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WAYS AND MEANS FOR MAKING THE EVIDENCE OF CUSTOMARY
INTERNATIONAL LAW MORE READILY AVAILABLE

Report of the Secretary-General

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I. INTRODUCTION

1. The General Assembly, at its 320th plenary meeting on 12 December 1950, adopted, by 50 votes to none, resolution 487 (V) on ways and means for making the evidence of customary international law more readily available. That resolution read as follows:

"The General Assembly,

"Noting part II (Ways and means for making the evidence of customary international law more readily available) of the report of the International Law Commission on the work of its second session.

"Appreciating the work of the International Law Commission on this subject,

"Invites the Secretary-General, in preparing his future programme of work in this field, to consider and report to the General Assembly upon the recommendations contained in paragraphs 90, 91 and 93 of part II of the report of the International Law Commission, in the light of the discussion held and the suggestions made thereon in the Sixth Committee".

2. The relevant paragraphs of the report of the International Law Commission are reproduced below, together with comments made thereon during the deliberations of the Sixth Committee on this subject (230th and 231st meetings, 30 October and 2 November 1950), and suggestions by the Secretary-General as to the implementation of the recommendations of the International Law Commission.

3. It may be recalled that article 24 of the Statute of the International Law Commission provides that:

"The Commission shall consider ways and means for making the evidence of customary international law more readily available, such as the collection and publication of documents concerning State practice and of the decisions of national and international courts on questions of international law, and shall make a report to the General Assembly on this matter".

4. The question of the implementation of this article has formed the subject of a memorandum by the Secretary-General (A/CN.4/6), of an additional working paper by the Secretariat (A/CN.4/W.9), and of a working paper by the first Chairman of the International Law Commission, Mr. Manley O. Hudson (A/CN.4/16

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and Add.1). The Commission discussed the latter paper at its second session (5 June - 29 July 1950) and, on the basis of its report,^{1/} the General Assembly adopted the resolution quoted above.

5. The Secretary-General has also received a memorandum on the subject from the Ministry for Foreign Affairs of Israel, which is annexed to the present report.

^{1/} A/1316, Official Records of the General Assembly, Fifth Session, Supplement No. 12, paragraphs 24-94.

II. MAKING UNITED NATIONS PUBLICATIONS AND TREATY
TEXTS MORE READILY AVAILABLE

6. In paragraph 90 of its report, the International Law Commission recommended that

"The widest possible distribution be made of publications relating to international law issued by organs of the United Nations, particularly the Reports and other publications of the International Court of Justice, the United Nations Treaty Series, and the Reports of International Arbitral Awards. To this end, the price at which such publications are sold should be kept as low as is consistent with budgetary limitations, and considerations of economy should not preclude the maintenance of the stocks necessary for meeting future demands".

7. It may be noted that, on the average, 2,400 copies of the English edition of each of the publications prepared in the Department of Legal Affairs of the Secretariat have been printed in the past; the average for French editions is 1,200. A considerable number of these publications is made available to the governments of Member States.

8. Though general printing costs are at present on the increase, attempts are being made to lessen the increase by placing printing contracts in soft-currency areas. The prices at which United Nations publications are sold compare favourably with prices of commercial publishers and of governmental and university presses. Any further reductions in prices would, therefore, appear incompatible with current budgetary limitations.

9. Sufficient stocks are maintained of all the United Nations publications relating to international law and, should a sudden increase in demand exhaust the supply, steps are immediately taken to issue a reprint.

10. The availability of United Nations publications within the territories of Member States is greater than that of ordinary commercial publications, as adequate stocks are kept on hand by sales agents located in some fifty countries. They may also be consulted in some 350 depository libraries throughout the world.

