

appropriate for the purposes of the draft articles and was not intended as a definition for all purposes.¹

5. ICGLR is clearly a “Conference”, that is, an association of States meeting regularly or frequently. Its first summit in Dar-es-Salaam was convened in 2004 following a number of Security Council resolutions and presidential statements calling for the convening of an international conference on peace, security, democracy and development in the Great Lakes Region.² The 2006 Pact on Security, Stability and Development in the Great Lakes Region (which entered into force on 21 June 2008) established the organs of the Conference (the Summit, the Regional Inter-Ministerial Committee and the Conference Secretariat). ICGLR is still considered by the United Nations as a conference or process.³

6. ICGLR was not established by a treaty, nor has any of the instruments under scrutiny established it as an international organization or otherwise endowed it with a distinct legal personality or treaty-making power. Nevertheless, the ICGLR/Conference Secretariat concluded a Memorandum of Understanding with the United Nations Economic Commission for Africa and has concluded a Headquarters Agreement with Burundi, by which, among other things, the Conference Secretariat was granted diplomatic status.

7. But while not yet an international organization, ICGLR may well develop into one through a gradual process of institutionalization, having a permanent Secretariat and other organs. In the practice of international organizations, there have been several examples of treaty bodies and other less structured mechanisms of international cooperation which became international organizations through the same process, *i.e.*, the Organization for Security and Cooperation in Europe and the Southern African Development Community. In most cases also, the transformation was formalized through a written agreement by the member States. For the purpose of granting observer status, however, it would be for the Member States of the United Nations and not for the Secretariat, to determine if ICGLR is an international organization.

B. FORMAL PROCEDURES FOR GRANTING OBSERVER STATUS

8. Neither the United Nations Charter nor the Rules of Procedure of the General Assembly address the question of observers. In practice, the General Assembly has adopted resolutions granting observer status to various organizations and entities. As indicated above, in its decision 49/426 of 19 December 1994, the General Assembly decided that observer status would be confined to States and intergovernmental organizations whose activities cover matters of interest to the Assembly.

9. It is for the Member States to initiate the process of granting observer status to an intergovernmental organization. The first step is for a Member State or a group of Member States to request the inclusion of an appropriate item in the agenda of the General Assem-

¹ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 10 (A/58/10)*, pp. 38-39.

² Security Council resolutions 1291 (2000), 1304 (2000), 1457 (2003), and 1493 (2003), and Presidential Statements S/PRST/1994/59 and S/PRST/1997/22.

³ See the report of the Secretary-General on the preparations for an International Conference on the Great Lakes Region (S/2006/46) and Security Council President’s statement S/PRST/2006/57.

bly. The request must be accompanied by a memorandum explaining why the item should be inscribed on the agenda and why the organization should be given observer status.

10. The General Committee of the General Assembly then reviews the request and recommends to the General Assembly whether or not to include the item in the agenda. If the item is included, the next step is for a Member State to sponsor a draft resolution by which the General Assembly would decide that the intergovernmental organization concerned is invited to participate in the sessions and work of the General Assembly in the capacity of an observer. Ultimately, it would then be for the General Assembly to take a decision on the proposed resolution.

11. By virtue of paragraph 2 of General Assembly resolution 54/195, the Sixth Committee of the General Assembly considers all applications for observer status before they are considered in the plenary session. It is highly likely, therefore, that the legal status of the applicant organization – as an international organization – would be determined on that occasion.

15 August 2008

(i) Interoffice memorandum to the Chief Executive Officer, United Nations Joint Staff Pension Fund (UNJSPF), regarding the legal status of the Special Tribunal for Lebanon in view of its application for membership to UNJSPF

LEGAL STATUS OF THE SPECIAL TRIBUNAL FOR LEBANON—TRIBUNAL CONSIDERED TO BE AN INTERNATIONAL INTERGOVERNMENTAL ORGANIZATION—DEFINITION OF INTERNATIONAL ORGANIZATIONS IN THE DRAFT ARTICLES OF THE INTERNATIONAL LAW COMMISSION ON THE RESPONSIBILITY OF INTERNATIONAL ORGANIZATIONS—CREATION OF THE TRIBUNAL THROUGH AN INTERNATIONAL INSTRUMENT GOVERNED BY INTERNATIONAL LAW—INTERNATIONAL LEGAL PERSONALITY CONFERRED ON THE TRIBUNAL

1. I refer to a request dated 15 March 2008 from [Name], Chief of Legal Office, United Nations Joint Staff Pension Fund (UNJSPF), for a written explanation on the legal status of the Special Tribunal for Lebanon in relation to the Special Tribunal's application for membership of UNJSPF. I understand that the request has been revived in view of the upcoming General Assembly consideration of the UNJSPF Board's affirmative recommendation that the Special Tribunal be admitted to membership.

2. The opinion of the Office of Legal Affairs is that the Special Tribunal is an "international, intergovernmental organization" within the meaning of the Regulations of UNJSPF. The reasons for this view are set out below.

I. THE SPECIAL TRIBUNAL FOR LEBANON IS AN "INTERNATIONAL ORGANIZATION"

3. The International Law Commission's draft articles on the responsibility of international organizations define "international organization" as "an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality. International organizations may include as members,