

**Draft Repertory of Practice of United Nations Organs  
Supplement No. 10**

**Article 102**

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## ARTICLE 102

### TEXT OF ARTICLE 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.
2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

### INTRODUCTORY NOTE

1. The organization of the present study follows that of the corresponding study in Volume VI, Supplement 9 of the *Repertory*. Decisions or actions taken by the United Nations Organs during the period under review are mentioned briefly in the General Survey and discussed in more detail in the Analytical Summary of Practice. Those headings and subheadings in the Analytical Summary of Practice that do not call for comments on account of the lack of new material have been identified by asterisks (\*\*). The annex to the General Survey gives information about further developments in the practice regarding the application of the *Regulations to give effect to Article 102* (hereinafter “the Regulations”), as well as the excerpts from the text of the said Regulations.

### I. GENERAL SURVEY

During the period under review, the United Nations Organs did not take any substantive decisions bearing on the application of Article 102. However, by resolution 54/28, adopted on 17 November 1999, the General Assembly reiterated its request, initially included in resolution 482(V) of 12 December 1950, for English and French translations of treaties submitted for registration with the United Nations Secretariat. The General Assembly further repeated its request for “States and international organizations, in particular depositaries, to continue assisting the Secretariat in its efforts to expedite the registration of treaties and their publication by providing it with paper copies of treaties, or electronic copies, including maps, for registration and, wherever possible, translations of treaties in English or French”.<sup>1</sup>

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<sup>1</sup> Paragraph 6 of A/RES/54/28 of 17 November 1999.

Consistent with the expressed wishes of Member States, during the period under review, Permanent representatives to the United Nations and Heads of international organizations were encouraged, via notes verbales by the Legal Counsel, to submit English and French translations of treaties submitted for registration with the Secretariat of the United Nations. During the period under review, Permanent representatives to the United Nations were reminded, also via notes verbales by the Legal Counsel, of the obligation pursuant to Article 102 of the Charter of the United Nations for Member States to register treaties and international agreements with the Secretariat and the requirements for submission of treaties for registration and publication. Member States were further reminded that should they require assistance in undertaking the relevant actions, the Secretariat, in applying the strategies for actions described in the Road map towards the implementation of the United Nations Millennium Declaration,<sup>2</sup> might provide assistance.<sup>3</sup>

Consistent with the wishes of the Member States, the Treaty Section of the Office of Legal Affairs has continued to develop and enhance the Section's computerization programme in order to facilitate the effective storage, retrieval and timely dissemination of treaty information, now substantially contained on the website of the United Nations Treaty Collection (<http://treaties.un.org>). The Secretary-General indicated, in his report on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, that the user-fee mechanism, which was introduced in 1997 in response to the General Assembly recommendation to explore the economic and practical feasibility of recovering the costs of providing Internet access to the *United Nations Treaty Series* and the *Multilateral Treaties Deposited with the Secretary-General* by resolution 51/158, could be discontinued by the end of 2007.<sup>4</sup> The need to recover the associated development costs for this Internet service has been fully met.

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<sup>2</sup> A/RES/56/326, Section II A of 6 September 2001.

<sup>3</sup> LA41TR/230 dated 16 April 2001; LA41TR/230 dated 24 January 2002; LA41TR/230 dated 21 January 2003; LA41TR/230 dated 1 February 2005; LA41TR/230 dated 9 February 2006; LA41TR/230 dated 6 March 2007; LA41TR/230 dated 8 February 2008 and LA41TR/230 dated 2 February 2009.

<sup>4</sup> A/RES/62/503 of 25 October 2007, as approved by A/RES/62/62 of 6 December 2007.

The following table shows the number of international agreements and related treaty actions registered, or filed and recorded by the Secretariat, from 1 January 2000 until 31 December 2009<sup>5</sup>:

**Number of international agreements and related treaty actions:**

Submitting Party	Treaties		Treaty Actions		Total
	Registered	Filed and Recorded	Registered	Filed and Recorded	
States	8092	13	3640	2	11747
Specialized agencies and IAEA	4086	43	4353	1	8483
Ex officio	1518	40	8834	0	10392
By the Secretariat	0	25	1	1	27
Intergovernmental organizations	239	1	2692	0	2932
				<b>TOTAL:</b>	<b>33581<sup>6</sup></b>

From 1 January 2000 to 31 December 2009, 729 volumes of the *United Nations Treaty Series* were published, bringing to 2,420 the total number of volumes published as of 31 December 2009.