11. Since an extensive distribution of United Nations documents is made to the governments of Member States and since they are readily available to those wishing to purchase them, it would seem that the only method of giving wider distribution would be an increase in free dissemination. An effort is being made now, as in the past, to send individual documents to qualified persons and organizations who
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are specially interested, and reasonable requests for particular publications are fulfilled. It will be recalled, however, that the General Assembly, by resolution 482 (V) of 12 December 1950, requested the Secretary-General regularly to review the free mailing list for the United Nations Treaty Series, with a view to its possible reduction. The Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions have also repeatedly recommended reductions in the free distribution of other documents, and these recommendations have been complied with. It would, therefore, appear that any extensive increase in the free mailing list would require the authorization of the General Assembly.

12. The International Law Commission also 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." It also expressed a vœu that "the texts of international instruments registered with, or filed and recorded by, the Secretariat should be published with the greatest possible promptness".

13. It will be recalled that, at its fifth session, the General Assembly decided to make no change in article 12 of the regulations to give effect to Article 102 of the Charter which provides for the publication of every registered treaty "in the original language or languages, followed by a translation in English and in French^{2/}". However, by resolution 482 (V) on the registration and publication of treaties and international agreements the Assembly invited the parties to the treaties "to provide the Secretary-General, where feasible, with translations in English and French or both as may be needed for the purposes of such publication". In the same resolution, the General Assembly also requested the Secretary-General "to continue, as economically as practicable, without undue delay and without sacrifice of uniformity in style and record permanence, to publish all treaties and international agreements in their full and unabridged form, including all annexes, provided however that, in the reproduction of annexes, he may in his discretion employ less expensive methods of reproduction".

14. A special question with respect to the distribution of international publications was raised at the 230th meeting of the Sixth Committee by the representative of Israel, who suggested that Members of the United Nations which

2/ See Official Records of the General Assembly, Second Part of the First Session, Resolutions, page 189.

had not been Members of the League of Nations should each receive gratis, upon request, two complete sets of the publications of the League of Nations and of the Permanent Court of International Justice in so far as such documents were available. This problem is also mentioned in paragraph 14 of the Note of the Government of Israel of 27 February 1951 (see annex). At the 231st meeting of the Committee, the proposal received support from the representative of Belgium, and the representative of the Secretary-General assured him that the Secretariat as a whole, and the Legal Department in particular, were prepared to aid all States, and especially new States, which should not hesitate to call for assistance. It was stated that the Secretary-General had already had occasion to render assistance in that field to States which had had their archives destroyed.

15. Only a limited number of the documents of the League of Nations and of the Permanent Court of International Justice has been received by the United Nations Secretariat and the sets are not complete. The question of the equitable distribution of these documents is now being studied and it seems that the matter may best be solved by special arrangements between the Secretary-General and the individual governments concerned.

III. PREPARATION OF NEW PUBLICATIONS RELATING TO
INTERNATIONAL LAW

16. In paragraph 91 of its report, the International Law Commission recommended that "in so far as it has not already done so, the General Assembly of the United Nations should authorize the Secretariat to prepare and issue, with as wide a distribution as possible", the following publications:

(a) Juridical Yearbook

17. The International Law Commission suggested that the proposed Juridical Yearbook should set forth, inter alia, "significant legislative developments in various countries; current arbitral awards by ad hoc international tribunals; significant decisions of national courts relating to problems of international law and particularly those concerning multipartite international conventions". It commented further that:

"The need for such a publication is especially urgent because of the great difficulty long encountered by interested persons in their efforts to keep abreast of current developments. The Commission now has before it a topic - the continental shelf under the high seas - which affords an example of both the need and the difficulty".

18. During the discussion at the 230th and 231st meetings of the Sixth Committee, the representative of the United Kingdom gave a high priority on the list of new publications of the United Nations to the contemplated yearbook. The representative of Israel stated that there were already many yearbooks published by the United Nations concerning other subjects and it was time that a similar document was published by the Legal Department; he also suggested the establishment of an advisory editorial board for the yearbook, in order to keep it under constant review.

