

# ARTICLE 102

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### 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 and presentation of material in the present study follow those in the corresponding study in volume V of the Repertory. However, because of lack of new material, the Annex to the General Survey and all sub-headings in section A of the Analytical Summary of Practice, with the exception of that dealing with the scope of the term "treaty and international agreement", have been omitted.

## I. GENERAL SURVEY

2. The corresponding section of the Repertory <sup>1/</sup> gave a summary of the various steps towards implementing Article 102, which had been taken by the Executive Committee of the United Nations Preparatory Commission and subsequently by the General Assembly in the course of its first five sessions.
3. At the ninth session of the General Assembly, the Fifth Committee, <sup>2/</sup> having noted the heavy annual expenditure involved in the publication of the Treaty Series, requested the Secretary-General and the Advisory Committee to examine questions raised in connexion with such publication in the light of experience gained since 1950 and to report thereon to the General Assembly at its tenth session.
4. At its tenth session, the General Assembly decided <sup>3/</sup> that the various measures designed to effect economy and reduce delay in publication, which had been considered by the Fifth Committee in the course of the tenth session, should be further studied and requested the Secretary-General to submit a report on a further study to Member States and the Advisory Committee on Administrative and Budgetary Questions, for consideration at the eleventh session of the General Assembly.
5. At its eleventh session, the General Assembly adopted a resolution <sup>4/</sup> under which it took the action set forth below. (1) It decided to continue the existing system of registration and publication of treaties and international agreements. (2) It renewed <sup>5/</sup> its invitation to States parties to treaties and international agreements subject to publication under article 12 of the regulations to provide the Secretary-General, where feasible, with translations in English or French, or both as may be needed for such publication. (3) It requested the Secretary-General to take all necessary measures to achieve the early reduction of the delay in publication and to accelerate the publication of indexes to the Treaty Series. (4) It invited the Secretary-General to continue his efforts to bring about whatever further printing economies may be possible, without, however, lowering the present standard of reproduction of the Treaty Series.
6. The General Survey in the Repertory contained also a brief general description of the system of registration and of the various functions and responsibilities of the Secretariat under Article 102 and under the Regulations. <sup>6/</sup>
7. These functions and responsibilities were stated more precisely by the Secretariat in a prefatory note published in the Statement of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat during November 1955. <sup>7/</sup>
8. In connexion with the publication of that note and the registration of certain agreements, which were listed in the above-mentioned Statement and in the January 1956 Statement, <sup>8/</sup> the Permanent Representatives to the United Nations of certain Members

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<sup>1/</sup> See in the Repertory, vol. V, under Article 102, paras. 7-14.

<sup>2/</sup> G A (IX), 5th Com., 457th mtg., para. 68.

<sup>3/</sup> G A resolution 966 (X).

<sup>4/</sup> G A resolution 1092 (XI).

<sup>5/</sup> See in the Repertory, vol. V, under Article 102, paras. 94 and 95.

<sup>6/</sup> Ibid., para. 15.

<sup>7/</sup> ST/LEG/SER.A/105.

<sup>8/</sup> ST/LEG/SER.A/107.

addressed to the Secretary-General communications setting forth their Governments' views on the matter. As this has a bearing on the interpretation of the term "treaty and international agreement", it is dealt with in more detail in the Analytical Summary of Practice. 9/

9. The following table shows the number of treaties and international agreements registered or filed and recorded from 1 January 1955 to 31 December 1956. 10/

<u>Submitting party</u>	<u>Number of agreements</u>		<u>Total</u>
	<u>Registered</u>	<u>Filed and recorded</u>	
Member States . . . . .	1,074	14	1,088
Non-member States . . . . .	3	1	4
Specialized agencies . . . . .	156	13	169
<u>Ex officio registration</u> . . . . .	57	13	70
Inter-governmental organizations	17	-	17
	Total	1,307	1,348

10. Between 1 January 1955 and 31 December 1956, 67 volumes of the United Nations Treaty Series had been published, bringing the total number of volumes published by 31 December 1956 up to 176.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. Registration of treaties and international agreements

#### 1. Requirements for registration

##### a. SCOPE OF THE TERM "TREATY AND INTERNATIONAL AGREEMENT"

11. The question of the interpretation of the term "treaty and international agreement" was dealt with at some length in the Repertory. 11/ The study indicated that, although at various stages of consideration by the General Assembly of the question of implementation of Article 102 attempts had been made to clarify the exact meaning of the term "treaty and international agreement", the General Assembly had not laid down a precise definition of that term, the matter having been left to gradual development through practice. Furthermore, the study reflected the practice of the Secretariat which had developed in this regard, either as a result of its response to inquiries from various Governments as to the registrability of a given agreement or a category of agreements, or through consultations, which in doubtful cases the Secretariat had felt obliged to initiate with the registering party in order to clarify the matter.

