# ARTICLE 102

## CONTENTS

<table>
<thead>
<tr>
<th>Paragraphs</th>
<th>Text of Article 102</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introductory note</td>
<td>1</td>
</tr>
<tr>
<td>I. General survey</td>
<td>2-4</td>
</tr>
<tr>
<td>Annex Registration and publication of treaties and international agreements: regulations to give effect to Article 102 of the Charter of the United Nations</td>
<td>5-10</td>
</tr>
<tr>
<td>II. Analytical summary of practice</td>
<td>5-10</td>
</tr>
<tr>
<td>A. Registration of treaties and international agreements</td>
<td>5-8</td>
</tr>
<tr>
<td><strong>1. Requirements for registration</strong></td>
<td>5</td>
</tr>
<tr>
<td>2. Obligation to register</td>
<td>5</td>
</tr>
<tr>
<td>3. Registering parties</td>
<td>6-8</td>
</tr>
<tr>
<td>B. Treaties and international agreements not subject to registration</td>
<td>9</td>
</tr>
<tr>
<td>C. Publication of treaties and international agreements</td>
<td>10</td>
</tr>
</tbody>
</table>
TEXT OF ARTICLE 102

1. Every treaty or 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 V 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\(^1\) to give effect to Article 102, as well as the text of the regulations involved. See also the Summary of Practice of the Secretary-General as Depository of Multilateral Agreements,\(^2\) which provides useful information on the practice of the Secretary-General.

\(^1\) GA resolution 97 (I), as amended; for the complete text, see United Nations, Treaty Series, vol. 859/860 (1973), pp. VIII to XX.

\(^2\) ST/LEG/SER.E/15.

I. GENERAL SURVEY

1. During the period under review, the United Nations organs did not take any substantive decisions bearing on the contents of Article 101. In its resolution 34/149 of 17 December 1979, however, the General Assembly adopted provisions resulting in the modifications to the regulations to give effect to Article 102 in order to enhance the efforts of the Secretariat to eliminate the existing backlog in the registration and publication of treaties and international agreements. In this connection, the General Assembly noted that the Secretariat, on 9 September 1979, had sent to the Governments of Member States and certain intergovernmental organizations a questionnaire relating to their practice on international agreements. Furthermore, the General Assembly decided to include this question in the agenda of future sessions, in order to discuss any possible modifications to the regulations on the basis of sufficient information received in reply to the questionnaire.\(^3\) During the period under review, the Secretariat did not receive adequate responses to the questionnaire for the preparation of a comprehensive report on this issue.

3. The following table shows the number of treaties and international agreements registered, or filed and recorded by the Secretariat, from 1 January 1979 to 31 December 1984:\(^4\)

\[\begin{array}{ccc}
\text{Number of agreements} & \text{Submitting party} & \text{Registered} & \text{Filed and recorded} & \text{Total} \\
\hline
\text{States} & 4,591 & 32 & 4,623 \\
\text{Specialized agencies and IAEA} & 1,689 & 59 & 1,748 \\
\text{Ex officio} & 394 & 59 & 394 \\
\text{By the Secretariat} & - & 39 & 39 \\
\text{Intergovernmental organizations} & 89 & - & 89 \\
\hline
\text{TOTAL} & 6,763 & 130 & 6,893 \\
\end{array}\]

4. From 1 January 1979 to 31 December 1984, 263 volumes of the United Nations Treaty Series were published, bringing to 1,080 the total number of volumes published as of 31 December 1984.

ANNEX

Registration and publication of treaties and international agreements; regulations to give effect to Article 102 of the Charter of the United Nations.

Article 2

1. When a treaty or international agreement has been registered with the Secretariat, a certified statement regarding any subsequent action which effects a change in the parties thereto, or the terms, scope or application thereof, shall also be registered with the Secretariat.

\[\ldots\]

\(^3\)GA decisions 35/436 of 15 December 1980 and 36/425 of 3 December 1981.

\(^4\) 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; and for data from 1 January 1970 to 31 December 1978, see Repertory, Supplement No. V, vol. V, under Article 102, para. 3.

