

THE CLASSIFICATION OF INTERNATIONAL ORGANIZATIONS, I

PITMAN B. POTTER

Institut Universitaire de Hautes Études Internationales, Geneva

I

Classification is regarded by some as a very elementary and a very barren scientific device or method. For those who attach most importance to applied science, and to the achievement of practical ends, classification seems a dry and futile procedure. For those likewise who insist upon the importance of moral standards and purposes, the brutally empirical inductive process of classification seems inhuman, possibly even anti-social.

That classification is an elementary task of science, in the sense of occurring early in the whole scientific process, no one could deny, albeit only some one who has had immediate and serious experience in classification can appreciate the advanced problems, both of theory and of application, which can be encountered therein. From the point of view of human interest, something would depend upon what is being classified, whether pearls or potatoes, for example, although it would seem to be an implied tenet of pure science that no knowledge of the universe is without value and that we are not able to say beforehand how important a given piece of knowledge will turn out to be. As for whether classification is fruitless, this likewise would seem to turn wholly upon the use to which it is put. Even such a practical and potentially moral procedure as exhortation may be directed to unimportant or even vicious ends; perhaps a method not inherently vicious, but merely neutral, may be devoted to useful ends.

Classification, then, seems to promise valuable results when applied to socially important subject-matter, as a means to the end of dealing more effectively therewith, as a step in the process of manipulating that subject-matter to important social ends. Indeed, any student who has been trained at all in general scientific method, or in the method and technique of any special science today, would be likely to turn the statement around. He would insist that no fruitful manipulation of any body of subject-matter, no intellectual mastery of any given body of data, and no effective application of principles to any subject-matter or to any spiritual

entities involved is possible without full use of that elementary but indispensable procedure of classification.

As a problem of pure scientific method, there is, perhaps, no call for this discussion here. It is inserted, however, not merely with such general thoughts in mind, but because there seems to be a great need today to invoke the process of analysis and classification in the study of international organization, including, of course, international law in so far as the latter may be involved therein, and because it seems desirable to call attention to that need and make a tentative effort toward satisfying it. The field of international organization has been characterized recently, probably with considerable accuracy, as a jungle or a "wilder-ness."¹ If this be a sound indictment, it is because writers on the subjects included within the field either have not been able or have not sufficiently tried to classify the data therein and bring order out of the chaos. They have approached the study without sufficient equipment in analytical political science, with too strong a legalistic bias, or too strong social emotions, or they have neglected the task because too much preoccupied with mere descriptive and historical treatment. It is time these defects were remedied.²

II

It has become quite common today to speak of "international organization," or even "international government," in the abstract, or by the use of the generic term. Reference is made even to *the* international organization or *the existing* international organization, as though there were one great and only one single system of international organization in the world today. From here it is but a short step, in ideas at least, to a concept of the world government and the world state.

In a measure, this is a gain, in contrast to the earlier quite literal and unreflective reference to existing specific concrete international institutions—the Conference of London, the German-American Claims Commission, the Danube Commission, or what not. The emergence of the concept of international organization

¹ P. C. Jessup, in *American Journal of International Law*, Vol. 26, No. 4 (October, 1932), p. 910.

² Responsibility for the confusion prevailing in the field must be shared with the scientists by the practitioners, who have been even more muddle-headed than the former in their thoughts about these matters.

as such, above the specific cases or embodiments thereof, constitutes a step in advance—indeed one of the most important in the history of political science.³

This development has, however, accentuated somewhat, or at least coincided with, the neglect of analysis and classification already referred to. Just as many observers have continued to deal with “international organizations” without much attempt at grouping these institutions in any order or system, so others have talked of “international organization” without subdividing that concept usefully or rationally into its component parts. This latter was not a necessary consequence of the employment of the generic term, for its users might well pass on to further analysis of its content; but it has in fact occurred in some quarters.

The greatest provocation for these comments, however, and the chief basis of this brief study of the way out of the situation, will be found in four documents, not by any means unknown to students of international organization, but not, it seems, adequately exploited hitherto in this connection. These are (1) the *Handbook of International Organizations*, compiled by the International Bureaux Section of the Secretariat of the League of Nations, and published by the League,⁴ (2) the list of *Organizations and Commissions of the League of Nations*,⁵ (3) the *Staff List of the Secretariat*,⁶ and (4) the similar *List of the Permanent Staff of the International Labor Office*,⁷ all published likewise by the League. To these might be added other documentary materials,⁸

³ On these matters, see brief discussion in E. C. Mower, *International Government* (1931), p. 3.

