



Fifth session

Item 54 of the agenda

REGISTRATION AND PUBLICATION OF TREATIES AND
INTERNATIONAL AGREEMENTS

Report of the Secretary-General

I. PROGRESS MADE IN THE REGISTRATION AND PUBLICATION
OF TREATIES AND INTERNATIONAL AGREEMENTS

1. In accordance with the precedent set in the previous years, the Secretary-General has the honour to communicate the following information on the progress made in the registration and publication of treaties and international agreements.

2. There has been a notable increase, during the period from 1 July 1949 to 30 June 1950, in the number of treaties and international agreements registered or filed and recorded with the Secretary-General. During this period, 479 treaties were registered or filed and recorded with the Secretariat. Of this number, 295 were registered or filed and recorded by 22 Governments, 120 by four specialized agencies, and 64 ex officio by the Secretariat. In comparison with the figures for the corresponding period of last year, there has been an increase of 133 treaties registered or filed and recorded. This increase may be said to be partly due to the inclusion of a considerable number of agreements which were concluded between the United Nations International Children's Emergency Fund and various Member and non-member States. It may also be noted that a substantially greater number of agreements have been registered by specialized agencies, particularly by the International Civil Aviation Organization and the International Labour Organisation, as a result of special arrangements with these agencies designed to implement article 4 of the regulations to give effect to Article 102 of the Charter.*

* See General Assembly resolution 97 (I) of 14 December 1946.

3. From 1 July 1950 to 31 August 1950, 85 new treaties and international agreements were registered or filed and recorded.
4. From 14 December 1946, when the General Assembly adopted the Regulations to give effect to Article 102 of the Charter of the United Nations, to 30 August 1950, 1,024 treaties and agreements were registered. Of this number, 106 were registered ex officio, 771 by 23 Governments, and 147 by four specialized agencies. During the same period, 259 treaties and agreements were filed and recorded: 219 by 12 Governments, 32 by the Secretariat, and 8 by three specialized agencies. This represents a total of 1,283 treaties and agreements registered or filed and recorded up to 30 August 1950.
5. Since his report presented to the General Assembly at its fourth session,* 913 certificates of registration have been issued by the Secretary-General, bringing the number of certificates issued to date to 2,229.
6. During the fourth session of the General Assembly, the sixth Committee manifested special interest in ensuring the earliest possible publication of treaties registered or filed and recorded. In consequence, a special effort has been made to have registered treaties published with the least possible delay. The thirty-seventh volume of the United Nations Treaty Series appeared on 12 August 1950. Of the 37 volumes, 19 or more than half the total, have been published in the course of the last twelve months. Fifteen further volumes have been sent to the printers, and it is expected that the interval between registration and publication will be reduced by the end of this year to about six months. In addition, it should be noted that an index volume, covering the treaties contained in the first fifteen volumes of the Treaty Series has been published, and the second volume, covering a further fifteen volumes, is in an advanced stage of preparation and will soon be in the hands of the printers.

II. ECONOMIES WHICH MAY BE EFFECTED IN THE REGISTRATION AND PUBLICATION OF TREATIES AND INTERNATIONAL AGREEMENTS

7. In its thirteenth report of 1948,** the Advisory Committee on Administrative and Budgetary Questions drew attention to the considerable

* A/958 of 24 August 1949; see Official Records of the fourth session of the General Assembly, Sixth Committee, Annexes, page 24.

** A/744; see Official Records of the third session of the General Assembly, Part I, Plenary meetings, Annexes, page 447, paragraph 16.

expenditure involved in the registration and publication of treaties. Further, in its second report of 1949 to the General Assembly,* the Advisory Committee stated that it had "again given consideration to the heavy expenditure involved in the registration, translation and printing of the Treaty Series . . .". The Committee was of the opinion that:

"A substantial economy in this field is possible of achievement, if the General Assembly could see its way to assent to a modification of the prevailing practice in order to grant discretion to the Secretary-General, in consultation with the contracting parties, to dispense with the publication of voluminous annexes to treaties dealing with commercial or technical matters of an ephemeral character".

