

United Nations
**GENERAL
ASSEMBLY**

TENTH SESSION

Official Records



**FIFTH COMMITTEE, 509th
MEETING**

**Wednesday, 16 November 1955,
at 10.50 a.m.**

New York

CONTENTS

	<i>Page</i>
Programme of work of the Committee.....	121
Agenda item 54:	
Registration and publication of treaties and international agreements: report of the Secretary-General (<i>continued</i>)	121
Agenda item 45:	
Administrative and budgetary co-ordination between the United Nations and the specialized agencies: reports of the Secretary-General and of the Advisory Committee on Administrative and Budgetary Questions...	124

Chairman: Mr. Hans ENGEN (Norway).

Programme of work of the Committee

The Committee adopted the programme of work proposed for the remainder of the tenth session (A/C.5/L.332/Rev.1).

AGENDA ITEM 54

Registration and publication of treaties and international agreements: report of the Secretary-General (A/2971, A/3010, A/C.5/L.349) (*continued*)

1. Mr. OSMAN (Egypt) said that the urgent need for economy made it essential that the existing procedure for the registration and publication of treaties and international agreements should be modified. In considering the matter, however, it was difficult to separate financial from legal considerations: a decision on financial implications might affect the interpretation to be given to Article 102 of the Charter, and *vice versa*. In its respect for the provisions of the Charter his delegation would unhesitatingly place legal before financial considerations; budgetary savings should not be permitted to weaken or to render ineffective the operation of Article 102.

2. With that proviso, some measures of economy were acceptable. It would be permissible, for example, for the *Treaty Series* to be printed in Europe, provided the Secretariat accepted the most favourable tenders for the work. On the other hand, his delegation objected to the use of poorer quality paper and the printing of the *Treaty Series* in smaller type (A/2971, para. 15 (g) and (h)); such an economy might prejudice the future value of the *Series* as a work of reference. The Secretary-General might with advantage, however, study the standard of reproduction prevailing in comparable national compilations. Before considering reduction of the free mailing list (A/2971, para. 15 (f)), the Committee should examine the existing list, which he hoped the Secretariat would circulate.

3. In addition to the economy factor, the Committee had also to consider means of reducing the interval between the registration and the publication of inter-

national instruments. The existing interval of about three years was bound to prejudice the implementation of Article 102 of the Charter and his delegation would give favourable consideration to measures designed to correct that situation. Of the three possible measures reviewed by the Secretary-General in his report (A/2971), his delegation was reluctant to accept the first: the omission of translation when the original language or one of the original languages of a treaty was English or French. Not only would it be a serious inconvenience to those who preferred to work only in one or other of the two languages, but the United Nations translation of international instruments was of great value in that it made it possible to evolve a standard terminology and style which made for clarity and authenticity. Since, however, translation was at present a cause of delay in publication and would continue to be so unless a very much larger appropriation was made for the purpose, he proposed a compromise: translation into the other working language should be provided in the case of an instrument which was of general international interest or was likely to be consulted by many Governments. The decision to translate could be left to the Secretary-General's discretion, or translation could be provided at the request of one of the parties.

4. The second measure — elimination of the publication of annexes — raised two legal considerations. First, a strict interpretation of Article 102 of the Charter would require the full publication of all annexes; secondly, a more flexible interpretation of the Article would allow of speedier publication, which was hampered by the present practice of translating and reproducing voluminous annexes not always essential for compliance with Article 102. Paragraphs 3 and 4 of the draft resolution submitted by the Secretary-General (A/C.5/L.349) appeared to reconcile those considerations. If the Committee accepted the Secretary-General's proposals, it should amend paragraph 4 to provide for the inclusion in the *Treaty Series*, following the text of a given instrument, of descriptive notes on any annex or part thereof omitted from publication.

5. With regard to the third measure — elimination of the publication of all or certain categories of agreements filed and recorded — it appeared advisable, in view of the existing difficulties, to give priority to the publication of the instruments specifically mentioned in Article 102, paragraph 1.