\(^5\)This brought to 28,485 the number of treaties registered or filed and recorded with the Secretariat from December 1946, when effective registration and filing and recording started, up to 31 December 1984.
NOTES

(a) According to the practice of the Secretariat with regard to the registration of certified statements under article 2 of the regulations, the party registering a subsequent action is required to indicate the date of entry into force of such an action. With respect to a subsequent action to a multi-depositary agreement, however, one of the difficulties resulting from the multi-depositary procedure is that Governments may and do deposit instruments with more than one depositary and that the various depositaries may not be certain that an instrument was not deposited with another depositary. Therefore, each depositary is only in a position to determine the effective date of the subsequent action in relation to the date on which the instrument was deposited with himself, which may be at variance with the date(s) of deposit with the other depositaries.

In order to avoid varying dates of entry into force of subsequent actions to multi-depositary conventions, a Member State suggested to the Secretariat that the Secretariat itself would be in the best position to determine the effective date of such an action. The Secretariat, however, answered in the negative to this suggestion. Since the Secretariat may not receive all subsequent actions to a multi-depositary convention in chronological order, it cannot ascertain whether any previous deposit was effected by the party concerned with another depositary. Furthermore, in cases where the Convention provides for the entry into force of a subsequent action after a certain period of time, the practice of depositaries may vary in the computation of these periods and consequently the Secretariat would be obliged to seek confirmation of any assumption it might make with regard to effective dates. In its reply, the Secretariat suggested to Member States that they indicate, upon registration of a subsequent action to a multi-depositary Convention, the effective date of the subsequent action in question with the following proviso: "Provided that the deposit in . . . was the effective deposit for the purposes of article . . . of the Treaty." (b) During the period under review, the Secretariat received for registration by a Member State a notification by which the Government of the Member State declared its decision to extend the scope of an agreement to additional items which were not covered by the agreement itself. The declaration was acknowledged without reservation or declination by the other party. In view of such acknowledgment, the Secretariat considered the notification as constituting a unilateral declaration imposing additional obligation(s) on one party only. In accordance with the Secretariat's practice, unilateral declarations constitute registrable actions within the purview of Article 102 of the Charter and, therefore, registration of the declaration in question could be effected.

(c) Within the framework of a multilateral Convention deposited with the Secretary-General, the Secretariat registered ex officio a joint declaration by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America concerning the joint declaration was made in reply to previous objections to the declaration, the German Democratic Republic and the United States of America. In their objections, the German Democratic Republic and the United States of Socialist Republics stated that they both considered the said declaration of application as having no legal effect. Given the common responsibility of France, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Union of Soviet Socialist Republics for Berlin, as provided for in the Quadripartite Agreement of 3 September 1971, the Secretariat considered itself obliged to register the said joint declaration made by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 3

1. Registration by a party, in accordance with article 1 of these regulations, relieves all other parties of the obligation to register.

NOTES


In accordance with article 3 of the regulations, only one registration of an agreement is necessary; when the Secretariat receives the documentation relating to an agreement previously registered, it normally informs the second submitting party of this fact. In this case, however, both parties provided different information as to what documents in fact constituted the Treaty itself. Since under its longstanding practice the Secretariat acts in accordance with the position of the Member State submitting an instrument for registration and in view of the existing irreconcilable differences, the Secretariat accepted the documentation submitted by Israel for subsequent registration. In its view, it did not thus duplicate the registration already effected by Egypt.

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 the 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:

NOTES

(a) Under article 5 of the regulations, every annex or attachment to a treaty has to be submitted together with the agreement itself, provided that it constitutes an integral part thereof. A particular case of interest in this connection, is the so-called "Standard Provisions Annex", i.e., a special type of annex which is simultaneously attached to several agreements subsequently submitted for registration. The Secretariat considers it to be sufficient for the submitting party to provide the complete documentation of the Standard Provisions Annex only upon registration of the first agreement. At the time of the registration of subsequent agreements, a simple reference by the

11See United Nations, Treaty Series, vol. IV, under Article 102, paras. 16-18; see also para. 6 below.
12Egypt registered under No. 17813 (see United Nations, Treaty Series, vol. 1136 (1979), p. 100) the Treaty of Peace with the Letter Agreement and annexed texts including seven related letters to the Letter Agreement, which were not submitted by Israel. Israel, on the other hand, registered the Treaty of Peace and the texts under Nos. 17853 to 17856 and No. 17858 (ibid., vol. 1138 (1979), p. 39 et seq.). In addition, Israel registered under No. 17857 an Exchange of letters which was not included in the documentation submitted by Egypt (ibid., p. 167).
submitting party to the relevant Standard Provision Annex as already registered would satisfy the requirements of article 5 of the regulations.  