8. These observations of the Advisory Committee were considered by the Fifth** and Sixth*** Committees during the fourth session of the General Assembly. Before both of these Committees the Assistant Secretary-General in charge of the Legal Department stated that the Legal Department was studying how the Regulations to give effect to Article 102 of the Charter worked in practice, and that the Secretary-General intended to submit to the General Assembly, at its fifth session, a report reviewing all the economies which might be effected in the registration and publication of treaties and including proposals to adapt the Regulations to circumstances.

9. In pursuance of the above, the Secretary-General submitted to the Advisory Committee on 9 June 1950 a memorandum entitled "Review of economies which may be effected in the registration and publication of treaties"****. The Advisory Committee considered this memorandum and recorded its conclusions in its second report of 1950 to the General Assembly.*****

10. In his memorandum to the Advisory Committee the Secretary-General set out a concrete list of possible economies under two headings: "Review of economies requiring amendments to the Regulations" and "Review of economies not requiring amendments to the Regulations".

* A/934; see Official Records of the fourth session of the General Assembly, Supplement No. 7, page 23, paragraph 16.

** See Official Records of the fourth session of the General Assembly, Fifth Committee, summary record of the 202nd meeting, page 100, paragraphs 9, 17-21.

*** Ibid., Sixth Committee, summary record of the 174th meeting, page 210, paragraphs 7-9.

**** A/CN.1/R.24.

***** A/1312; see Official Records of the fifth session of the General Assembly, Supplement No. 7, page 56, paragraphs 329-332.

11. In the former group an amendment was considered to article 12 of the Regulations to the effect that the Treaty Series should be published only in English and French. At the present time this article requires that "the Secretariat shall publish as soon as possible in a single series every treaty or international agreement which is registered, or filed and recorded, in the original language or languages, followed by a translation in English and in French". The use of a variety of languages involves considerable extra editorial, translation and type-setting work, and some inevitable delay in publication. A comparison of the actual cost of publishing the first fourteen volumes and the cost had the French and English languages only been used indicates that a saving of \$15,000 would have been effected, representing an economy of about 25 per cent on the total cost of publication. A further study in respect of later volumes indicates similar results.

12. It was observed in the memorandum to the Advisory Committee that such an amendment might involve no more than a reasonable interpretation of Article 102 of the Charter, and that the words "to publish" do not carry the implication "to publish in its original form" but only to make public, to submit to general circulation, in a manner that will fulfil the underlying purpose of Article 102.

13. With reference to this possible amendment, the Advisory Committee remarked in its report that one of the main purposes of Article 102 of the Charter was to ensure that the contents of every international instrument to which a Member of the United Nations is a party should be made known without delay. It further commented as follows:

"This purpose would be adequately fulfilled by publication in English and French, particularly since those are the languages of the International Court of Justice, the organ before which registered treaties and agreements are most frequently invoked. Publication on this basis would produce an appreciable economy in the budget.

"The question at issue has already been the subject of consideration by the General Assembly, which had before it a proposal (A/C.6/1) to limit the number of languages in which the Treaty Series should be published. Nevertheless, it was decided to adopt article 12 of the regulations in the following form:

'The Secretariat shall publish...every treaty or international agreement which is registered...in the original language or languages, followed by a translation in English and in French...'

"However competently performed, a translation cannot represent the exact equivalent of an original text. Even if certified by the contracting parties, it must necessarily have a validity inferior to that of the original, a consideration implicit in the practice of verifying all translations of instruments, including official translations, not prepared by the Organization."*

In concluding, the Advisory Committee suggested that, instead of amending article 12 of the Regulations, Members of the United Nations should be invited to submit, wherever possible, a translation in either English or French.

14. In connexion with this question, it is of interest to note that the International Law Commission, in its report to the General Assembly covering its second session** stated that it "attaches special importance to the continuance of the present language system of the United Nations Treaty Series, i.e., reproduction of the original text with translations -- as essential to the general usefulness of the Series".

15. The second possible amendment to the Regulations concerned article 7, to the effect that certificates of registration, instead of being issued to the registering party or agency and also to all signatories and parties to the international agreement being registered, might be issued only to the registering party or agency. The present requirement of this article has entailed considerable secretarial work. It may be thought that the issuance of certificates to all other signatories and parties is of little practical value since, under articles 13 and 14 of the Regulations, the Secretariat is required in any case to publish and send to all Members every month a statement of all treaties and international agreements registered or filed and recorded during each month.

