU-T Recommendation. It is also suggested that the following definition of the term “*international organization*” be adopted: an “*international organization*” is an “*organization with international juridical personality established by international agreement, however characterized, creating enforceable rights and obligations and governed by international law*”.

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