⁴ League of Nations, *Handbook of International Organizations*, 1929. A supplement to the *Handbook* was published in 1931, and there is published every three months a *Quarterly Bulletin of Information on the Work of International Organizations*. These are to be understood as forming part of the material in the *Handbook*, although the *Quarterly Bulletin* gives little data on the official organizations or, particularly, upon their organization (for the distinction between the official and unofficial organizations, see below, near note 45).

⁵ In League of Nations, *Monthly Summary*, Vol. XIV, No. 2 (February, 1934), p. 49.

⁶ In League of Nations, *Official Journal*, XIV Year, No. 10, Part II (October, 1933), p. 1259.

⁷ In same, p. 1280.

⁸ Such as the budget of the League, in same, p. 1188, and the staff list of the Registry of the Permanent Court of International Justice, in *Ninth Annual Report of the Permanent Court of International Justice (Publications of the Permanent Court of International Justice, Series E, No. 9)*, pp. 2–34.

but these alone would constitute a sufficient basis for the study in hand. When it is discovered that neither the League itself nor the Labor Office appears in the *Handbook*,⁹ that the classification of public organizations used therein results in elevating three quite peculiar institutions to first place in the list,¹⁰ and that in the main list are enumerated indiscriminately, and all on the same footing, such disparate institutions as (in order named) the International Institute of Agriculture, the International Conference on Private Law Affecting Air Questions, the International Technical Committee of Legal Experts on Air Questions, and the Permanent Court of Arbitration,¹¹ the incitement to sound analysis and classification is all the more acute.

III

A question must be raised at the outset concerning the nature and formal relations of any international "organization" which it is proposed to include. What is meant by an organization in this sense? What tests define its existence or non-existence, its distinct existence from its existence as, so to speak, part of something else?

An organization in the sense in which the term is here used—waiving closer examination of the "international" element for the moment—consists fundamentally of an association or union of nations established or recognized by them for the purpose of realizing a common end. Such an association or union is partly subjective and partly objective in character; it may be very loose or very close in degree, but while it never amounts to a fusing of the two states in a physical sense, yet something more is involved than a mere abstract or imaginary union. It seems clear also that a mere factual community of interest between two states is not enough to satisfy the concept; recognition and acceptance of that situation is needed to bring the phenomenon over into the field of international law and coöperation, although any action of creating an international organization must almost certainly rest upon such preëxisting community of interest.¹²

⁹ They are, of course, intentionally omitted (for reasons given in *Handbook*, p. 5), but the result on the picture of existing international organizations is none the less striking.

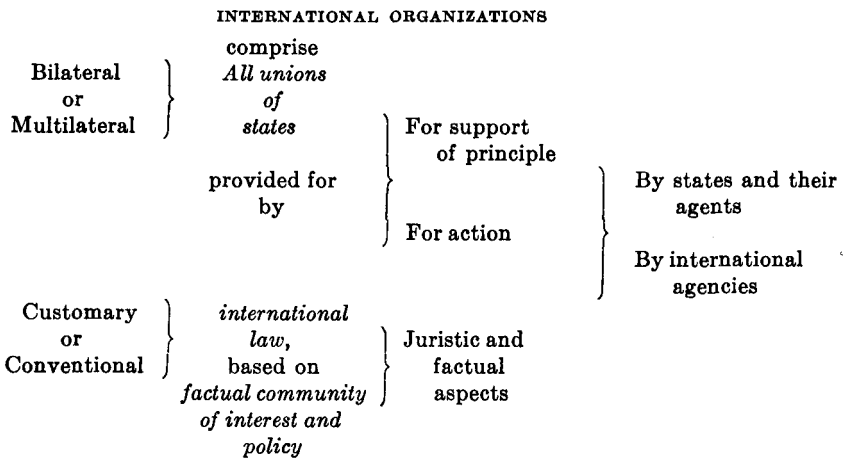
¹⁰ *Handbook*, p. 9. See also discussion below, near note 75.

¹¹ *Handbook*, p. 9.

