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# Article 102

## Contents

	<i>Paragraphs</i>
Text of Article 102	
Introductory note . . . . .	1
I. General survey . . . . .	2–4
Annex	
Registration and publication of treaties and international agreements: Regulations to give effect to Article 102 of the Charter of the United Nations	
Article 1	
Notes	
Article 2	
Notes	
Article 4	
Notes	
Article 5	
Notes	
Article 8	
Notes	
Article 10	
Notes	
II. Analytical summary of practice . . . . .	5–16
A. Registration of treaties and international agreements . . . . .	5–13
1. Requirements for registration . . . . .	5–11
(a) Scope of the term “treaty and international agreement” . . . . .	5–11
**(b) Entry into force of treaties and international agreements	
**(c) Scope of the expression “entered into by any Member of the United Nations”	
2. Obligation to register . . . . .	12–16
**B. Treaties and international agreements not subject to registration	
C. Publication of treaties and international agreements . . . . .	14–16
(a) Scope of the term “publication” . . . . .	14
(b) Limited publication . . . . .	15–16

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## Text of Article 102

1. Every treaty or international agreement entered into by any Member State 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 *Supplement No. 7, volume VI*, 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<sup>1</sup> (“The regulations”), as well as the excerpts from the text of the said Regulations.

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<sup>1</sup> G A resolution 97 (I), as amended by G A resolutions 364 B (IV), 482 (V) and 33/141; for the complete text, see United Nations, *Treaty Series*, vol. 859/860 (1973), pp. VIII-XX.

## I. General survey

2. During the period under review, the United Nations organs did not take any substantive decisions bearing on the application of Article 102. recorded, with the Secretariat from 1 January 1989 to 31 December 1994:<sup>2</sup>
3. The following table shows the number of treaties and international agreements registered, or filed and

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<sup>2</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; and for data from 1 January 1985 to 31 December 1988, see *Repertory, Supplement No. 7*, vol. VI, under Article 102, para. 5.

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**Number of agreements and related treaty actions**


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<i>Submitting party</i>	<i>Treaties</i>		<i>Treaty actions</i>		<i>Total</i>
	<i>Registered</i>	<i>Filed and recorded</i>	<i>Registered</i>	<i>Filed and recorded</i>	
States	3 298	11			3 309
Specialized agencies and IAEA	2 010	28			2 038
Ex officio	545	–			545
Secretariat	–	25			25
Intergovernmental organizations	135	25			160
			14 493	53	14 546
<b>Total</b>					<b>20 623<sup>3</sup></b>

4. From 1 January 1989 to 31 December 1994, 233 volumes of the United Nations *Treaty Series*<sup>4</sup> were published, bringing to 1,458 the total number of volumes published as at 31 December 1994.

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<sup>3</sup> This brought to 61,000 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 1994.

<sup>4</sup> See *Yearbook of the United Nations*, vol. 44 (1990), p. 981; *ibid.*, vol. 45 (1991), p. 831; *ibid.*, vol. 46 (1992), p. 995; *ibid.*, vol. 47 (1993), p. 1147; *ibid.*, vol. 48 (1994), p. 1299.

## Annex

### **Registration and publication of treaties and international agreements: Regulations to give effect to Article 102 of the Charter of the United Nations**

#### *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 coming into force of the Charter, shall as soon as possible be registered with the Secretariat in accordance with its Regulations.

...

#### **Notes**

During the period under review the question has arisen as to whether a submitter is entitled to withdraw an international agreement from the registration process. A Member State has submitted a number of agreements for registration. The registration, however, had to be postponed since annexes constituting integral parts of the agreements had not been provided. In response to a query from the Secretariat, the submitter decided to withdraw its registration request arguing that the annexes in question were confidential. Neither Article 102 nor the Regulations contain any specific provision on this issue and therefore the Secretariat was not in a position to engage the Government concerned in completing the registration process. However, conscious of the apparent derogation by the submitter from its obligations under Article 102 and the resulting inconsistency in applicable practice by the Secretariat itself were such a request to be accepted, in reply, the Secretariat reminded the relevant Government of the well-established rule that every international agreement entered into by a Member State shall as soon as possible be registered with the Secretariat. And, in view of this obligation, it assumed that the decision to withdraw the request was of a temporary nature and that the agreement would be resubmitted for registration in due course.