9/ See paras. 11-23 below.

10/ For similar table showing the number of treaties and international agreements registered or filed and recorded up to 31 December 1954, see in the Repertory, vol. V, under Article 102, para. 16.

11/ See in the Repertory, vol. V, under Article 102, paras. 18-31.

12. In the Statement of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat during November 1955, <sup>12/</sup> the Secretariat published a prefatory note, in which it formulated its understanding regarding the functions and responsibilities of the Secretariat under Article 102 and the Regulations, with specific reference to the principle followed by the Secretariat in so far as the interpretation of the term "treaty and international agreement" was concerned. The relevant passage of the note reads as follows:

"5. Under Article 102 of the Charter and the Regulations, the Secretariat is generally responsible for the operation of the system of registration and publication of treaties. In respect of ex officio registration and filing and recording, where the Secretariat has responsibility for initiating action under the Regulations, it necessarily has authority for dealing with all aspects of the question.

"6. In other cases, when treaties and international agreements are submitted by a party for the purpose of registration, or filing and recording, they are first examined by the Secretariat in order to ascertain whether they fall within the category of agreements requiring registration or are susceptible of filing and recording, and also to ascertain whether the technical requirements of the Regulations are met. It may be noted that an authoritative body of practice relating to registration has developed in the League of Nations and the United Nations which may serve as a useful guide. In some cases, the Secretariat may find it necessary to consult with the registering party concerning the question of registrability. However, since the terms 'treaty' and 'international agreement' have not been defined either in the Charter or in the Regulations, the Secretariat, under the Charter and the Regulations, follows the principle that it acts in accordance with the position of the Member State submitting an instrument for registration that so far as that party is concerned the instrument is a treaty or an international agreement within the meaning of Article 102. Registration of an instrument submitted by a Member State, therefore, does not imply a judgment by the Secretariat on the nature of the instrument, the status of a party, or any similar question. It is the understanding of the Secretariat that its action does not confer on the instrument the status of a treaty or an international agreement if it does not already have that status and does not confer on a party a status which it would not otherwise have."

13. A list of agreements published in the above-mentioned Statement contained, among those registered by a Member State, certain agreements concluded by that Member with the Democratic People's Republic of Korea and the German Democratic Republic. The January 1956 issue of the Statement listed among the agreements registered several agreements concluded by a Member State with the People's Republic of China.

14. Following the publication of those Statements, the Permanent Representatives to the United Nations of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Republic of China and the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations, addressed to the Secretary-General communications, in which they expressed the views set forth below.

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<sup>12/</sup> ST/LEG/SER.A/105. The note has since been included in all subsequent monthly issues of the Statement and will appear in a more concise form in the United Nations Treaty Series, beginning with volume 212.

15. In his communication, the Permanent Representative of the United States of America, referring to the November 1955 - January 1956 issues of the Statement of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat, stated inter alia:

"The Secretariat, in describing in the prefatory note the way in which it carries out its functions, states that it acts in accordance with the position of the Member State registering the instrument and that its action does not imply a judgment by the Secretariat as to the nature of the instrument or the status of a party or any similar question, does not confer on the instrument the status of a treaty or an international agreement if it does not already have that status, and does not confer on a party a status which it would not otherwise have.

"The Government of the United States shares this view of the functions of the Secretariat and believes that the above-quoted paragraphs correctly state law and practice in this regard under the Charter of the United Nations. It considers that the performance by the Secretariat of the functions assigned to it under the Charter and the Regulations in force in no way prejudices or affects any question relating to the statehood of one or more of the parties to an instrument or to the character of the instrument as a treaty or international agreement, should such a question be presented for authoritative determination. It is especially to be emphasized that every state must be presumed to have, and to have preserved, its own position as to the nature of the instrument that may be submitted for registration.