19. The Advisory Committee on Administrative and Budgetary Questions recommended, in August 1950, that "in the initial stages the yearbook might appropriately be published in mimeographed form" and the Secretary-General concurred in this suggestion at that time^{3/}. However, opposition was voiced in the Sixth Committee to

3/ A/1912, Official Records of the General Assembly, Fifth Session, Supplement No. 7, paragraph 141.

this procedure, and the Note by the Government of Israel enumerates strong reasons for having the document printed (see annex). That Note contains also valuable suggestions as to the contents of the yearbook; these are now being studied by the Secretariat. The publication of the yearbook has been temporarily postponed in view of the necessity of a policy decision with respect to its content and form, as well as with respect to the necessary budgetary appropriations for printing.

(b) Legislative Series

20. The International Law Commission has recommended that a Legislative Series should be inaugurated "containing the texts of current national legislation on matters of international interest, and particularly legislation implementing multipartite international instruments. In connexion with this series, the Secretariat should assemble and publish from time to time collections of the texts of national legislation on special topics of general interest; for example, on such topics as nationality, territorial sea, and submarine areas of the high seas".

21. As stated by the representative of the United Kingdom at the 230th meeting of the Sixth Committee, such a compilation of national legislation, though extremely useful, was a gigantic task. The Secretary-General had, however, undertaken a series of publications of the same character within the limits of appropriations already made for this purpose. A volume on the regime of the high seas, containing, inter alia, recent national legislation on the continental shelf and contiguous zones, is already being printed. Another volume, containing provisions on national jurisdiction over crimes committed on the high seas, will soon be sent to the printers; a collection of those provisions in national constitutions which govern the conclusion and ratification of treaties is nearing completion; a collection of national legislation on nationality of ships is in an advanced stage of preparation. Additional topics susceptible of similar treatment are now being considered for future work.

22. The main difficulty encountered in this field is the lack of legislative material. While some is available in the United Nations Library, or can be borrowed from other libraries, the volume required by the Legal Department and by other Departments of the Secretariat conducting legislative research has increased to such an extent that the available facilities have been almost entirely exhausted. The alternative procedure of obtaining materials through questionnaires has also been tried, but the results are quite often unsatisfactory.

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In consequence, it seems that the best procedure would be to obtain for the United Nations as complete a set as possible of national legislative material. The Secretary-General suggests, therefore, that the General Assembly should consider the possibility of adopting a recommendation requesting Member States to put at the disposal of the Secretary-General: (a) a set of national legislation, including the last codified edition and all subsequent volumes, with appropriate indices whenever they are available; (b) current issues of Official Journals and of other publications containing current legislation, governmental decrees and administrative orders. Of course, those States which have already sent such material - and several States have voluntarily done so - would not be asked to make a second contribution. The proposed recommendation is intended only to fill existing gaps in the United Nations collection.

(c) Collection of national constitutions

23. The International Law Commission recommended the publication of "a collection of the constitutions of all States, with supplementary volumes to be issued from time to time for keeping it up to date". It added that "precise knowledge of constitutional provisions of other countries is essential to those who in any country are engaged in negotiating treaties".

24. The representative of the United Kingdom, in his remarks before the Sixth Committee, suggested that this proposal should be given rather low priority. The representative of Israel also expressed the view that the undertaking could be left quite satisfactorily to private initiative, and that if such a compilation were contemplated, it should cover only the constitutional provisions which had a bearing on international law and should not be a complete collection of constitutions.

25. The latter suggestion has already been followed and a collection of constitutional provisions on the conclusion and ratification of treaties is being prepared (see paragraph 14 above). The Secretary-General feels that, in view of the availability of new private collections in this field, there is no urgent need at present to prepare such a collection.

(d) List of collections of treaty texts

26. The International Law Commission recommended the preparation of "a list of the publications issued by the governments of all States containing the texts of treaties concluded by them, supplemented by a list of the principal collections of

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treaty texts published under private auspices".