(b) In a note verbale of 25 January 1984 to the Permanent Representative of a Member State, the Secretary-General replied to the question whether all annexes to an agreement establishing the common State frontier should be included in the documentation submitted for registration in the form they are mentioned in the agreement itself. The Permanent Representative wished to submit a map on the scale of 1:200,000, giving an overall picture of the border in question.

The Secretary-General replied that the map proposed did not reproduce the entire contents of the frontier documentation as provided for in the agreement and hence would not meet the requirements of Article 102 of the Charter and the regulations. In this connection, he stated, the Secretariat postponed registration of the treaty in question and informed the submitting party, in which case the agreement would be registered in the name of both States.
A. Registration of treaties and international agreements

**1. REQUIREMENTS FOR REGISTRATION**

2. OBLIGATION TO REGISTER

5. In a note verbale of 21 January 1981, the Permanent Mission of a Member State replied to the suggestion of the Secretariat to register a bilateral agreement which had not been registered with the Secretariat and a reference to which had been noticed upon registration of another agreement. In its reply, the Permanent Mission stated that it was the practice of its Government to register (only) agreements which were concluded on its territory. The registration of agreements concluded in another country is normally left to the Government of that particular country. In its reply of 24 February 1982, the Secretariat referred to articles 1(3) and 3(1) of the regulations and indicated that those provisions did not modify the obligation to register an agreement taking into account the place of conclusion. In the case of bilateral agreements, since both parties would be in the possession of the originals and all relevant information required for their registration, the Secretariat considered each party to be in the position to duly register bilateral agreements.

3. REGISTERING PARTY

6. In accordance with article 3 of the regulations, the registration of an agreement by one party relieves all other parties of their obligation to register the agreement under article 1 of the regulations. Therefore, when the same agreement is subsequently submitted by another party, the Secretariat simply informs the submitting party that the agreement has already been registered, indicating the particulars of the registration. In the few cases where the same agreement is simultaneously submitted by two parties on the same date, registration will be effected in the name of the two parties.18

7. In one particular case, the Secretariat received an agreement for registration which could not be effected, as additional documentation was required from the submitting party. Subsequently, the Secretariat received the same agreement from the other party for registration. In view of the complete documentation submitted by the latter, registra-

8. With respect to multilateral treaties, registration is usually effected by a State, or an international organization acting in its capacity as depositary, or by a party to the treaty.20 During the period under review, the Secretariat also proceeded with the registration of a treaty establishing a regional organization by the organization itself acting on behalf of the parties, although the organization in question was not the depositary of the treaty.21

B. Treaties and international agreements not subject to registration

9. On 29 August 1983, a Member State submitted the Solemn Declaration on the European Union signed in Stuttgart, Federal Republic of Germany, on 19 June 1983, indicating at the same time that the Declaration might not be registrable in accordance with Article 102 of the Charter. The Secretariat agreed with that view. Indeed, the Declaration had been issued at a meeting of the European Council of the European Economic Community (EEC) and therefore constituted a decision of that organ and not an agreement between the States members of the EEC. Given those circumstances, the Secretariat simply filed the Declaration for information.

C. Publication of treaties and international agreements

10. On several cases during the period under review, in preparing the text of an agreement for the respective volume of the United Nations Treaty Series, the Secretariat noticed that differences existed between the authentic language versions of the agreement, e.g., one of the authentic texts contained a sentence or a paragraph which did not appear in the other authentic language version. On the assumption that those differences were attributable to typographical errors or administrative oversights, the Secretariat published in brackets the missing text in the translations made by the Secretariat with the following footnote: "the text [paragraph, sentence, etc.] between brackets does not appear in the authentic text.22

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18 Agreement of 25 August 1982 between Brazil and Spain, registered on 4 October 1982 under No. 21267; for the date of registration for several submissions during one month, see note 14 above.

19 Agreement of 23 April 1979 between Colombia and Czecho-