<sup>5</sup> For data up to 31 December 1954, see *Repertory*, vol. V, under Article 102, para. 16; for data from 1 January 1955 to 31 December 1956, see *Repertory, Supplement No. 1*, vol. II, under Article 102, para. 9; for data from 1 January 1957 to 31 December 1959, see *Repertory, Supplement No. 2*, vol. III, under Article 102, para. 2; for data from 1 January 1960 to 31 December 1966, see *Repertory, Supplement No. 3*, vol. IV, under Article 102, para. 5; for data from 1 January 1967 to 31 December 1969, see *Repertory, Supplement No. 4*, vol. II, under Article 102, para. 5; for data from 1 January 1970 to 31 December 1978, see *Repertory, Supplement No. 5*, vol. V, under Article 102, para. 3; for data from 1 January 1979 to 31 December 1984, see *Repertory, Supplement No. 6*, vol. VI, under Article 102, para. 3; for data from 1 January 1985 to 31 December 1988, see *Repertory, Supplement No. 7*, vol. VI, under Article 102, para. 5; for data from 1 January 1989 to 31 December 1994, see *Repertory, Supplement No. 8*, vol. VI, under Article 102, para. 3 and for data from 1 January 1995 to 31 December 1999, see *Repertory, Supplement No. 9*, vol. VI, under Article 102, para. 3.

<sup>6</sup> This brought to 183 091 the number of treaties and related treaty actions registered or filed and recorded with the Secretariat from December 1946, when effective registration and filing and recording started, up to 31 December 2009.

In parallel, 2,394 volumes of the *United Nations Treaty Series* were placed in Portable Document Format (PDF) for searches on the Internet.<sup>7</sup>

## **ANNEX:**

### **Regulations to give effect to Article 102 of the Charter of the United Nations**

#### **PART ONE**

#### **REGISTRATION**

##### ***Article 1***

1. Every treaty or international agreement, whatever its form and descriptive name, entered into by one or more Members of the United Nations after 24 October 1945, the date of the coming into force of the Charter, shall as soon as possible be registered with the Secretariat in accordance with these regulations.
2. Registration shall not take place until the treaty or international agreement has come into force between two or more of the parties thereto.
3. Such registration may be effected by any party or in accordance with article 4 of these regulations.
4. The Secretariat shall record the treaties and international agreements so registered in a register established for that purpose.

#### **NOTES:**

During the period under review changes were made in terms of computerization and technology. Member States and international organizations, when submitting

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<sup>7</sup> UNTS volumes published in:

2000 - 112 (source: UN Yearbook, 2000, <http://unyearbook.un.org/>)

2001- 126 (source: UN Yearbook, 2001, <http://unyearbook.un.org/>)

2002 - 78 (source: UN Yearbook, 2002, <http://unyearbook.un.org/>)

2003 - 47 (source: UN Yearbook, 2003, <http://unyearbook.un.org/>)

2004 - 84 (source: UN Yearbook, 2004, <http://unyearbook.un.org/>)

2005 - 72 (source: UN Yearbook, 2005, <http://unyearbook.un.org/>)

2006 - 57 (IMDIS, Programme of work for the biennium 2006-2007, <http://imdis.un.org>)

2007 - 80 (IMDIS, Programme of work for the biennium 2006-2007, <http://imdis.un.org>)

2008 - 46 (IMDIS, Programme of work for the biennium 2008-2009, <http://imdis.un.org>)

2009 - 27 (latest internal data not yet reflected in IMDIS)

Total 729 volumes.

treaties for registration to the Secretariat, are now strongly encouraged to submit said documents in electronic format, i.e. on computer diskette, compact disk (CD) or as attachments by e-mail.<sup>8</sup> In addition, each treaty submitted in electronic format for registration must also be accompanied by one certified true copy on paper in accordance with the General Assembly Regulations to give effect to Article 102 of the Charter of the United Nations. The certifying statement accompanying such a submission should state that both the electronic copy and the paper copy of the treaty are true and complete. It is a further requirement that the paper copy be machine readable and suitable for use by the Optical Character Recognition (OCR) mechanism employed in the *United Nations Treaty Series* desktop publishing process.

#### Article 5

1. A party or specialized agency, registering a treaty or international agreement under article 1 or 4 of these regulations, shall certify that the text is a true and complete copy thereof and includes all reservations made by parties thereto.

2. The certified copy shall reproduce the text in all the languages in which the treaty or agreement was concluded and shall be accompanied by two additional copies and by a statement setting forth, in respect of each party:

- (a) The date on which the treaty or agreement has come into force;
- (b) The method whereby it has come into force (for example: by signature, by ratification or acceptance, by accession, et cetera).

#### NOTES

During the period under review, changes in terms of electronic submission occurred. Member States and international organizations, when submitting treaties for registration to the Secretariat, are now strongly encouraged to submit said documents in electronic format, i.e. on computer diskette, compact disk (CD) or as attachments by e-mail. In addition, each treaty submitted in electronic format for registration must also be accompanied by one certified true copy on paper. The certifying statement accompanying such a submission should state that both the electronic copy and the paper copy of the treaty are true and complete. It is a further requirement that the paper copy be machine readable and suitable for use by the Optical Character Recognition (OCR) mechanism employed in the *United Nations Treaty Series* desktop publishing process.