In keeping with its established practice, the Secretariat continued not to register project documents of an operational nature and usually of very limited duration concluded between United Nations organs and Governments if they were in implementation of other basic technical assistance agreements which themselves were registrable. This practice had effect only on project documents concluded by the United Nations organs since the Secretariat, in such cases, was in a position to ascertain their operational nature in relation to previously registered basic assistance agreements.

#### *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.

...

## Notes

(a) During the period under review a question arose regarding the process of registering and publishing corrections. Errors and inconsistencies sometimes occur in the authentic text(s) of treaties. According to the practice of the Secretariat under article 2 of the Regulations, concerning the registration of certified statements, these errors must be recorded with the Secretariat.

(b) The usual practice of the Secretariat has been to treat corrections, executed after the registration of a treaty, as subsequent actions under article 2 of the Regulations, and to register them accordingly.<sup>5</sup> The corrections would be registered and published in the relevant annex of the United Nations *Treaty Series* (UNTS).

(c) During the period under review, however, a variation of this practice was also followed in cases where a correction has been effected by a multilateral procès-verbal or a bilateral exchange of notes, and the correction has been submitted together with the treaty *before* its registration. The corrections would then be registered as part of the original treaty and not separately, and would be indicated in brackets in the treaty itself.<sup>6</sup>

(d) This practice was modified further during the period under review to incorporate the corrections in the treaty text itself without brackets and then to publish the consolidated version of the text in the UNTS. The procès-verbal or exchange of notes would not be reproduced separately as a correction to the text.<sup>7</sup>

## Article 4

1. Every treaty or international agreement subject to article 1 of these Regulations shall be registered ex officio by the United Nations in the following cases:

- (a) Where the United Nations is a party to the treaty or agreement;
- (b) Where the United Nations has been authorized by the treaty or agreement to effect registration;
- (c) Where the United Nations is the depositary of a multilateral treaty or agreement.

2. A treaty or international agreement subject to article 1 of these Regulations *may* be registered with the Secretariat by a specialized agency in the following cases:

- (a) Where the constituent instrument of the specialized agency provides for such registration;

...

<sup>5</sup> See *Repertory, Supplement No. 3*, vol. IV, under Article 102, annex, article 2, note (e).

<sup>6</sup> See for example, United Nations, *Treaty Series*, vol. 1917, No. 32724: Convention on the protection of the Alps (Alps Convention) (with lists of administrative units, map and procès-verbal of rectification dated at Vienna on 6 April 1993), signed at Salzburg on 7 November 1991 and Vienna on 6 April 1993.

<sup>7</sup> See United Nations, *Treaty Series*, vol. 1598, No. 27971, "Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income between Australia and Papua New Guinea (with exchange of notes dated 20 and 28 August 1990) signed at Canberra on 24 May 1989 and registered on 11 March 1991, where the exchange of notes has not been reproduced. See also: *Ibid.*, No. 28214, bilateral agreement between Australia and Switzerland, where the exchange of notes was submitted with the treaty and registered on 8 July 1991 but not reproduced.

(c) Where the specialized agency has been authorized under the treaty or agreement to effect registration.

### Notes

While article 4 (1) of the Regulations creates an obligation for the Secretariat in respect of ex officio registration, article 4 (2) is optional in its application to *specialized agencies*.<sup>8</sup> During the period under review, the Secretariat was asked to clarify the registration of *host agreements* concluded by ILO, which does not fall under the scope of article 4 (2) (c). According to articles 20, 19 (1) and 19 (5) of the ILO Constitution<sup>9</sup> and the memorandum of agreement,<sup>10</sup> concluded on 17 February 1949 between the United Nations and ILO, this type of agreement does not appear to fall under article 4 (2) (a), as they are not instruments adopted by the International Labour Conference. The Secretariat, however, proceeded to accept them for registration even in the absence of a clear legal obligation to do so.<sup>11</sup>

### 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 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, etc.).

### Notes

During the period under review, an issue of registering maps as part of the treaty submission was considered. In keeping with past practice, the Secretariat would normally register maps and publish them on paper. From 1989 to 1991 maps occasionally were registered and published on microfilm. This was done to process a large number of maps prepared in colour. In 1991, however, due to increasingly prohibitive costs and lack of the necessary equipment in a number of countries to study microfilm maps, this practice was discontinued.

