

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/3058
2 December 1955

ORIGINAL: ENGLISH

Tenth session
Agenda item 54

REGISTRATION AND PUBLICATION OF TREATIES
AND INTERNATIONAL AGREEMENTS

Report of the Fifth Committee

Rapporteur: Mr. Mauro MENDEZ (Philippines)

1. The General Assembly, at its 530th plenary meeting held on 30 September 1955, decided to place on the agenda of its tenth session the item "Registration and publication of treaties and international agreements: report of the Secretary-General" and, at the same meeting, referred the item to the Fifth Committee for consideration. In allocating the item to the Fifth Committee, The General Assembly concurred in an arrangement proposed by the Secretary-General (A/2980, paragraph 10), whereunder the item would be referred, at some appropriate stage in that Committee's consideration, to the Sixth Committee for advice on the legal aspects of the question and for the drafting of such amendments to the regulations as might be required.
2. The Fifth Committee considered the item at its 506th to 509th meetings and at its 511th and 519th meetings held between 9 and 25 November 1955.
3. The Fifth Committee had before it the report (A/2971) of the Secretary-General on the registration and publication of treaties and international agreements and the tenth report (A/3010) of the Advisory Committee on Administrative and Budgetary Questions to the tenth session relating to this matter. Both reports contained a review of possible measures to effect economy and to reduce the delay in publication.
4. With regard to a procedure for the consideration of the item before it, the Fifth Committee, bearing in mind the recommendation of the General Assembly, decided to study the item within its legitimate field and then to refer its conclusions to

the Sixth Committee with a request that the latter should examine them to see whether they were fully in accordance with the provisions of the Charter and, if so, draft any required amendments to the regulations.

5. The Fifth Committee then turned to the substance of the question. There was general agreement among the representatives who took part in the debate that measures should be taken to economize in the production of the United Nations Treaty Series and to reduce the delay in the publication of treaties and international agreements in the Series, without, however, unduly impairing its value or in any way infringing Article 102 of the Charter. As regards, however, the merits of the specific measures mentioned in the pertinent reports of the Secretary-General and the Advisory Committee the opinions were widely divided and the Fifth Committee, with a view to facilitating further examination of those measures, requested the Secretary-General to submit to it a draft resolution based on the above-mentioned reports.

6. A draft resolution (A/C.5/L.349) submitted by the Secretary-General pursuant to that request covered in particular the following points:

(a) Dispensing with a translation into the other working language where the original language or one of the original languages was English or French;

(b) Dispensing, with the consent of the parties, with a translation into English or French, where the original text of a treaty or international agreement was drawn up in a language or languages other than English and French;

(c) The Secretary-General's authority to exercise discretion in the publication of certain categories of treaties and international agreements filed and recorded if, in his opinion, their publication was of limited international interest;

(d) The Secretary-General's authority, with the concurrence of the parties to a treaty or agreement, to refrain from reproducing in the Treaty Series a part or the whole of an annex to that treaty when such omission did not affect the purposes of the Charter because of the unessential data contained therein.

7. As regards the measures described in points (a) and (b) above, it was felt that they merited serious consideration, since they would save expense, labour and, more particularly, time, for translation was the main cause of delay in publication

of treaties. It was felt that the adoption of the measures in question would not seriously inconvenience Governments or others interested in the Treaty Series and would not conflict with the provisions of the Charter.

8. On the other hand, it was the view of certain delegations that the existing system should be maintained, inasmuch as the Treaty Series, in its present form, had proved to be a working instrument of incalculable value. The wide difference between the English and French languages in respect of the system of law and juridical concepts caused many users of the Treaty Series to rely on the text drawn up in that one of the two languages with which they were more familiar. Furthermore, the United Nations translation of international instruments was of great value in that it made it possible to evolve a standard terminology and style. It was suggested that other ways of economizing and of speeding up the publication of treaties could be found, for instance, by reproducing the agreements in the original language or languages as soon as they had been registered and by publishing the translations later. More stress could also be laid on the provision of translations by the Governments transmitting agreements for registration, particularly where an agreement the original text of which was neither English nor French had been based on working papers drafted in either of the two languages; also, care could be taken to avoid overlapping between the work of the United Nations and that of the specialized agencies in respect of translations of agreements between States and the specialized agencies.

9. In regard to the measure described in sub-paragraph (c) of paragraph 6 above (omission from publication of certain categories of agreements filed and recorded), it was pointed out that the provision in the regulations for voluntary submission of such agreements was wise and should be maintained. It was felt that Member States should be informed of treaties and international agreements between the United Nations, non-member States and specialized agencies. The view was also expressed that a procedure whereby the Secretary-General would have the authority to exercise discretion in the publication of such agreements was not a satisfactory solution.

10. Some of the representatives favoured the adoption of the measure referred to in sub-paragraph (d) of paragraph 6 above (omission of annexes). It was pointed out

that a great number of annexes currently published dealt with the mechanics of implementing the provisions of the main document and could be omitted without impairing the usefulness of the Treaty Series. In addition, sufficient safeguards were provided under the proposed measure against its possible abuse.

11. On the other hand, it was felt that the question entailed not only financial but also legal considerations, inasmuch as it involved interpretation of Article 10 of the Charter and, therefore, was largely the concern of the Sixth Committee. It was pointed out that the consent of the principal parties was not the crucial test whether material should be omitted from publication; it was not the party to an agreement whose interests were protected by Article 102 and by the policy underlying article 12 of the regulations. An international instrument registered with the United Nations was the common property of the international community even when only the parties thereto were directly affected. It was recalled that a similar proposal had been rejected by the Sixth Committee at the fifth session of the General Assembly; therefore, no final decision should be taken by the Fifth Committee until the Sixth Committee had been consulted.