27. No extensive list of treaty collections has been published since the appearance in 1922 of the Manual of Collections of Treaties and of Collections Relating to Treaties, compiled by Denys P. Myers. Until an up-to-date list is prepared, it would be difficult to assess the need for further steps to make treaty texts more readily available. Only when a full set of all the existing collections has been assembled on the basis of such a list would it be possible to prepare a master list of treaties concluded since 1920 and to ascertain, for instance, the number of treaties concluded before 1945 which have not been published in the League of Nations Treaty Series, in the United Nations Treaty Series, or in other generally available collections. If such a survey shows a need for a new collection of treaties on certain subjects or between certain groups of States, special volumes might be issued similar to the volume published by the Secretary-General in 1948, which contained the "Systematic Survey of Treaties for the Pacific Settlement of International Disputes, 1928-1948". If, at the time of the preparation of the list, it were possible to collect also data as to the number of copies of various collections which are still available for purchase and as to their price, it would be easier to decide what additional action needs to be taken in this field.

28. The Secretary-General, therefore, suggests that the General Assembly should authorize the preparation and publication of a list of treaty collections and of other official and unofficial collections which ordinarily include an important number of treaty texts. To facilitate this work, the General Assembly might also wish to request Member States, and such other States as the General Assembly might invite to participate in the project, to make available to the Secretary-General a list of their official publications in which treaty texts are ordinarily published, together with information on stocks and prices of these publications.

(e) Consolidated index of the League of Nations Treaty Series

29. The International Law Commission considers the publication of a consolidated index of the League of Nations Treaty Series "essential to the wider use of the Series". A similar position is taken by the Government of Israel in its Note of 27 February 1951 (see annex, paragraph 8).

30. Though nine index volumes are at present available, they are not altogether satisfactory, due to chronological overlapping and to several changes in

classification methods. While it might be relatively easy to provide a consolidated chronological index, the subject index would require resort to the original volumes of the Treaty Series and development of a uniform system of classification, as far as possible a system closely related to that adopted for the United Nations Treaty Series.

31. If the General Assembly should agree to the publication of such a consolidated index, a special appropriation would be necessary, not only for the publication but also for the preparation of the index, as the personnel necessary for such a large task is not available.

(f) Index volumes of the United Nations Treaty Series

32. The International Law Commission has recommended the publication of "occasional index volumes of the United Nations Treaty Series". One index volume to that Series, covering volumes 1 - 15, has already been published; an index volume covering volumes 16 - 30 is in the hands of the printer, and an index volume to volumes 31 - 50 is in an advanced stage of preparation.

(g) Répertoire of United Nations practice

33. The International Law Commission has suggested the preparation of "a répertoire of the practice of the Organization of the United Nations with regard to questions of international law". The representative of the United Kingdom, in the Sixth Committee, recommended that high priority should be given to this suggestion, and the Government of Israel has endorsed this recommendation (see annex, paragraph 10). The Secretary-General feels, however, as already stated in the Sixth Committee, that such a répertoire would be a tremendous undertaking which would involve much work and expense. At present, the Secretary-General does not dispose of either the personnel or the funds necessary to prepare and print such a répertoire. If, however, the General Assembly considers this project desirable and decides to allot adequate funds for making it a part of a continuous programme, a start might be made by publishing a volume on questions of general international law discussed by the Assembly at its first five sessions.

34. A similar project involving material relating to the interpretation of the Charter is already under way. Some progress has been made on annotations to several Articles, and model drafts have been prepared for future guidance; the existing personnel and facilities have, however, placed a limitation on the amount of work which it has been possible to undertake on this project.

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35. A serious difficulty was encountered when it became apparent that many relevant materials are not in the possession of the United Nations. Though more than six years have elapsed since the Dumbarton Oaks conversations and the San Francisco Conference, many important documents relating to the genesis of the United Nations Charter are still retained in the "confidential" or "restricted" category in the archives of Member States. A few of these documents have been published by the United States of America in a volume entitled Post-War Foreign Policy Preparation, 1939-1945, and in various personal memoirs. They show clearly the importance of this preparatory material for the interpretation of the Charter, and its fragmentary publication makes it highly desirable that these documents should be made available to the United Nations.