### Article 8

1. The Register shall be kept in English and French languages. The Register shall comprise, in respect of each treaty or international agreement, a record of:

...

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<sup>8</sup> See *Repertory*, vol. V, under Article 102, para. 55.

<sup>9</sup> See *Repertory*, vol. V, under Article 102, para. 55, note 63.

<sup>10</sup> See United Nations, *Treaty Series*, vol. 26, 1949, II, No. 154, p. 323.

<sup>11</sup> See Agreement concerning the Establishment of a Subregional Office at Harare, signed at Geneva on 8 February 1990, registered by ILO on 10 April 1990, United Nations, *Treaty Series*, vol. 1563; Agreement concerning the Organization's Regional Office for Africa, signed at Geneva on 26 June 1989, registered by ILO on 31 January 1991, *ibid.*, vol. 1592.

- (b) The title given to the instrument by the parties;
- (c) The *names* of the parties between whom it was concluded.

...

### Notes

(a) During the period under review, an impact of change of parties' name(s), e.g., in cases of a State succession, on the registration process was considered. By its resolution 47/225 of 8 April 1993, the General Assembly decided to admit the State to membership in the United Nations, this State being provisionally referred to for all purposes within the United Nations as "the former Yugoslav Republic of Macedonia" pending settlement of the difference that had arisen over the name of the State. The State had been provisionally referred to within the United Nations under the name corresponding to its name in the terminology bulletin in effect at that time. The Secretariat used this name when registering a subsequent treaty action by this State regardless of its previous name used upon signature, ratification or accession to an international treaty.<sup>12</sup>

(b) In a similar fashion, when the name of a State Party has changed *after* the treaty action was registered, the Secretariat would list such action under the State's most recent name (e.g. the treaties to which the former German Democratic Republic or the Federal Republic of Germany were a party have been listed under the name of "Germany").<sup>13</sup>

### Article 10

The Secretariat shall *file and record* treaties and international agreements, other than those subject to registration under article 1 of these Regulations, if they fall in the following categories:

- (a) Treaties or international agreements entered into by the United Nations or by one or more *specialized agencies*.

...

### Notes

A question concerning the application of this article had arisen in connection with the agreements concluded between two or more international organizations, when none of them is a specialized agency. The Regulations make no mention of treaties concluded between two or more international organizations that are not specialized agencies. With regard to international organizations, they provide procedures for filing and recording only, where the treaty or international agreement is "entered into by the United Nations or by one or more specialized agencies" (Art. 10 (a)).<sup>14</sup> In its registration practice, however, the Secretariat adhered to a

<sup>12</sup> See United Nations, *Treaty Series*, vol. 1833, p. 398 (1994), No. 31363.

<sup>13</sup> See United Nations, *Treaty Series*, vol. 1208 (1980), No. 19487, *ibid.*, vol. 1480 (1985), No. 25247, vol. 1577 (1990), No. 27531.

<sup>14</sup> In practice, article 10 (a) has also been applied to international agreements entered into by the International Atomic Energy Agency (IAEA) and non-Member States or specialized agencies, on the basis of its special relationship with the United Nations. See *Repertory of Practice*, Supplement No. 3, vol. IV, annex to the general survey, note under article 10.

broad interpretation of article 10 (b) to also accept for filing and recording treaties concluded between international organizations which are not necessarily specialized agencies. Thus, agreements entered into by the “Common Fund of Commodities” (“The Fund”) were filed and recorded.<sup>15</sup> The Fund was established under the auspices of the United Nations Conference on Trade and Development (UNCTAD),<sup>16</sup> but is not a specialized agency. Following its practice in the case of IAEA agreements,<sup>17</sup> the Secretariat filed and recorded these agreements between the Fund and UNCTAD on the basis of the *special relationship* between the Fund and the United Nations. In case of IAEA, the special relationship to the United Nations is primarily established by article XXII B of the IAEA statute<sup>18</sup> and article XXI of the Agreement concerning the Relationship between the United Nations and the International Atomic Energy Agency.<sup>19</sup> As to the Common Fund for Commodities, this relationship is based on the special role of the United Nations organ<sup>20</sup> in the establishment of the Fund and its United Nations-related status in general. Article 29 of the Agreement establishing the Common Fund for Commodities provides for an even closer relationship in the future. It states: “The Fund may enter into negotiations with the United Nations with a view to concluding an agreement to bring the Fund into relationship with the United Nations as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations”.