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<sup>8</sup> LA41TR/230 dated 24 January 2002; LA41TR/230 dated 21 January 2003; LA41TR/230 dated 1 February 2005; LA41TR/230 dated 9 February 2006; LA41TR/230 dated 6 March 2007; LA41TR/230 dated 8 February 2008 and LA41TR/230 dated 2 February 2009.

## PART THREE

### PUBLICATION

#### *Article 12*

1. 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 certified statements referred to in article 2 of these regulations shall be published in the same manner.

#### NOTES:

(a) During the period under review, the issue of the publication of the *United Nations Treaty Series* was raised in a note verbale issued in January 2001.<sup>9</sup> The Secretary-General drew the attention of Member States to General Assembly resolutions A/RES/482 (V) of 12 December 1950 and A/RES/54/28 of 17 November 1999, addressing the question of translations. Member States were once again urged to provide formal, or even courtesy, translations in English and French, or in any of the other official languages of the United Nations.<sup>10</sup>

(b) The Treaty Section of the Office of Legal Affairs has migrated its Documentum-based integrated Treaty Information and Publishing System to a technologically more advanced turn-key platform with enhanced web-publishing capabilities which became operational in November 2007. The new database-driven website was launched on 18 September 2008. The Treaty Section has immediately proceeded with the electronic availability (in PDF) on its website of the individual treaty records of the most recent registration period and with the web-publishing of the entire *United Nations Treaty Series* volumes. The entire *United Nations Treaty Series* collection from 1945 till 2009 was placed on the website in PDF and with the available meta data for searches (full text and advanced search options). The new

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<sup>9</sup> LA41TR/230 dated 16 April 2001.

<sup>10</sup> LA41TR/230 dated 16 April 2001; LA41TR/230 dated 24 January 2002; LA41TR/230 dated 21 January 2003; LA41TR/230 dated 1 February 2005; LA41TR/221/3/2005 dated 23 February 2005; LA41TR/230 dated 9 February 2006; LA41TR/221/Depositary Guidelines/2006 dated 9 February 2006; LA41TR/230 dated 6 March 2007; LA41TR/221/Depositary Guidelines/2007 dated 6 March 2007; LA41TR/230 dated 8 February 2008; LA41TR/221/Depositary Guidelines/2008 dated 8 February 2008; LA41TR/230 dated 2 February 2009 and LA41TR/221/Depositary Guidelines/2009 dated 2 February 2009.

re-engineered workflow was put in place to further automate the substantive functions and to facilitate the dissemination of the treaty-related information.

## **II. ANALYTICAL SUMMARY OF PRACTICE**

### **\*\*A. Registration of treaties and international agreements**

### **\*\*B. Treaties and international agreements not subject to registration**

### **C. Publication of treaties and international agreements**

#### **NOTES:**

To further expedite the treaty registration and publication process, the Legal Counsel circulated on 16 April 2001<sup>11</sup>, 24 January 2002<sup>12</sup>, 11 March 2002<sup>13</sup>, 21 January 2003<sup>14</sup>, 1 February 2005<sup>15</sup>, 23 February 2005<sup>16</sup>, 9 February 2006<sup>17</sup>, 6 March 2007<sup>18</sup>, 8 February 2008<sup>19</sup>, 2 February 2009<sup>20</sup> notes verbales specifying the enhanced requirements for submission of treaties for registration and publication in accordance with Article 102 of the Charter of the United Nations. These requirements reflected the need to achieve further advancements in the desktop publishing area and to benefit from the expanded technological capabilities of the Secretariat.

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<sup>11</sup> LA41TR/230 dated 16 April 2001.

<sup>12</sup> LA41TR/230 dated 24 January 2002.

<sup>13</sup> LA41TR/221/1 dated 11 March 2002.

<sup>14</sup> LA41TR/230 dated 21 January 2003.

<sup>15</sup> LA41TR/230 dated 1 February 2005.

<sup>16</sup> LA41TR/221/2/2005 dated 23 February 2005; LA41TR/221/3/2005 dated 23 February 2005 and LA41TR/221/4/2005 dated 23 February 2005.

<sup>17</sup> LA41TR/230 dated 9 February 2006 and LA41TR/221/Depositary Guidelines/2006 dated 9 February 2006.

<sup>18</sup> LA41TR/230 dated 6 March 2007 and LA41TR/221/Depositary Guidelines/2007 dated 6 March 2007.

<sup>19</sup> LA41TR/230 dated 8 February 2008 and LA41TR/221/Depositary Guidelines/2008 dated 8 February 2008.

<sup>20</sup> LA41TR/230 dated 2 February 2009 and LA41TR/221/Depositary Guidelines/2009 dated 2 February 2009.