"The Government of the United States notes that certain purported agreements concluded by a Member of the United Nations with the North Korean, Chinese Communist and East German regimes have been 'registered' by the United Nations Member concerned with the Secretariat and have accordingly been included in the current lists. The United States Government wishes to make clear that it regards 'registration' of these instruments by a United Nations Member as without significance because in its opinion the regimes in question do not possess international capacity and the instruments do not constitute treaties or international agreements within the meaning of Article 102 of the Charter."

16. The Permanent Representative of the United States of America then discussed in his communication the considerations on which the position of his Government was based and continued:

"In these circumstances the publication of the Secretariat's explanatory note provides an appropriate occasion for the Government of the United States to reaffirm its position in this matter. In particular it desires to emphasize that silence of a state in connection with the listing, processing and publication of instruments submitted for registration, or filing and recording, with the United Nations cannot be considered under established law and practice as in any way implying approval of the instrument as a treaty or international agreement, recognition of a party to the instrument, or a judgment as to the treaty-making capacity of a party."

17. The Permanent Representative of the United States of America also noted that in the September 1955 issue of the Statement of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat, the Mongolian People's Republic was listed as a party to an instrument registered by a Member of the United Nations. He recalled that the United States of America did not consider Outer Mongolia as independent and stated that the position of the United States in regard to this régime remained unaffected by the fact of the listing above noted.

18. The communication addressed to the Secretary-General by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland contained, inter alia, the following statement:

"It is the view of Her Majesty's Government that a Member State has no right to register or have filed and recorded as a treaty or international agreement under Article 102 of the Charter or the Regulations established by Resolution 97 (I) of the General Assembly, any agreement made between it and a party which does not have the capacity to conclude a treaty or international agreement taking effect in international law. Nevertheless, Her Majesty's Government accept the Secretariat's interpretation of its own particular position and functions under Article 102 of the Charter and the Regulations. Accordingly, they will not consider the registration or filing and recording of an instrument submitted by a Member State as conferring on the instrument or on a party to the instrument, or as constituting evidence of, any status which such instrument or party would not otherwise have."

19. Referring specifically to the agreements between the Union of Soviet Socialist Republics and the Democratic People's Republic of Korea and between the Union of Soviet Socialist Republics and the German Democratic Republic, which were listed in the November 1955 and January 1956 issues of the Statement, the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland stated that the United Kingdom Government did not recognize either North Korea or East Germany as a State and, therefore, did not recognize the instruments referred to above as having the status of treaties and international agreements within the meaning of Article 102 of the Charter or of the Regulations established under resolution 97 (I) of the General Assembly.

20. The Permanent Representative of the Republic of China, in his communication addressed to the Secretary-General, referred to the Statement of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat during September and November 1955 and January and February 1956, and particularly to the agreements, listed therein, between the Union of Soviet Socialist Republics and the Chinese People's Republic, Outer Mongolia, North Korea and East Germany. Having expressed his Government's regret that such instruments should have been accorded registration as treaties and international agreements, the Permanent Representative of the Republic of China stated that note has been taken, however, of the explanation contained in the Note by the Secretariat that "registration of an instrument submitted by a Member State ... does not imply a judgment by the Secretariat on the nature of the instrument, the status of a party, or any similar question", and that "it is the understanding of the Secretariat that its action does not confer on the instrument the status of a treaty or an international agreement if it does not already have that status and does not confer on a party a status which it would not otherwise have". The Permanent Representative of the Republic of China further pointed out that the parties in question to the agreements with the Union of Soviet Socialist Republics had no legitimate status whatsoever and that any instrument entered into with them by a Member of the United Nations did not have the status of a treaty or an international agreement within the meaning of Article 102 of the Charter of the United Nations.

21. The Permanent Mission of the Union of Soviet Socialist Republics, in its communication addressed to the Secretary-General, referred to the publication in the Statements of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat, of a number of reports relating to treaties and agreements concluded on behalf of China by representatives of Chiang Kai-Shek and also of reports relating to the signature, ratification of, and accession to international treaties and agreements by those representatives on behalf of China. The Permanent Mission of the Union of Soviet Socialist Republics stated that it deemed it necessary to draw

attention to the fact that, as it had already indicated on a number of previous occasions, only the Central People's Government of the People's Republic of China was entitled to act on behalf of China in the United Nations and in international relations. The Permanent Mission of the Union of Soviet Socialist Republics further stated that, in view of the foregoing, it regarded these reports in the monthly statements as devoid of legal validity.