6. Mr. HAGBERG (Sweden) pointed out that if the first measure was adopted future volumes of the *Treaty Series* would contain a great many texts in English but not in French and a smaller, but still considerable, number of texts in French but not in English. His delegation was reluctant to abandon the established principle of providing the text of international instruments in both English and French. The great difference between those two languages with regard to structure

and legal concepts caused many users of the *Treaty Series* to rely on the existence of a text in the language more familiar to them. It would be difficult for the Committee to weigh the contrasting claims of that factor and of budget economy until it had learned the views of the French delegation. He therefore proposed that the Committee should defer its final decision on the item until the French delegation was present.

7. Mr. ILIC (Yugoslavia) observed that the high cost of publishing the *Treaty Series*, as described in paragraph 9 of the Secretary-General's report, fully justified the Committee's endeavours to effect economies and made his delegation appreciative of the Secretary-General's efforts to suggest suitable measures to that end. The *Treaty Series*, however, which was published pursuant to Article 102 of the Charter, represented an important activity of the United Nations, and consideration of the specific measures in the draft resolution submitted by the Secretary-General raised several problems of a legal rather than financial character. Paragraph 3, providing for the omission of annexes or parts thereof, involved first legal, secondly political, and only thirdly financial, considerations, and the Fifth Committee was not competent to decide upon it. 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. A similar proposal had been rejected by the Sixth Committee at the fifth session (246th meeting), and no final decision should be taken by the Fifth Committee until the Sixth Committee had been consulted.

8. The Fifth Committee should, however, take steps to correct the causes which delayed the publication of treaties, sometimes even until they had expired, and should also consider carefully the suggestions made by the Advisory Committee in paragraph 18 of its report (A/3010).

9. Mr. ZARUBIN (Union of Soviet Socialist Republics) said that his delegation was prepared to accept paragraphs 1 (a) and 1 (b) of the Secretary-General's draft resolution, since they did not conflict with the provisions of Article 102, paragraph 1, of the Charter, but was unable to accept the remaining paragraphs. To give the Secretary-General the authority to exercise discretion in the publication of treaties and international agreements filed and recorded would be incompatible with Article 102, and his delegation would oppose any amendment in that sense of article 12 of the regulations to give effect to that Article (resolution 97 (I)).

10. Mr. MAHDAVI (Iran) stated that his delegation agreed with the view which the Sixth Committee had expressed at the fifth session of the General Assembly, namely, that any economy measure should be appraised in the light of its ultimate effect upon the underlying purpose of Article 102 of the Charter and not merely in the light of immediate budgetary considerations or present excessively heavy workload.

11. In the light of the Belgian representative's remarks at the 508th meeting, he felt that, in the absence of the French delegation, the Committee should reflect deeply before deciding to eliminate the translation of instruments existing in one or other working language. Furthermore, it was not advisable to leave to the sole discretion of the Secretary-General the decision whether or not particular annexes should be published. One major source of duplication might be eliminated by the adoption, in agreement with the contracting parties to

the General Agreement on Tariffs and Trade and the International Customs Tariffs Bureau, of a standard format for the printing of annexes to trade agreements, which could then be attached to the *Treaty Series*. He would like to hear the Secretariat's opinion on the feasibility of that course.

12. The Secretariat should make every effort to publish treaties as soon as possible, in order to eliminate the possibility of instruments having expired before they appeared in the *Treaty Series*.

13. The Committee should defer its final decision on the suggestion to eliminate the publication of annexes until the Sixth Committee had expressed its views on that point. The Fifth Committee should be very careful not to exceed its terms of reference where provisions of the Charter were concerned.

14. Mr. LARREA (Ecuador), recalling the statement he had made at the 507th meeting, stressed that his delegation considered it important to distinguish between necessary and unnecessary expenditure and felt that larger sums should be devoted to technical assistance for the under-developed countries.

15. In considering the item before the Committee and the draft resolution submitted by the Secretary-General, it was essential to bear in mind the provisions of Article 102 of the Charter and of article 12 of the regulations. Once the Fifth Committee had considered the budgetary aspects of the question of the registration and publication of treaties and international agreements, the matter should be referred to the Sixth Committee for consideration of its legal aspects.

16. He thought that the provision in paragraph 3 of the draft resolution whereby the Secretary-General would be authorized, with the concurrence of the parties to a treaty or agreement, to refrain from reproducing a part or the whole of an annex, would give the Secretary-General excessive responsibility and might lead him into great difficulties. Some annexes were integral parts of a treaty, which might be valueless if they were not reproduced.