¹² For further discussion of the relation between the factual and legal elements of the situation, see below, note 54. By the definition given, we are in effect discussing here no less general a phenomenon than international federation, an element of

On the other hand, the end to be attained may be merely the common support of a given principle or the maintenance of a position of inaction, rather than the taking of any overt action, though loyalty to any particular ideal or doctrine is almost certain to emerge in the form of outward activity.¹³ Similarly, the union may attempt to operate through the member-states and their agents rather than through any agents of its own; or, if an attempt is made to set up such agents, they may consist of one individual who in turn may be a national of one of the members or not, or of numerous individuals selected by and representing the members or selected on other grounds and of any nationality.¹⁴ In any case, the union of states is the essential element in the organization, and the agency, which is sometimes confused with the organization itself, and perhaps entitled to be so regarded in a secondary and

which is present in all international organization. This aspect of the situation will not, however, be stressed. The whole concept might be summed up in the following chart:



¹³ For an example of a union professing to be formed primarily for the support of a principle, see the so-called Holy Alliance (of 1815): *British and Foreign State Papers*, Vol. III, p. 211. The way in which this position resulted in overt action is well known.

¹⁴ This problem has been very acute recently in connection with the personnel of the League assigned to administrative work. See League of Nations, *Official Journal*, Special Supplement No. 88, p. 51, etc. On the problem in general, see N. L. Hill, *International Administration* (1931), p. 201. One type of union of states, the alliance, traditionally possesses no common agency for its operation. For this and other reasons, we shall hear no more of this particular form of international federation here.

derived sense, is strictly only the expression, or even merely the tool, thereof.

It would necessarily follow that such a union, to be considered as "an international organization," must be distinct from any other such union, and still more that a distinct international agency, in order to be considered in this light, must be the sole agency of its supporting union. That is to say, if a given union is found to consist both in international law and in fact, by the terms of its constitution and the actual practice of its members, of the same states which make up another union (*sic*), it seems impossible to consider that there are two distinct organizations present; if the constitutional documents hold that there is identity of membership, and the states act upon this basis, it seems erroneous to speak otherwise because of a plurality of such documents or divergent systems of administrative agencies or instrumentalities.¹⁵ Or if a given agency is but one of two or more agencies maintained by the same union, it would be impossible to consider that agency (or the union supporting it) as a distinct organization, in addition to the other agencies maintained by that union (or its union anything beyond the union supporting all those agencies taken together). The converse of these propositions would likewise hold good; that is, where diversities of union membership are found, there are not one but several organizations present. In cases where the same agency is supported and utilized by two or more unions,¹⁶ there would likewise seem to be two or more organizations present in spite of the unity of the agency, the union of the states in law and fact being fundamental as a criterion, rather than the agency. This would all be particularly important if a numerical count of existing international organizations were to be attempted, but it is also important in forming any picture of what organizations exist, and of the relations existing among them.

The foregoing analysis places emphasis upon the existence and composition of the international union and, in an incidental way,

¹⁵ Thus, a stipulation of identity not lived up to in practice would not produce identity nor an identity of participants in two distinct legal systems. The mere fact that the same states belong to two unions is not decisive if they belong under distinct legal documents which define distinct memberships. Identity of subject-matter would count still less.

¹⁶ For example, the Assembly of the League of Nations is used by the League, the Labor Organization, and the union of the Permanent Court of International Justice for acting upon budget, elections, etc.

upon the existence and activity of the agency of the union. Would not attention to the purely legal element in the situation effect an economy of effort and also greater accuracy? As has been suggested, an interstate agreement must exist at the bottom of all such unions, providing for its existence and operation. Should not the principal attention be devoted to this agreement itself? And would that not be the best way to clarify and correct certain erroneous ideas sometimes held concerning such institutions?¹⁷

The answer seems to be in the negative. Such unions may exist, not indeed without any such interstate agreement, but without any single formal documentary constitution,¹⁸ or with constitutions which give very inadequate ideas of their activities,¹⁹ and in such cases the suggested test would be misleading. Many interstate agreements exist, on the other hand, which do not create any international organization except in the most elementary sense (in the sense in which every treaty, and indeed every accepted rule of even common international law, creates such organization), and here such a test is insufficient. What is the main point, however, is that even where such institutions exist upon the basis of a formal constitution, it is not the legal elements in the situation, the mutual rights and obligations of the parties, much less the text expressing that legal element, that constitutes the organization, but the union of states, partly juristic but also largely practical in nature. It is not what the organization is constitutionally and legally authorized to do, or even obligated to do, but what it actually does, that determines its real nature and significance.