22. All four communications, pursuant to the requests contained thereon, were circulated by the Secretary-General to all Members of the United Nations.

23. The Permanent Representative of the Philippines to the United Nations, in the acknowledgement of the receipt of the Secretary-General's note circulating the above-mentioned communication of the Permanent Representative of the United States of America, stated that his Government shared the view of the Secretary-General regarding his functions and responsibilities in connexion with the registration of treaties and international agreements under Article 102 as expressed in the prefatory note published in the November 1955 issue of the Statement of Treaties and International Agreements Registered or Filed and Recorded with the Secretariat. The Permanent Representative of the Philippines further stated that he shared the view of the Government of the United States that "silence of a state in connexion with the listing, processing and publication of instruments submitted for registration, or filing and recording with the United Nations cannot be considered under established law and practice as in any way implying approval of the instrument as a treaty or international agreement, recognition of a party to the instrument, or a judgment as to the treaty-making capacity of a party".

\*\* b. ENTRY INTO FORCE OF TREATIES AND INTERNATIONAL AGREEMENTS

\*\* 2. *Obligation to register*

\*\* 3. *Registering parties*

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

24. The question of treaties and international agreements not subject to registration, which, under the system established by the General Assembly in the regulations, are filed and recorded and published in the Treaty Series, was raised during the discussion in the Fifth Committee at the ninth 13/ and tenth 14/ sessions of the General Assembly in connexion with the consideration of possible measures to effect economy and reduce delay in publication of treaties and international agreements. In particular, as one of the possible measures aimed to achieve such results, it was suggested that, since the publication of treaties and international agreements filed and recorded was not obligatory under Article 102, all or certain categories of such agreements might be excluded from the publication through the adoption by the General Assembly of an appropriate amendment to article 12 of the regulations. The suggestion, however, did not meet with the approval of the Fifth Committee. In resolution 1092 (XI), adopted at that Committee's recommendation, the General Assembly decided to continue the existing system of publication of treaties and international agreements.

25. More detailed discussion of the question will be found in section C of the Analytical Summary, which deals with the publication of treaties and international agreements, and, in particular, in paragraphs 37 and 49 below.

13/ G A (IX), 5th Com., 457th mtg., paras. 53-60.

14/ G A (X), 5th Com., 506th to 509th, 511th and 515th mtgs.

## C. Publication of treaties and international agreements

26. At the ninth session of the General Assembly, the Fifth Committee, having examined 15/ the observations 16/ of the Advisory Committee on Administrative and Budgetary Questions in regard to the heavy annual expenditure involved in the publication of the Treaty Series, approved a proposal requesting the Secretary-General and the Advisory Committee to examine questions raised in connexion with the publication of the Treaty Series in the light of experience gained since 1950 and to report thereon to the General Assembly at its tenth session. 17/

27. The question of registration and publication of treaties and international agreements, an agenda item which at the first five sessions of the General Assembly had invariably been allocated to the Sixth Committee, was referred by the General Assembly, 18/ at its tenth session, to the Fifth Committee for consideration. In allocating the item to the Fifth Committee, however, the General Assembly concurred in an arrangement proposed by the Secretary-General, 19/ whereunder the item would be referred, at some appropriate stage in that Committee's consideration, to the Sixth Committee for advice on legal aspects of the question and for the drafting of such amendments to the regulations as might be required.

28. In the relevant report 20/ to the tenth session of the General Assembly, the Secretary-General pointed out that there were certain general considerations which must be borne in mind with respect to any changes in the registration and publication of treaties. Such was the question of the delay in publication, which, in his view, deserved as much attention as the budgetary implications of the problem. Another consideration was that, under Article 102, every treaty and international agreement registered with the Secretariat must be published by it, and that the word "published" had in practice been consistently interpreted by the General Assembly to mean "printed" in the Treaty Series, the interpretation which had also been given to the word "published" in Article 18 of the Covenant of the League of Nations. With these considerations in mind, the review in the report of possible economies in the publication of treaties had been confined to such measures as appeared compatible with the terms of Article 102 of the Charter and with the above-mentioned interpretation. The Secretary-General then referred to the following possible measures capable of achieving a reduction in annual budgetary expenditure and at the same time of reducing the delay in publication, which, in his view, would not encroach upon the basic principles and purpose of registration and publication of treaties and would be compatible with the terms of Article 102: (a) omission of translations when the original language or one of the original languages of a treaty is English or French; (b) elimination of the publication of certain categories of annexes; and (c) elimination of the publication of all or certain categories of agreements filed and recorded (not subject to registration under Article 102 of the Charter).