17. The provisions in paragraphs 1 (a) and 1 (b) of the draft resolution regarding the translation of treaties and international agreements caused him some concern. In view of the importance of French as a diplomatic language, he was inclined to agree with the Swedish representative's suggestion that a final decision on the item should be deferred until such time as the French representative was present.

18. His delegation attached great importance to the prompt publication of treaties and international agreements and would support any proposal which would reduce delay in publication.

19. He supported the suggested amendments to article 12 of the regulations, provided they respected the provisions of Article 102 of the Charter, and suggested that the safeguards mentioned in paragraph 11 of the Advisory Committee's report and the suggestions in paragraphs 54 and 55 of the Secretary-General's report should be included in the Committee's report on the item.

20. Mr. KHALAF (Iraq) could not support any economies which infringed the provisions of Article 102 of the Charter or prejudiced the status of one of the working languages of the United Nations. In view of the importance of the French language, he was prepared to support the compromise proposal made by the Egyptian representative.

21. Mr. BROKENBURR (United States of America) said that his delegation would support the provisions in paragraphs 1 (a) and 1 (b) of the proposed draft resolution, subject to the possibility that treaties and international agreements continued to be translated into both English and French when the original was drafted in a third language. Such measures should result in very substantial economies and remove the principal cause of delay in publication.

22. His delegation had carefully considered the suggestion by the representatives of Belgium and Sweden that no action should be taken on the question of the translation of treaties and international agreements while France was absent from the General Assembly. While it appreciated France's great contribution in the field of law and to the work of the General Assembly and fully realized the importance of the French language, his delegation felt that all members were sufficiently aware of those points to ensure that the Fifth Committee's final decision would be neither hasty nor ill-considered. He did not feel that the suggestions made by the Secretary-General and the Advisory Committee discriminated against the French language to any greater degree than against English: the procedure suggested left the field open to and encouraged the use of both languages.

23. With regard to the provisions in paragraphs 1 (c) and 1 (d) and paragraphs 3 and 4 of the draft resolution, his delegation would have no hesitation in relying upon the wisdom of the Secretary-General, but it would like to know which treaties and international agreements would be published in a form readily available to all persons interested.

24. With regard to the publication of annexes to treaties and international agreements, he agreed that appropriate steps to avoid duplication should be taken, especially in connexion with the General Agreement on Tariffs and Trade and the tax agreements published in accordance with Economic and Social Council resolution 67 (V).

25. Referring to the suggestion in paragraph 54 of the Secretary-General's report regarding the forms attached to treaties and international agreements, he pointed out that some forms were essential, since they might embody substantive terms and conditions; his delegation was not, therefore, prepared to assume that any significant savings would result from omitting the publication of such forms. The same comment applied to drawings and maps and to schedules attached to commercial agreements, which were often the most important part of the agreement and concerned the importer, exporter and customs officials as well as the economist and the researcher.

26. He agreed that some annexes could be dispensed with but his Government was not yet persuaded that a substantial economy would result if such annexes as a substantial majority might consider unessential were not published.

27. Referring to the suggestions in paragraph 62 of the Secretary-General's report and in paragraph 14 of the Advisory Committee's report, he agreed that when the texts of agreements filed and recorded, but not required to be registered, were identical in form a precise annotation of differences, with cross-references, might take the place of duplicating publication in the *Treaty Series*.

28. His delegation felt that the Fifth Committee's recommendations should be confined to practical mea-

sures which were the result of careful study and should be supported by convincing evidence of substantial financial savings. Emphasizing the importance of treaty law, he pointed out that a guarantee of prompt publication, printing and general availability of treaties and international agreements was of the utmost importance to Governments and peoples.

29. His delegation did not exclude the possibility that by vesting discretion in the Secretariat, accompanied by a judicious combination of safeguards, a sound practice might be developed whereby certain agreements or annexes could be published in abbreviated form. It approached the matter with caution, for it considered that a serious issue of principle was involved. The consent of the parties concerned was not the crucial test of whether material should be omitted from the published text of an agreement; it was the bystander, or the party not affected, whose interests were protected by Article 102 of the Charter and by the policy underlying article 12 of the regulations. There appeared to be no particular difficulty in preparing a precise factual study of what reforms might be made in that area. Such a study, circulated well in advance of the General Assembly's eleventh session, would enable Foreign Offices to consult other government departments, State or local officials, Bar associations, manufacturer's associations, libraries, law schools, universities, agricultural associations and so forth.