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<sup>15</sup> See Grant Agreement between the Common Fund for Commodities and the International Sugar Organization, signed on 26 November 1993, filed and recorded on 10 May 1994, No. 1087; Grant Agreement between the Common Fund for Commodities and the Lead and Zinc Study Group, signed on 23 April and 6 May 1993, filed and recorded on 27 July 1994, vol. 1792, No. 1091; Grant Agreement between the Common Fund for Commodities and the International Cocoa Organization, signed 21 May and 14 June 1993, registered on 27 July 1994, vol. 1792, No. 1092; Project Agreement between the Common Fund for Commodities, the International Cocoa Organization and the Chocolate and Cocoa Association of Japan signed on 21 May and 14 June 1993, registered on 27 July 1994, vol. 1792, No. 1092; Grant Agreement between the Common Fund for Commodities and the International Tropical Timber Organization, signed on 4, 19 and 21 May 1994, registered on 27 July 1994, vol. 1792, No. 1106; Grant Agreement between the Common Fund for Commodities and the International Jute Organization, signed on 11 and 17 May 1994, registered on 27 July 1994, vol. 1792, No. 1110; Project Agreement between the Common Fund for Commodities, the International Jute Organization and Cranfield University, signed on 11 May, 17 May and 27 June 1994, registered on 27 July 1994.

<sup>16</sup> The Agreement establishing the Common Fund for Commodities was adopted on 27 June 1980 by the United Nations Negotiating Conference on a Common Fund under the Integrated Programme for Commodities, which met at Geneva from 5 to 27 June 1980. See *Multilateral Treaties*, p. 752.

<sup>17</sup> See footnote 27.

<sup>18</sup> Article XXII B states: “Agreements between the Agency and any member or members, agreements between the Agency and any other organization or organizations, and Agreements between members subject to approval of the Agency, shall be registered with the Agency. Such agreements shall be registered with the United Nations if Registration is required under Article 102 of the Charter of the United Nations.

<sup>19</sup> See United Nations, *Treaty Series*, vol. 281 (1957), No. 548, p. 369. The provision reads as follows: The United Nations and the Agency shall consult together as may be necessary with regard to the registration with the United Nations of agreements within the meaning of article XXII B of the statute of the Agency.

<sup>20</sup> In this case: UNCTAD.



## 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”*

5. The question of the interpretation of the term “treaty and international agreement” was dealt with in previous studies.<sup>21</sup> The General Assembly has never decided upon a definition of the term. As a result, Article 102 has been interpreted in a broad sense: no treaties or international agreements are excluded from registration, as long as the other conditions of Article 102 are fulfilled.

6. A special case, however, was considered regarding the Treaty on the Boundary between the Sultanate of Nejd and Kuwait concluded on 2 December 1922 which was submitted for registration by Saudi Arabia on 15 October 1993. In 1922 Kuwait had not yet received full responsibility for its international relations. It was formally an independent Sheikdom which entered into a special relationship with the United Kingdom of Great Britain and Northern Ireland based on the Agreement of 3 November 1914 which contained provisions derogating from its powers as an independent entity. The question therefore arose, whether the 1922 treaty should be filed and recorded with the Secretariat as an Agreement between the Sultanate of Nejd and Kuwait or as an Agreement between the Sultanate of Nejd and the United Kingdom of Great Britain and Northern Ireland (on behalf of Kuwait).