What does this mean, however, for the problem of overlapping or divergent memberships? Or what of the statement that two unions of identical membership are really one, except in cases where two distinct constitutions exist, defining and serving two distinct purposes? It seems that here also the importance of the

¹⁷ For examples of such legalistic treatment, see A. P. Fachiri, *Permanent Court of International Justice* (2nd ed., 1932). This is to be distinguished from treatment of the legalistic aspect of international unions as, frankly, but one aspect thereof, as in J. Ray, *Commentaire du Pacte de la Société des Nations* (1930).

¹⁸ Such was the situation of the Pan-American Union prior to 1928. See United States Department of State, *Report of the Delegates of the United States to the Sixth International Conference of American States* (1928), pp. 3-8; such, for that matter, is the situation still, failing ratification of the Convention of 1928.

¹⁹ Such seems to be true of the League today. See amount of space given in W. Schücking and H. Wehberg, *Satzung des Völkerbundes* (3rd ed., 1931), to League activities beyond the strict terms of the Covenant.

text is, at least, less than might be supposed. Waiving the case where states seem to have been received into an organization contrary to the text of the constitution,²⁰ there are numerous other cases where non-members, in the strict legal sense, participate actively in the organization,²¹ and also cases where legal members do not participate actively.²² The bare legalistic picture of the situation is hardly adequate here. So when it is felt that two unions of identical membership are distinct when they have distinct constitutions, the impression seems to be sound, not merely because of the distinctness of the legal texts, but because of the distinctness of the systems of practical coöperation also. Indeed, the very member states might be regarded as different member states in their capacities as participants in the two divergent systems.²³

Finally, the nature of the concept of "membership" in any such organization deserves some attention. Primarily, it is an element on the subjective, formal, legalistic side of the problem: those states are "members" which are nominally so regarded by their fellow-members, in accordance with the legal requirements for membership. But on the more objective side, things may look very different: the only sense in which certain states may seem to belong to a given organization lies in the fact that they are to some extent controlled thereby, or, if the other side of the situation is examined, actual control of the organization may turn out to be vested in a few members,²⁴ or, even where the law on control coincides with the law on membership, the financial control may rest in limited hands,²⁵ or the actual influence in the determination of policy and activity on the part of the organization may be con-

²⁰ See the "admission" of Germany and other states to the International Labor Organization in 1919. Société des Nations, *Conférence Internationale du Travail, Première Session Annuelle*, 1920, pp. 15, 21, 25.

²¹ For the most notable case, of course, see U. P. Hubbard, *Coöperation of the United States with the League of Nations* (1931).

²² On inactivity of some League member-states, see W. H. Kelchner, *Latin American Relations with the League of Nations* (1929), p. 138.

²³ Thus Germany as a member-state of the League is a very different juristic entity from Germany as a member-state of the Universal Postal Union.

²⁴ See provisions for predominant membership or control in the League (Covenant, Art. IV) and the International Labor Organization (Constitution, Art. 393).

²⁵ See provisions in the International Institute of Agriculture Convention (Art. X) and the provisions or facts concerning support of the International Institute for the Unification of Private Law, the International Educational Cinematographic Institute, and the International Institute of Intellectual Coöperation, in *Handbook*, pp. 39 and 76, and League budget for 1933 (as cited above, note 8), p. 1258.

centrated in a few powers. The problem is more or less analogous to that of the nationality of a corporation below the level of the state.²⁶ The answer seems to be complicated, here as there. Nominal legal and actual or practical conditions must both be taken into account; as such, an organization possesses, ineluctably, two aspects, legal and factual, and inasmuch as these two may diverge at any given moment, no certain and simple answer can be given to the problem.