30. It might also be well for the Secretariat to consider and report on the possibility of publishing the *Treaty Series* in sub-series, in order that groups interested exclusively in special fields, such as trade agreements, taxation or technical assistance, could subscribe separately to a sub-series. Such a reform might increase sales and enhance the usefulness of the *Treaty Series*.

31. His delegation hoped that appropriate steps would be taken to eliminate duplication in the printing of the General Agreement on Tariffs and Trade, tax agreements and agreements based on model texts. If the analysis and report he had suggested demonstrated that there was duplication in other areas or that the publication of trivial annexes or agreements was entailing heavy expenditure, the Fifth Committee might recommend further measures of economy.

32. The Fifth Committee should give the Sixth Committee a clear recommendation for immediate and practical reforms and should state with accuracy the financial implications of such reforms. It could do so in the knowledge that the reforms suggested were not of a controversial nature from the legal standpoint. The foundation could thus be laid for additional reforms in 1956, based on further suggestions by the Secretariat.

33. Mr. CLOUGH (United Kingdom) felt that many speakers, while not altogether agreeing with the measures outlined in the Secretary-General's draft resolution, supported some parts of them. As there appeared to be fairly wide agreement on the modifications that might be made to the draft resolution, he suggested that delegations should meet informally and prepare amendments to be submitted to the Fifth Committee at a later meeting.

34. Mr. FENAUX (Belgium) supported the United Kingdom representative's proposal, since the Committee had reached a stage where it would be useful for delegations to have time to reflect and consult one another on the amendments to be suggested to the draft resolution. He could not, however, agree that many speakers sup-

ported the Secretary-General's suggestions, for it seemed to him that there had been unanimity only on the question of the savings to be effected.

35. He emphasized that whatever decision the Fifth Committee reached, the Sixth Committee must be left free to consider the important legal aspects of the question. Although his delegation did not regret the discussion which had taken place in the Fifth Committee, it was convinced that the item should first have been discussed by the Sixth Committee. The Sixth Committee should, of course, be informed of the budgetary implications of the reforms which were proposed.

36. The Swedish representative's proposal should be borne in mind, in view of the fact that the French representative was not present to defend the need for all treaties and agreements to be translated into French.

37. Mr. KHALAF (Iraq), associating himself with the United Kingdom representative's statement, suggested that a small working group of three to five members of the Fifth Committee should meet and consider amendments to the draft resolution.

38. Mr. LARREA (Ecuador) supported the Iraqi representative's suggestion.

39. Mr. LIVERAN (Israel) did not think that the Fifth Committee need necessarily transmit its suggestions to the Sixth Committee in the form of a draft resolution. He suggested that its report to the Sixth Committee should embody the substantive proposals on which agreement had been reached and indicate what savings would be effected if those proposals were adopted. The Sixth Committee should also be informed that those suggestions were submitted pending the receipt of the Sixth Committee's opinion on the legal aspects of the question.

40. Mr. CLOUGH (United Kingdom) said that an alternative method of presenting the matter to the Sixth Committee would be to send it a summary of the Fifth Committee's whole debate on the question. He doubted, however, whether that would enable the Sixth Committee to give the Fifth Committee the advice it needed. He would therefore urge the advantages of drawing up a purely tentative draft resolution for submission to the Sixth Committee, in order to obtain its advice on certain aspects of the matter, particularly the legal ones. He thought that it would be better if such a text were drafted informally by the interested delegations rather than formally by a sub-committee set up for the purpose. His delegation would be happy to confer with any other delegations, and in particular with the delegation of Iraq, in order to produce such a text.

41. Mr. FENAUX (Belgium) agreed that it would be preferable to adopt the informal rather than the formal method of arriving at a preliminary text, for the second method would entail certain difficulties. He considered, however, that the text should take the form of suggestions only and not of a draft resolution, which had a certain irrevocability and might hamper the Sixth Committee, whereas the latter should be left free to make what amendments it deemed appropriate on matters within its competence. In any case his delegation could not agree to the submission to the Sixth Committee of the Secretary-General's draft resolution as it stood, particularly where paragraph 1 was concerned.