* A/1312, paragraph 332.

***A/1316; see Official Records of the fifth session of the General Assembly, Supplement No. 12, page 10, paragraph 90.

16. The Advisory Committee has stated in its report that it was in agreement with these considerations and that it understood that savings would ensue if article 7 of the Regulations were so amended.*

17. The third and last instance involving an amendment to the Regulations, in this case article 8, would permit the Register to be kept only in English and French. At present, article 8 stipulates that "The Register shall be kept in the five official languages of the United Nations". This necessitates the maintenance of five separate registers, each containing all the particulars of each treaty or international agreement required by the other provisions of article 8. It may be that few practical reasons will be found for continuing, at not inconsiderable expense, these multilingual entries in what is essentially an intra-Secretariat record. On this possible amendment the Advisory Committee reached the conclusion that "economy would result if the Register were kept in English and French".**

18. Reference may now be made to the suggestions as to economies not requiring amendments to the Regulations. The first of these noted that the publication of certain annexes to treaties could be dispensed with. There are types of annexes to treaties or international agreements which, being in no way essential to an understanding of the main documents, might well be excluded from publication without any departure from the legal requirements of the Regulations themselves. This would be done only after consultation, of course, between the Secretariat and the registering parties, having regard to the importance of the particular annexes in relation to their bulk. An example of a case in which this procedure had been followed was cited to the Advisory Committee which, in its report, stated that it was "a method which has already produced satisfactory results". The Committee also observed that, "since a condition precedent to registration is that the complete text of the instrument shall be submitted, the omission from the Treaty Series of a part or the whole of an annex to a treaty or agreement could not be construed as affecting the validity of the registration."***

* A/1312, paragraph 332(2).

** A/1312, paragraph 332(3).

*** A/1312, paragraph 332(4).

19. A further and analogous suggestion involved dispensing with the publication in full of virtually identical texts all based on a standard model. It was submitted that much duplication of material in the Treaty Series might be avoided by omitting the repetitive portions of such treaties or agreements, at least when all were published together. The Advisory Committee uphold this view, stating in its report that it believed that "appreciable savings are possible by dispensing with the publication of model texts, particularly in cases where the duplication of almost identical material is involved".*

20. The next economy would derive from printing the Treaty Series abroad. It appeared from inquiries made that a saving of about 30 per cent could be made if the Treaty Series were printed in Europe. The factor presenting the greatest difficulty in this connexion is the necessity of publishing the original languages where these are not English and French. During 1950, as a trial measure, three volumes which represented simple projects in English and French only were assigned for printing in Europe and, under subsequent arrangements, the whole of the printing of the Treaty Series is currently being transferred to Europe. The Advisory Committee had reported that it was "of opinion that, in present circumstances, the resulting saving of more than 30 per cent is a consideration of first importance".**

21. It is clear from present indications, however, that this will involve a reduction in the speed of production, although it is nevertheless expected as stated previously that the gap between the registration and publication of treaties will be reduced to six months by the end of 1950. It may thus be hoped that the special efforts undertaken pursuant to resolution 364(IV) of the General Assembly will not be too greatly jeopardized, so long as the present language requirements exist, by the distance between Headquarters and the European printing firms and by the loss of day-to-day contact between the printers and the Secretariat.

* A/1312, paragraph 332(5).

** A/1312, paragraph 332(6).

22. Another possible way of reducing expenses is to reduce to a minimum the free issue of the Treaty Series. It may be noted that, during 1949, out of a total of 2,300 copies printed per volume, the following number per volume were distributed gratis: 198 to delegations; 88 to the Secretariat; and 555 to the free mailing list. The Advisory Committee recommended that "as regards the Treaty Series, every effort be made to reduce the free mailing list and the distribution within the Secretariat". The Committee also referred to the necessity for establishing a criterion for the guidance of the Secretariat in this matter.*

23. Finally, two minor possibilities were noted concerning the actual printing of the Treaty Series, involving the use of a lower quality of paper and a smaller type. Regarding the latter point it has been ascertained that about \$3,000 might be saved in this way per annum. The Advisory Committee, in its report, drew attention to the economies which would be possible by the adoption of these proposals.*

* A/1312, paragraph 332(7).