36. Suggestions have been made repeatedly with respect to a separate publication of legal opinions of the Secretariat. Some of them have been already published in the official records of United Nations organs before which they were presented. Their publication out of context would require the addition of long explanatory notes with respect to their background and their effect; it might prove difficult to avoid a rather bulky publication. Even longer explanations might be required with respect to opinions which have not yet been published, and many of them could not be printed except after considerable amplification and editing. The question is still under study and, if a sufficient number of opinions on questions of general interest is found to be available, further proposals will be made as to their publication.

(h) Additional series of the Reports of International
Arbitral Awards

37. The first series of these Reports, containing three volumes of decisions of special international tribunals rendered between 1920 and 1941, was prepared with the assistance of the Registry of the International Court of Justice. In view of the increase in the number of cases before the Court, and a consequent increase in the work of the Registry, it has proved necessary for the Secretary-General of the United Nations to take over the continuance of this work. The second series, now in course of preparation, will deal with the various Mixed Claims Commissions constituted after 1918; one volume is already in the hands of the printer, and another volume is in an advanced stage of preparation.

IV. PUBLICATION OF DIGESTS OF DIPLOMATIC CORRESPONDENCE
AND OF OTHER MATERIALS RELATING TO INTERNATIONAL LAW

38. In paragraph 93 of its report, the International Law Commission recommended that "the General Assembly call to the attention of governments the desirability of their publishing digests of their diplomatic correspondence and other materials relating to international law". During the debate on this paragraph in the Sixth Committee of the General Assembly, several representatives agreed that the publication of digests of diplomatic correspondence was desirable and that the Secretary-General should undertake a preliminary study of this question. It was suggested that excerpts for such a digest should, if possible, be obtained through a greater use of questionnaires.

39. The experience of the Secretary-General has been that the questionnaire method, while helpful in eliciting replies from a few governments, seldom brings to the attention of the United Nations documentation which is not already published. This may be explained by the fact that few governments have at their disposal qualified persons who can be called upon to conduct a search through files of unpublished correspondence, and the Secretary-General would hesitate to confront them with elaborate questionnaires on difficult questions of international law.

40. On the other hand, many governments have adopted the principle of publishing at least an annual volume of diplomatic correspondence incorporating some of the most important current exchanges of diplomatic notes. Several publish, in addition, weekly or monthly bulletins in which many documents are printed soon after their release.

41. The Secretary-General feels that this trend might well be developed and would suggest that the General Assembly might wish to encourage the practice of those States which promptly publish their current diplomatic correspondence and urge others to follow their example. The Assembly might also wish to recommend the publication of volumes of international correspondence on subjects of special interest to the International Law Commission, such as arbitration, the regime of the high seas, and territorial waters.

ANNEX

NOTE DATED 27 FEBRUARY 1951 FROM THE MINISTRY FOR FOREIGN AFFAIRS
OF ISRAEL, ADDRESSED TO THE SECRETARY-GENERAL

The Minister for Foreign Affairs of Israel presents his compliments to the Secretary-General of the United Nations and has the honour to refer to resolution D adopted by the General Assembly on 12 December 1950 in connexion with the report of the International Law Commission on the work of its second session.^{4/}

The Government of Israel has carefully considered part II of the report of the International Law Commission covering its second session in the light of the discussion held and the suggestions made thereon in the Sixth Committee, and accordingly desires to bring to the notice of the Secretary-General certain aspects thereof which he might find useful in preparing his future programme of work in this field.

A JURIDICAL YEARBOOK

2. The Government believes that the idea of a Juridical Yearbook is welcome. However, there is some discrepancy between the plan put forward in paragraph 91(a) of the report of the International Law Commission and that contained in paragraph 141 of the second report of 1950 of the Advisory Committee on Administrative and Budgetary Questions of the General Assembly. In the view of the Government of Israel there is no need for such a Juridical Yearbook to contain material easily available in concentrated form in regular publications such as the Annual Digest and Reports of Public International Law Cases. This observation is particularly relevant in considering the proposal of the International Law Commission that such a yearbook should contain, *inter alia*, significant decisions of national courts relating to problems of international law and particularly those concerning multipartite international conventions. On the other hand, the proposal of the Advisory Committee seems to impose a somewhat restrictive limitation on the scope of the yearbook by referring specifically to action taken by United Nations organs in the development of international law and