42. Mr. VAN ASCH VAN WIJCK (Netherlands) sympathized with the Belgian representative's difficulties but agreed with the United Kingdom representative

that the text transmitted to the Sixth Committee should be as definite as possible. The item had originated with the Fifth Committee and it was therefore appropriate that it should make concrete suggestions on the matter; such suggestions could best be embodied in a draft resolution. He saw no objection to that so long as it was made quite clear that the other Committee was perfectly free to reject any of its contents. He approved of the suggestion that discussions should take place informally and said that his delegation was prepared to consider any fresh text which might be put before the Committee as a result of those discussions.

43. Mr. OSMAN (Egypt) agreed that the Fifth Committee's views on the financial and budgetary aspects of the matter should be expressed in a clear and definite form in order to facilitate consideration of the item by the Sixth Committee, without prejudice to the competence of that Committee to pronounce upon the legal aspects of any of the suggestions made.

44. Mr. STAVROPOULOS (the Legal Counsel) reminded the Committee that the Secretary-General's paper had been drawn up in the form of a draft resolution solely because the Fifth Committee had so suggested at its 507th meeting. It would be perfectly easy to change the form to that of a letter addressed to the Chairman of the Sixth Committee, setting out the points embodied in the draft resolution and asking for the Sixth Committee's opinion on their legal aspects, with such drafting amendments as might be necessary.

45. Mr. MAHDAVI (Iran) observed that of the four main points in the draft resolution the two that concerned translation and the expediting of publication were of a technical nature and therefore not the concern of the Sixth Committee. Consequently the Committee could formulate its views on those two points forthwith, always bearing in mind the reservations made earlier by the Belgian representative regarding the absence of the French delegation from the Committee's proceedings. The other two points, relating to the publication of annexes and the granting of discretion to the Secretary-General in the publication of treaties and international agreements, touched upon the legal aspect of Article 102 of the Charter. On those, therefore, the Committee could do no more than make suggestions and await the opinion of the Sixth Committee.

46. The CHAIRMAN proposed that the Committee should suspend its consideration of the item until such time as it had before it a tentative text drafted informally by the United Kingdom and other interested delegations.

It was so agreed.

AGENDA ITEM 45

Administrative and budgetary co-ordination between the United Nations and the specialized agencies: reports of the Secretary-General and of the Advisory Committee on Administrative and Budgetary Questions (A/2904/Add.1, A/3023)

47. The CHAIRMAN drew attention to the Advisory Committee's fourteenth report (A/3023), in paragraphs 3 to 26 of which it commented generally on the budgets of the specialized agencies, while in the remainder it considered the budgets of certain specific agencies. It had been the practice of the Fifth Committee to recommend that the General Assembly should take note of the report, subject to any express reservations, and to

invite the attention of the specialized agencies to the suggestions and recommendations made in it.

48. Mr. HALL (Acting Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the report, drew particular attention to the paragraphs on the scope of the Advisory Committee's examination of the agency budgets, and especially to paragraph 25. It would be impossible for the Advisory Committee, in present conditions, to attempt a more thorough annual review, and it was for that reason that it had suggested that the specialized agencies' budgets should henceforward be reviewed only at intervals of several years: the Advisory Committee would then have more time to devote to the one or two which would come under its scrutiny each year.

49. It was clear from the table under paragraph 3 of the report that, with one exception, the budgets of the specialized agencies were constantly increasing; the Advisory Committee had made some comments on that matter in paragraphs 4 to 7.

50. Paragraphs 15 to 22 of the report dealt with the subject of administrative co-ordination among the various organizations connected with the United Nations. Some aspects of that matter had been dealt with in greater detail in others of the Advisory Committee's reports, notably documents A/3024, A/3025 and A/2994. In pursuance of the authorization it had received from the Fifth Committee to respond favourably to any invitation received from a specialized agency to continue at its headquarters the study of administrative and budgetary co-ordination between it and the United Nations, the Advisory Committee had accepted invitations extended by the Directors-General of the ILO, UNESCO and WHO: the study in respect of the ILO would take place at Geneva in April 1956; in the case of the other two agencies the dates would be decided very shortly.

51. The CHAIRMAN proposed that the Committee should suspend its consideration of the item.

It was so agreed.

The meeting rose at 12.45 p.m.