12. Following the general discussion, the Fifth Committee approved a suggestion by the representative of the United Kingdom that a draft text taking into account the various views expressed should be prepared for the Committee's consideration, through informal consultations among representatives.

13. As a result of those consultations, Australia, Canada, Denmark, the Netherlands, Pakistan, the United Kingdom and the United States of America submitted a draft text of a letter to be sent by the Chairman of the Fifth Committee to the Chairman of the Sixth Committee (A/C.5/L.352). The proposals submitted for the consideration of the Fifth Committee were set forth in an annex to the draft letter, as a set of measures which the Committee might contemplate recommending to the General Assembly subject to the opinion of the Sixth Committee on the legal aspects of the suggestions contained in paragraph 1 of the annex. The covering letter asked the Sixth Committee to give its advice on the matter and to draft such amendments to the regulations as might be required.

14. Paragraph 1 of the annex envisaged certain measures which, in the view of the sponsors of the draft, might be put into effect immediately upon the decision of

the General Assembly. Paragraph 2 of the annex covered a number of questions raised in the reports of the Secretary-General and of the Advisory Committee on Administrative and Budgetary Questions, as well as in the course of the discussion in the Fifth Committee, which were not yet ripe for decision and were therefore to be referred to the Secretary-General for further study and report. Paragraph 3 corresponded to the last paragraph of the draft resolution previously submitted by the Secretary-General.

15. The representative of Belgium orally proposed an amendment to the annex to the draft letter whereby: (i) sub-paragraph 1(a) would be deleted, (ii) a new sub-paragraph (a) would be included in paragraph 2, pursuant to which the Secretary-General would also be requested to report at the eleventh session of the General Assembly on "the desirability and means of supplying the translations of treaties and international agreements in English and French when the original of the treaty is in one of those languages".

16. The Belgian amendment was adopted by 29 votes to 11, with 4 abstentions.

17. The Fifth Committee then agreed, without objection, to a proposal by the representative of the United Kingdom that the Secretariat should draft, for the consideration of the Fifth Committee at another meeting during the present session, new proposals embodying in the present paragraph 2 the substance of paragraphs 1(b), (c) and (d), so that all aspects of the question would be referred to the Secretary-General for further study and a report to the next session.

18. Pursuant to this request the Secretary-General submitted to the Fifth Committee a draft resolution (A/C.5/L.354) for its consideration.

19. The Fifth Committee considered the draft resolution at its 515th meeting on 25 November 1955.

20. The representative of Denmark orally proposed that the word "particularly" should be inserted in the first sentence of paragraph 1.

21. The representative of Israel proposed orally that paragraph 1(a) should be amended to read as follows: "the desirability and means of supplying translations in English or French of treaties and international agreements".

22. The Chairman, noting that there were no objections to the Danish and Israel amendments, put the draft resolution (A/C.5/L.354), as amended, to the vote.

23. The draft resolution as amended was approved unanimously.

24. The Fifth Committee therefore recommends to the General Assembly the adoption of the following draft resolution:

REGISTRATION AND PUBLICATION OF TREATIES
AND INTERNATIONAL AGREEMENTS

The General Assembly,

Having considered the report of the Secretary-General (A/2971) on the registration and publication of treaties and international agreements and the tenth report of the Advisory Committee on Administrative and Budgetary Questions to the tenth session of the General Assembly regarding this matter (A/3010),

Recalling its resolution 97 (I) of 14 December 1946 adopting regulations to give effect to Article 102 of the Charter of the United Nations, as amended by resolutions 364 B (IV) and 482 (V), of 1 December 1949 and 12 December 1950 respectively,

Noting the economies which have been achieved during the current year in the publication of the United Nations Treaty Series as a result of more favourable printing contracts and of the use of more economical methods of production,

Considering that, in view of the heavy volume of publication, further measures should be taken, without unduly impairing the value of the Treaty Series or in any way infringing Article 102 of the Charter, to reduce both the delay in the publication of treaties and international agreements and the expenditure incurred,

Believing it desirable, however, that the various measures considered in the course of the present session should be further studied,

1. Requests the Secretary-General to submit to Member States and to the Advisory Committee on Administrative and Budgetary Questions by 1 July 1956, for consideration at the eleventh session of the General Assembly, a report covering particularly the following matters:

(a) The desirability and means of supplying translations in English or French of treaties and international agreements;

(b) The possibility of eliminating, so far as practicable, duplication in publishing standard form treaties and international agreements in the United Nations Treaty Series by use of cross references to a model text already published in the Series;

(c) Possible arrangements with the specialized agencies and other international organizations, including the Contracting Parties to the General Agreement on Tariffs and Trade, whereby duplication in the printing and publication of treaties and international agreements can be avoided while, at the same time, meeting both the needs of the United Nations and the needs of the other organization concerned;

(d) The possibility of avoiding duplication in publishing the United Nations International Tax Agreement Series and the United Nations Treaty Series;

(e) The method and effect of applying the suggestion contained in part IV B of the report of the Secretary-General (A/2971) (elimination of the publication of annexes) and the consequent savings in time and money, illustrated in relation to the treaties and agreements published in the Treaty Series in the course of any one year;

(f) The possibility, having regard to the types of treaties and agreements likely to be filed and recorded in the future under article 10 of the regulations, of effecting further economies in the publication of such treaties and agreements without unduly impairing the usefulness of the Treaty Series;

(g) The possible advantages of publishing sub-series of the Treaty Series for certain categories of treaties and agreements.

2. Invites the Secretary-General to continue his efforts to bring about further printing economies without, however, lowering the present standard of reproduction of the Treaty Series, and to keep under review the distribution of the Series to ensure a strict curtailment of the free mailing list.