The documents referred to above contain many illustrations of these propositions. Thus if it be agreed that not only does membership in the League of Nations carry membership in the International Labor Organization,²⁷ and that this is the only way in which membership therein can be acquired,²⁸ and that loss of League membership involves loss of Labor Organization membership,²⁹ it would seem that there really existed only one organization, whatever it is to be called. The same might be said of the International Health Organization,³⁰ the Communications and Transit Organization,³¹ and the Economic and Financial Organization,³² although here the possibilities of membership distinct from League membership are even less than in the former case, while the problem of the identity of the organization is a good deal more complicated.³³

Similarly, there are many cases where the "organizations" listed are in effect not distinct international organizations at all, but merely so many agencies of one supreme organization. It would seem that this is true of all of the organizations listed in the document entitled "Organizations and Commissions of the League of Nations," and that this fact is attested by the concluding phrase of that title.³⁴ The same would seem to hold for all

²⁶ C. C. Hyde, *International Law* (1922), §794.

²⁷ Labor Organization Constitution, Art. 387.

²⁸ There being no provision in the Labor Constitution for selection of members. See above, note 20.

²⁹ A matter on which there has as yet been given no definite opinion. See M. O. Hudson, "Opinion on Membership in the Labor Organization," in document cited above (note 20), p. 211.

³⁰ On membership, see League of Nations, *Official Journal, Special Supplement January, 1921*, pp. 12, 15.

³¹ Same, p. 14.

³² Same, p. 13.

³³ See structural details in document cited above (note 5), pp. 50-56.

³⁴ Document, as cited above (note 5), p. 49.

the units listed under the Secretariat and Labor Office in the Staff Lists and the Budget of the League.³⁵

Where non-member states participate, upon the invitation or with the consent of member states, in certain League activities such as disarmament or health work, the situation seems to change, and a new and distinct union comes into existence for the purpose in hand. The members of one preëxisting union join with non-members to form another union. The result is a loose aggregate of unions for various objects.³⁶ Such, before the League was established, was the situation—and still is the situation—in the field of what is commonly called international administration (although closer examination will reveal that not merely administrative, but also legislative and judicial, or generic governmental, organization and action were involved). In fact this is simply another, less familiar, aspect of the problem of universality, so often discussed in connection with the League:³⁷ as long as each of the single organizations is less than universal, all are likely to vary in membership and constitute distinct unions, except for cases where accidentally the members of different unions happen to be the same.

The case of the Permanent Court of International Justice is more complicated. It is legally possible for states to adhere to the Statute of the Court without becoming members of the League,³⁸ and at the present time one state is a "member" of the Court (in this sense) while not a member of the League.³⁹ Similarly, certain states members of the League are not members of the Court.⁴⁰ On the other hand, the League members, acting as such, elect the judges and pay the bills of the Court, and certain other lines of connection, historical and actual, may be traced between the two institutions.⁴¹ On the whole, it seems that the Court must be regarded as legally distinct (as it is independent in operation), though largely integrated with the League structurally and practically.

³⁵ Documents cited above (note 6–8).

³⁶ P. Guggenheim, *Der Völkerbund* (1932), pp. 60, 211, 272–273.

³⁷ League of Nations, Assembly, *Records*, Plenary, 1925, pp. 52, 54, and 1926, p.

52.

³⁸ Permanent Court of International Justice, *Publications*, Series D., No. 1, pp. 6, 7.

³⁹ Brazil; same, Series E., No. 8, pp. 45, 49.

⁴⁰ Argentina, Guatemala, Honduras, Liberia, Mexico, Nicaragua, Peru.

⁴¹ American Society of International Law, *Proceedings*, 1931, p. 90.

Among the many organizations listed in the *Handbook*, there are some which seem to overlap in the same way, but this problem is one which arises chiefly in connection with the League and has, perhaps, been sufficiently illustrated already. The case where such problems arise most extensively outside of the League is that of the Pan American Union, whose many bureaus and commissions and conferences rather closely duplicate the rambling League system.⁴²

IV

Two serious questions arise in connection with the international character of the organizations under discussion. The first is a query as to their national, or official national, character, and the second a question as to the extent or degree of their international character. These may be considered briefly at this point.

At bottom, any social "organization" must consist of a combination of two or more individuals or groups of individuals, the individual being the irreducible unit, but also a sufficiently self-motivated unit for the purpose of social life. The organization would be rendered international by the introduction of an international element in its composition.⁴³ Now that element might be introduced by the presence in the membership of two individuals of divergent nationality; but would this satisfy the true test for such an organization? Can an organization of two or more individuals or groups of individuals of divergent nationality be properly regarded as an "international" organization?