^{4/} For the text of the resolution, see paragraph 1 of the present report.

in other relevant fields. The justification for such limitation is not easily seen, and is not being followed in the other yearbooks published by the United Nations, which are of a global nature. The Government of Israel therefore wishes to suggest the following criteria as being applicable to the contents of the proposed Juridical Yearbook, namely: first, the general nature of the material; and secondly, the fact that it is not normally available in one of the universal languages. By "normally available" is meant, not the fact that a certain item is of a kind likely to be published in one of the periodicals devoted to the science of international law, but rather its characteristic as material published as a matter of course in a standard periodical collection devoted to texts of international law. On this approach it is suggested that the type of material prima facie of a kind suitable for inclusion in a Juridical Yearbook would be: significant legislative development in various countries, current arbitral awards by ad hoc international tribunals, texts of international treaties of a law-making character which for some reason or other are not published in the United Nations Treaty Series, published exchanges of diplomatic correspondence relating to important points of international law and practice, and important legal opinions of the United Nations Secretariat and of the secretariats of the specialized agencies. In addition, a special feature should be made of developments in the sphere of international administrative law in particular.

3. Furthermore, it is believed that the value of such a yearbook would be considerably enhanced if its publication were speedy. The International Law Commission drew particular attention to the great difficulty long encountered by interested persons in their efforts to keep abreast of current developments in the sphere of international law. In this connexion the Secretary-General may care to weigh whether the procedure followed in the case of the Yearbook on Human Rights would be entirely satisfactory for the Juridical Yearbook. The underlying object of the editors of the Yearbook on Human Rights is, it is understood, to include in each annual volume all the material pertaining to human rights of the year in question. This of necessity leads to the lapse of some time before the annual volumes are ready for publication. Indeed, the last volume to have been published is that for the year 1948. It is possible that the adoption of a similar policy in regard to a Juridical Yearbook would defeat one of the main purposes which the authors of the proposal had in mind.

4. The Government believes that any proposal to produce the Juridical Yearbook

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in mimeographed form should be subjected to the closest scrutiny. Experience with the United Nations documentation itself shows that mimeographed documents on the whole have a limited life, and hence a limited physical usefulness. Furthermore, they are inclined to be disproportionately bulky - and the Secretary-General will be aware that the problem of the storage of legal books is reaching serious proportions, particularly, but not only, in the common law countries. The basic criterion should be utilitarian and not budgetary, on the principle that one should not spoil a ship for a ha'p'orth of tar. If it is considered that the publication would be useful, then it should be produced in such a form as will ensure it a reasonable length of life under varying climatic conditions. If it is decided to issue a Juridical Yearbook experimentally, then, it is suggested, it will be necessary for a few years to elapse before it is possible to assess accurately the worth of the experiment, and this, too, would warrant publishing the annual experimental volumes in a permanent form.

5. It is suggested, finally, that it would be appropriate for an Advisory Editorial Board to be constituted for the Juridical Yearbook, and that the Secretary-General might conveniently study this problem more fully.

LEGISLATIVE SERIES

6. The suggestion for a Legislative Series outlined in paragraph 91(b) of the report of the International Law Commission is also considered welcome. There will, of course, be no need for this series to overlap the projected Juridical Yearbook. The suggestion that the Secretariat should assemble and publish from time to time collections of the texts of national legislation on special topics of general interest is also praiseworthy. In this connexion, however, care should be exercised to avoid competing unnecessarily with similar publications issued during the last twenty years or so by the Carnegie Endowment for International Peace. On the other hand, some of those volumes have undoubtedly become out of date. It may be found practicable, in those topics covered by the volumes of the Carnegie Endowment, to issue some form of supplement, and thus to maintain them in an up-to-date form.