29. In its tenth report 21/ to the tenth session of the General Assembly, the Advisory Committee concurred with the conclusions of the Secretary-General's report that each of the possible measures described above would yield appreciable savings and expressed

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15/ G A (IX), 5th Com., 457th mtg., para. 68.  
16/ G A (IX), Suppl. No. 7 (A/2688), paras. 215 and 216.  
17/ G A (IX), annexes, a.i. 38, p. 56, A/2886, para. 229.  
18/ G A (X), Plen., 530th mtg., paras. 270-272.  
19/ G A (X), annexes, a.i. 8, p. 9, A/2980, para. 10.  
20/ G A (X), annexes, a.i. 54, p. 1, A/2971.  
21/ G A (X), Plen., annexes, a.i. 54, p. 7, A/3010.

belief that, as a source of economy compatible with the Charter provision, all three measures merited the favourable consideration of the General Assembly. However, in the opinion of the Advisory Committee, it was within the competence of the Legal Committee to decide the extent to which it was possible to give effect to such measures consistently with the Charter and the purposes which the Treaty Series was intended to serve, and to formulate the necessary amendments to the regulations.

30. During the discussion 22/ of the item in the Fifth Committee, there was general agreement among the representatives who took part in the debate that measures should be taken to economize in the production of the United Nations Treaty Series and to reduce the delay in the publication, without, however, unduly impairing its value or in any way infringing Article 102. As regards, however, the merits of the specific measures mentioned in the reports of the Secretary-General and the Advisory Committee the opinions were widely divided.

31. In particular, with regard to the measure under which translations would be dispensed with where the original text or one of the original texts of a treaty was English or French, the views set forth below were among those expressed. (1) The existing system should be maintained, inasmuch as the Treaty Series, in its present form, had proved to be a working instrument of incalculable value; (2) the wide difference between the English and French languages in respect of the system of law and juridical concepts caused many users of the Treaty Series to rely on the text drawn up in that one of the two languages with which they were more familiar; (3) the United Nations translation of international instruments was of great value in that it made it possible to evolve a standard terminology and style; (4) other ways of economizing and of speeding up the publication of treaties could be found, for instance, by reproducing the agreements in the original language or languages as soon as they had been registered and by publishing the translations later; by laying more stress on the provision of translations by the Governments transmitting agreements for registration; by taking care to avoid overlapping between the work of the United Nations and that of the specialized agencies in respect of agreements between States and the specialized agencies.

32. It was argued on the other hand that the measure merited serious consideration since it would save expense, labour and, more particularly, time, for translation was the main cause of delay in publication. Furthermore, the adoption of the measure in question would not seriously inconvenience Governments or others interested in the Treaty Series and would not conflict with the provisions of the Charter.

33. In connexion with the consideration of the exclusion from publication of certain annexes as another possible measure of achieving economy and reducing delay in publication, the Secretary-General noted in his report that there were certain types of annexes which, being in no way essential to an understanding of the main documents, might be excluded from publication, such as various forms attached, for instance, to postal or customs agreements of limited application; minor regulations for the execution of such agreements; schedules attached to short-term bilateral commercial agreements listing the kind and amount of goods subject to exchange between the contracting parties, sometimes even with detailed specifications of such goods; in certain cases, drawings or maps where they relate for instance to agreements regarding the establishment of war cemeteries or the lease of buildings, etc.

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22/ G A (X), 5th Com., 506th-509th, 511th and 515th mtgs.

34. Furthermore, the report indicated that this measure, if adopted, would be accompanied by the following safeguards. (1) The exclusion from the publication of an annex would take place only when the purposes of Article 102 would not be affected because of unessential character of the data contained. (2) It would require the concurrence both of the parties to the treaty or agreement and of the Secretary-General. (3) Such procedure would not release parties from the obligation to transmit for registration the complete text of an agreement including all the annexes. (4) Annexes omitted from the Treaty Series would be available for consultation in the Secretariat and photo-copies of them could be supplied by the Secretariat upon request. (5) References would be provided in the Treaty Series whenever texts of such annexes existed in other easily accessible publications.