To some extent, this is merely a verbal problem which requires and deserves little attention; one might employ the appellation "international organization" with at least reasonable literary license to organizations made up merely of individuals of different nationalities.⁴⁴ The question involves more than this, however. Is it logically sound to regard in that light such an organization? Does such an organization really possess such a character? It is

⁴² Pan American Union, *Bulletin*, April, 1930, April, 1931, April, 1932 (items by the director-general, Dr. L. S. Rowe).

⁴³ Though not in its activity; thus a French school located in France but drawing students in part from Italy would hardly rank as an international organization.

⁴⁴ The question of whether a "private" organization operating for pecuniary profit should be included also arises. The fact that the organization earns, or even seeks to earn, a financial profit seems to affect the situation in no way, any more than operation at a loss would do. Various international organizations receive some pecuniary returns, even though these are exceeded by their expenses.

not believed that it does. Unless an organization consists of two or more states or nations as such,⁴⁵ unless it depends for its action upon the action of national states as units and pretends to act with their authority, it is not called upon to satisfy the tests which any such organization must meet, that is, respect for national sovereignty, action by virtue of the operation of concordant national sovereignties, and so on. This relieves it—the private organization—of a great deal of responsibility, but by the same token such an organization has no power over or among the states as such, and this diminishes somewhat, if without entirely destroying, its importance. The other type of thing may be important, but it is not international in the strict sense of the term.⁴⁶

In other words, official international organizations are what is here at issue.⁴⁷ It seems doubtful whether the term should be applied at all to the other sort of thing. By this test, the enormous mass of organizations listed in the *Handbook* would simply drop out of the reckoning. They might be regarded as unofficial world organizations or private cosmopolitan organizations, and as such very important for their services to humanity and their encouragement of official international organization proper, and as deserving attention and sympathetic understanding as such; but they are not organizations of states or nations.⁴⁸

Secondly, it would appear that some notice must be taken of the fact that there is wide divergence among international organ-

⁴⁵ Understanding by "state" an organized group of individuals over which no other such group has authority not legally defeasible by the former at its discretion on the ground of self-preservation.

⁴⁶ It should be added that the unofficial organizations are not envisaged by Art. XXIV of the Covenant, relating to the unification of external organizations with the League; nor was the International Bureaux Section at first expected to deal with such organizations. That the Section turned to these organizations, and that they now fill nineteen-twentieths of the space in the *Handbook*, is attributable to their quantitative, if not qualitative, importance, and to a decision taken in 1921 in recognition of this fact. League of Nations, *Official Journal*, II Year, No. 2 (March, 1921), p. 177.

⁴⁷ There exist, of course, a number of organizations wherein the elements are mixed. Private organizations receive official approval, and even financial support. Governments participate in what thus become semi-official organizations. Public officials form organizations as—so to speak—individuals interested in certain work (police work, legislation). See *Handbook*, pp. 143, 177–178, 37–38, 16. The classification of certain specific organizations might be very difficult, but it would seem that the facts are not such as to alter the general principles set forth above.

⁴⁸ See above, note 46.

izations in point of the number of their members. In other words, there are bilateral and multilateral organizations, or, as some prefer, organizations bipartite and multipartite. Of how much importance is this difference?

It would seem that in strict legal theory a bilateral union of states is, after all, an international organization in the proper meaning of that concept, and entitled to be classified as such.⁴⁹ For various practical reasons, such organizations are omitted from the *Handbook*, and it must be admitted that certain bilateral organizations seem to be very narrow and peculiar in the circumstances of their origin and traceable more to local conditions and reactions than to factors such as would explain or justify international organization in general.⁵⁰ But in a true juridical sense, this attitude seems open to criticism. At the same time, the great multilateral unions seem more significant both as to their foundations and their potential services to the international community. The bilateral unions cannot be entirely excluded, but must be regarded as less important practically than the others.

(To be concluded in the next issue)

⁴⁹ Compare the International Joint Commission maintained by the United States and Canada. United States Department of State, *Register*, 1932, p. 283.

⁵⁰ See the International Water Commission, United States and Mexico, in same, p. 285.