EXCHANGE OF OFFICIAL PUBLICATIONS

7. It is suggested that the time is now ripe for a thorough study to be made

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of the practice of States in regard to the exchange of official publications, with a view of seeing if it is feasible to propose the conclusion of a multilateral international convention covering this topic. It is suggested that the Secretary-General put such a study in hand. The study should also consider the feasibility of establishing some central international office or bureau which, in addition to performing any functions which might be committed to its charge by any proposed multilateral convention, would also make available lists of publications relating to international law issued by governments, including lists of unpublished exchanges of diplomatic correspondence, and a list of the principal collections of treaty texts published under private auspices as suggested in paragraph 91 (d) of the report of the International Law Commission.

INDEX TO LEAGUE OF NATIONS TREATY SERIES

8. It is considered essential that there be issued as quickly as possible a consolidated index of the League of Nations Treaty Series which will take the place of the nine volumes of the General Index of the League of Nations Treaty Series published by the Secretariat of the League of Nations. It was pointed out in the discussions in the Sixth Committee that not all the texts of treaties registered with the Secretariat of the League of Nations were actually published in the League of Nations Treaty Series, the most important omissions which this Government has encountered being some of the Peace Treaties of 1919. It is suggested, therefore, that coincidental with the preparation of such consolidated index of the League of Nations Treaty Series, an additional volume or volumes of that Treaty Series should be published - identical in format with the Geneva volumes - containing the texts of all such registered but unpublished treaties. In this connexion the publication of the Peace Treaties of 1947 in recent volumes of the United Nations Treaty Series is welcome.

INDEX TO UNITED NATIONS TREATY SERIES

9. The suggestion of the International Law Commission regarding occasional index volumes of the United Nations Treaty Series should, it is suggested, be very carefully scrutinized in the light of the experience gained by publication of the occasional index volumes of the League of Nations Treaty Series, and the

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current and admitted need for replacing them by a consolidated index. It is suggested that consideration be given to the practicability of issuing cumulative annual indexes to the United Nations Treaty Series, if necessary in loose leaf form, rather than to continue with the present system (which is considerably in arrears) of a general index for every fifteen volumes. The fact that only one such general index has been published despite the appearance of fifty volumes of the United Nations Treaty Series is indicative of the seriousness of the problem of providing adequate indexes to the Series. The necessity for examining very carefully the experience of the League of Nations Treaty Series before applying it automatically to the United Nations Treaty Series can be further demonstrated by the interesting fact that whereas between September 1920 and December 1923 twenty-one volumes of the League of Nations Treaty Series were published, in the comparable period of the United Nations, namely, December 1946 to December 1949 forty-four volumes of the United Nations Treaty Series were published. The number of treaties registered in these two periods were: with the Secretariat of the League of Nations 551 treaties; and with the Secretariat of the United Nations 688 treaties, together with 184 treaties which were filed and recorded. This increase in the number of items requiring indexing necessitates corresponding adaptation in the manner of their indexing.

REPertoire OF UNITED NATIONS PRACTICE

10. A repertoire of the practice of the Organization of the United Nations with regard to questions of international law is considered desirable, although it is necessary to consider carefully the best manner of executing this, having regard for the experience to be gained from similar projects in the time of the League of Nations repertoire. However, in addition, it is suggested that the Secretary-General should consider the advisability and the practicability of publishing the legal opinions which have from time to time been rendered by the Secretariat. These opinions are to-day scattered throughout the bulky official records and other documents issued by the United Nations. The opinions should be published in a classified manner along the lines of the well known Digests of International Law, and should include a synopsis of the circumstances in and for which the opinion was written. It is believed that these opinions fall into two broad categories, namely: opinions concerning the interpretation of the Charter, and

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opinions on general points of international law. It might be found convenient to divide the publication of the opinions accordingly. Such publication or publications, which will, of course, require to be brought up to-date from time to time, would considerably enhance the usefulness of the repertoire mentioned earlier in this paragraph.