35. During the discussion of this matter in the Fifth Committee, the following views were among those expressed. (1) The question of omission of annexes entailed not only financial but also legal considerations, inasmuch as it involved interpretation of Article 102 of the Charter and, therefore, was largely the concern of the Sixth Committee. (2) The consent of the principal parties was not the crucial test whether material should be omitted from publication; it was not the party to an agreement whose interests were protected by Article 102 and by the policy underlying article 12 of the regulations. (3) 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. (4) Since a similar proposal had been rejected by the Sixth Committee at the fifth session of the General Assembly, 23/ no final decision should be taken by the Fifth Committee until the Sixth Committee had been consulted.

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

37. In connexion with the consideration of the possible exclusion from publication of all or certain categories of agreements filed and recorded, some representatives favoured the adoption of a measure under which the Secretary-General would have the authority to exercise discretion in the publication of certain categories of treaties and international agreements filed and recorded if, in his opinion, their publication was of limited international interest. On the other hand, it was pointed out that the provision in the regulations for voluntary submission of such agreements was wise and should be maintained; Member States should be informed of treaties and international agreements between the United Nations, non-member States and specialized agencies. The view was also expressed that a procedure whereby the Secretary-General would have the authority to exercise discretion in the publication of such agreements was not a satisfactory solution.

38. As the discussion developed, several other possible ways of economizing and of speeding up the publication, as set forth below, were put forward with the suggestion that their practicability and possible advantages might be examined by the Secretariat. (1) Elimination of duplication of standard form treaties. 24/ (2) Avoidance of

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23/ See in the Repertory, vol. V, under Article 102, paras. 96-101.

24/ A similar suggestion was considered by the Sixth Committee at the fifth session of the General Assembly; see in the Repertory, vol. V, under Article 102, para. 99.

duplication by arrangements with specialized agencies and Contracting Parties to the General Agreements on Tariffs and Trade. (3) Avoidance of duplication as between the United Nations International Tax Agreements Series and the Treaty Series.  
(4) Publishing sub-series of the Treaty Series.

39. Following the general discussion, the Fifth Committee considered a draft text, 25/ which had been prepared through informal consultations among representatives of certain delegations. It was composed of a draft letter with an annex to be sent by the Chairman of the Fifth Committee to the Chairman of the Sixth Committee, requesting the Sixth Committee to give its advice on the legal aspects of the matters referred to in paragraph 1 of the annex and to draft such amendments to the Regulations as might be required. Paragraph 1 of the annex envisaged the following two measures which, in the view of the sponsors of the draft, might be put into effect immediately upon the decision of the General Assembly subject to the opinion of the Sixth Committee: (1) omission of translations when the original text of a treaty or international agreement was drawn up in English or French; and (2) elimination, in the case of treaties and international agreements filed and recorded under article 10 of the regulations, of duplication of standard form treaties, by use of cross-references to a model text already published in the Series, with a clear indication of differences. Paragraph 2 of the annex covered a number of questions raised in the reports of the Secretary-General and of the Advisory Committee on Administrative and Budgetary Questions, as well as in the course of the discussion in the Fifth Committee, which were considered as not yet ripe for decision and were therefore to be referred to the Secretary-General for further study and report.

40. Following the adoption of an amendment to the annex to the above-mentioned draft letter, pursuant to which the proposed measure in regard to the omission of translations was included among the questions listed in paragraph 2 of the annex as not yet ripe for decision, the Fifth Committee agreed to refer all questions to the Secretary-General for further study and report to the eleventh session of the General Assembly.

41. The Fifth Committee approved a draft resolution 26/ annexed to its report, 27/ which was adopted by the General Assembly and became resolution 966 (X). Under this resolution, the General Assembly took the action set forth below. (1) It decided that the various measures considered in the course of the tenth session should be further studied. (2) It requested the Secretary-General to submit to Member States and to the Advisory Committee on Administrative and Budgetary Questions, for consideration at the eleventh session of the General Assembly, a report on his further study. (3) It invited the Secretary-General to continue his efforts to bring about further printing economies, without, however, lowering the present standard of reproduction of the Treaty Series, and to keep under review the distribution of the Series to ensure a strict curtailment of the free mailing list.

42. Pursuant to resolution 966 (X), the Secretary-General submitted to Member States and to the Advisory Committee a report 28/ on his further study of possible measures to effect economy and to reduce delay in publication. The observations of the Advisory Committee on the matters examined by the Secretary-General were submitted in its seventeenth report to the eleventh session of the General Assembly. 29/

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25/ G A (X), annexes, a.i. 54, p. 10, A/C.5/L.352.

26/ G A (X), 5th Com., 515th mtg., paras. 27-34.

27/ G A (X), annexes, a.i. 54, p. 11, A/3058.

28/ G A (XI), Plen., annexes, a.i. 50, p. 1, A/3168.

29/ Ibid., p. 16, A/3387.

43. At its eleventh session, the General Assembly referred the item "Registration and publication of Treaties and International Agreements" to the Fifth Committee for consideration. During the discussion of the item in the Fifth Committee, 30/ and in the light of relevant reports, it was noted that only the following two measures were considered capable of achieving any substantial economy and reduction of the delays in publication: (1) the omission of translations when the original language, or one of the original languages, of a treaty was English or French, and (2) the elimination of publication of certain categories of annexes. As it was generally considered, however, that both these questions involved a matter of legal principle relating to Article 102, some representatives believed that it would be appropriate to seek the advice of the Sixth Committee before discussing them further.

44. Other suggestions of a procedural nature, set forth below, were also made. (1) To refer the whole question, in both its legal and financial aspects, for consideration to a joint meeting of the Fifth and Sixth Committees. (2) To establish a special committee for the purpose of undertaking a comprehensive review of the question between the sessions of the General Assembly. (3) To draw up a questionnaire based on the Secretary-General's report, to be submitted to Member States for their comments, so that the Secretariat could analyse the replies received and report to the General Assembly at its twelfth session.

45. As regards the substance of the matter, most of the representatives who took part in the debate did not favour any change in the existing system of publication of translations and annexes.

46. In regard to the publication of translations in particular, the views set forth below were among those expressed. (1) The International Law Commission attached considerable importance to the maintenance of the present system. (2) The present system was also valuable and important to the International Court of Justice, which worked in English and French. (3) Treaties should be published in English and French since they provided the material for proceedings in international law. (4) In the light of the Secretary-General's latest estimate that only about three years would be required at the rate of publication of forty-eight volumes per year to achieve the desired interval of six months between registration and publication, any proposal to reduce the delay by omitting much of the translation work lost a good deal of its force.

47. As to the question of the possible omission of certain annexes, attention was drawn to the difficulty of defining an unessential annex and to the undesirable effect that such omission might have in detracting from the completeness of a legal collection. It was also pointed out that such practice would conflict with Article 102 and with the general principle aiming at the elimination of secret treaty provisions.

48. As regards the other measures, which under the General Assembly's resolution 966 (X) had been referred to the Secretary-General for further study, the Fifth Committee was in general agreement with the conclusions reached by the Secretary-General and the Advisory Committee in their reports, namely, that either they were technically not feasible or that the paucity of savings would hardly warrant a change in the present system.

49. In particular, with regard to the publication of treaties and international agreements filed and recorded under article 10 of the regulations, the views were expressed that those treaties and international agreements were as important to the

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30/ G A (XI), 5th Com., 562nd mtg.

international community as other international instruments and, in any event, the number of such instruments would be small, since twenty new Members had been admitted to the United Nations and most of the treaties and international agreements concluded before the entry into force of the Charter had already been published.

50. As a result, the Committee approved 31/ a draft resolution which was adopted by the General Assembly and became resolution 1092 (XI). Under this resolution, the General Assembly took the action set forth below. (1) It decided to continue the existing system of registration and publication of treaties and international agreements, including in particular the method of publication of translations and annexes. (2) It concurred in the recommendations of the Advisory Committee on Administrative and Budgetary Questions in regard to the other questions referred to in the seventeenth report of the Advisory Committee to the eleventh session of the General Assembly. (3) It renewed its invitation to States Parties to treaties and international agreements subject to publication under article 12 of the regulations to provide the Secretary-General, where feasible, with translations in English or French, or both as may be needed, for the purposes of such publication. (4) It requested the Secretary-General to take all necessary measures to achieve the early reduction of the delay in publication of treaties and international agreements and to accelerate the publication of indexes to the Treaty Series. (5) It invited the Secretary-General to continue his efforts to bring about whatever further printing economies may be possible without, however, lowering the present standard of reproduction of the Treaty Series.

31/ G A (XI), 5th Com., 570th mtg., paras. 4-6.