REPORTS OF INTERNATIONAL ARBITRAL AWARDS

11. The three volumes of the series of Reports of International Arbitral Awards is regarded as one of the most useful and brilliantly executed legal compilations issued in recent times, and the suggestion of the International Law Commission that additional series of these Reports should be published is to be welcomed. It is considered that the first objective should be to complete the publication in this series of all international arbitrations proper which have taken place since the year 1900. When that has been done, the publication of the texts of international arbitrations proper before the year 1900 can also be examined, although here, it is admitted, the need for discrimination may be greater so as to avoid the publication of texts which to-day have only a historical interest and nothing more. In this connexion it is suggested that consideration be given to the possibility of including in the same series the reports of the various commissions of jurists which have from time to time dealt with certain topics which were, for some reason or other, not referred to the International Court of Arbitration or the Permanent Court of International Justice. Perhaps the best known of such reports of commissions of jurists are that relating to the Aaland Islands, and that which investigated the Tellini Affair on behalf of the Council of the League of Nations. In many cases, the reports of these commissions of jurists partake of the nature of advisory opinions and their inclusion in a handy compilation such as the Reports of International Arbitral Awards would greatly increase their general availability, and the value of the series.

INDEX TO PUBLICATIONS OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

12. It is suggested that consideration be given to the preparation of a consolidated index to the publications of the Permanent Court of International Justice. Such a consolidated index should fall into two parts. The first will

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relate to Series A, Series B, and Series A/B of the publications of the Court, and the second, which will be a more bulky affair, to Series C. There has been noticeable a striking improvement in the indexes to the Reports of the International Court of Justice over the indexes to the Reports of the Permanent Court, and this improved indexing is also very much in evidence in the Reports of International Arbitral Awards. The proposed consolidated index should not be a mere repetition of the existing indexes to some of the volumes of the publications of the Court, but should be undertaken afresh, in line with the models established since 1947 by the Registry of the Court.

CO-ORDINATED PUBLICATION OF DIPLOMATIC CORRESPONDENCE

13. In the report of the International Law Commission and in the discussion before the Sixth Committee consideration was given to the problem of the co-ordinated publication of the texts of diplomatic correspondence. While fully realizing the overriding importance of diplomatic correspondence as a source of international practice, it is suggested that further deep consideration be given to the problem of its co-ordinated publication under international auspices. It has already been suggested earlier in this Note that the proposed Juridical Yearbook contain the texts of relevant diplomatic exchanges actually published during the year covered by the volume. This is different from the problem here in mind, which relates to the obtaining from governments of their unpublished diplomatic correspondence for the purposes of including it in a co-ordinated publication. This, in itself, raises difficult problems of international law and international courtesy concerning the privilege of diplomatic correspondence generally, and the right of unilateral publication thereof, and this, in itself, might well form the subject of a special study by the Secretary-General. However, it is doubted if such an approach would, in itself, achieve the desired end. Perhaps a more constructive approach can be found in greater use of questionnaires. The Government of Israel is impressed by the great use made by the United Nations in all spheres of the questionnaire method of eliciting information from governments, and the value of information thus obtained. This method has not been tried on a large scale in the sphere of international law. Nevertheless it is believed that the

replies submitted last year to a questionnaire of the International Law Commission, as published in document A/CN.4/19, indicate the potential value of this manner of obtaining information from governments. It also makes it easier for governments to devote the necessary attention to the request, for it canalizes into well-defined channels the labour of research required to prepare adequate replies.

THE DISTRIBUTION OF LEAGUE OF NATIONS MATERIAL
TO NEW STATES

14. The last topic to which, it is suggested, the Secretary-General might give special consideration, is the making available to those States which are Members of the United Nations, but which were not members of the League of Nations, of as much as is to-day in existence of the official records and the publications of the League of Nations and the Permanent Court of International Justice. Many of these States were not in existence as independent polities before the Second World War, and were thus not in a position to acquire these voluminous documents. The importance of these records as evidence of customary international law is no less than their importance as primary source-material of a political character. By virtue of resolution 79(I) adopted by the General Assembly on 7 December 1946 and the Agreement annexed thereto, the stocks of such documents now belong to the United Nations, and this should facilitate such distribution by the Secretariat as is here proposed.

Hariyya, 27 February 1951
Sh.R.