7. The general practice of the Secretariat in such circumstances is to consider the agreements of the above type for the purposes of Article 102 only if it is possible to establish that the agreement concerned is formally binding on the State responsible for the conduct of the foreign relations of the non-independent entity with which the agreement was concluded and subsequently to have the name of that State entered in

the Register as the State party to the Agreement.<sup>22</sup> On that basis, the Treaty of 2 December 1922 was filed and recorded as submitted, i.e., as an Agreement between the Sultanate of Nejd and Kuwait.<sup>23</sup> The approach adopted in this instance by the Secretariat was consistent with its practice of acting in accordance with the position taken by the Member State submitting an instrument for registration or filing and recording. In this case, the Secretariat relied on the submitter’s judgement that Kuwait had the necessary status to conclude the Treaty of 1922. Such an approach is also consistent with the traditional role of the Secretariat, which is to ascertain without prejudice to the position of the United Nations whether the treaty satisfies the necessary requirements for registration or filing and recording and to take into account the views of the registering State as to the nature and effect of the instrument registered.

8. In this context, it should also be noted that registration, filing and recording of an agreement with the Secretariat only reflects the view of the submitting party on the agreement in question. It does not imply a judgement by the Secretariat, for example, on the nature of the instrument or the status of a party.<sup>24</sup> This approach was further reiterated on the submission by Saudi Arabia on 9 September 1993 of the agreement concluded on 21 August 1974 between Saudi Arabia and the United Arab Emirates on the delimitation of boundaries (with an annexed map).<sup>25</sup> One of the parties to the agreement asserted that the annex was not, as indicated in the submission, the map referred to in the agreement. In response, the Secretariat pointed out that in registering a treaty it relies only on the documentation as submitted by a party to the agreement, without questioning the veracity of its contents.

9. The question of whether agreements between States (or international organizations) and Governments of non-independent entities are registrable as international agreements for the purpose of Article 102 has been discussed during the period under review in the context of participation by the Marshall Islands in

<sup>21</sup> *Repertory*, vol. V, under Article 102, paras. 18-31; *Supplement No. 1*, vol. II, under Article 102, paras. 11-23; *Supplement No. 2*, vol. III, under Article 102, paras. 4-8; *Supplement No. 3*, vol. IV, under Article 102, paras. 7-13; *Supplement No. 4*, vol. II, under Article 102, para. 7; *Supplement No. 5*, vol. V, under Article 102, paras. 5-6; *Supplement No. 7*, vol. VI, under Article 102, para. 7.

<sup>22</sup> See *Repertory*, vol. V, analytical summary of practice, para. 31 (d).

<sup>23</sup> See United Nations, *Treaty Series*, vol. 1750 (1993), No. 1083.

<sup>24</sup> See *Repertory*, *Supplement No. 1*, vol. II, under Article 102, para. 12.

<sup>25</sup> See United Nations, *Treaty Series*, vol. 1733, No. 30250.

the international treaties. The Marshall Islands were under trusteeship under Security Council resolution 21 (1947) of 2 April 1947 until the adoption of Security Council resolution 683 (1990) of 22 December 1990, in which the Council determined that “the applicability of the Trusteeship Agreement has terminated”. Between October 1989 and January 1991, the Secretariat received a number of submissions from the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO) concerning registration of subsequent actions effected by the Marshall Islands. The question had arisen as to whether these subsequent actions should be registered by the Secretariat on the date of their receipt, which is the normal procedure, or on the date on which the Marshall Islands became fully “independent” from the point of view of the General Assembly. The Secretariat decided that it would be reasonable to retain as the date of registration the date on which the Marshall Islands could be considered as a subject of international law with the requisite capacity to enter into international agreements. Accordingly, actions submitted after 22 December 1990 have been registered on the date of receipt of the relevant notification.

10. The question of whether the Cook Islands and Niue were “independent” entities, i.e., States, with full treaty-making capacity was also considered. The Cook Islands and Niue maintained the status of self-governing territories in free association with New Zealand. In view of this special relationship with New Zealand, which discharged the external affairs and defence of the Cook Islands and Niue, neither the Cook Islands nor Niue could invoke the “all States” clause to participate in treaties deposited with the Secretary-General unless specifically invited to participate in a treaty.<sup>26</sup> However, the responsibility of the Cook Islands and Niue to conduct their own international relations and particularly to conclude treaties has evolved substantially over the years: the Cook Islands became a member of WHO in 1984, of FAO in 1985, of UNESCO in 1985, and of ICAO in 1986; Niue became a member of UNESCO in 1993 and of WHO in 1994.

11. In a Declaration dated 10 November 1988, New Zealand stated, by express provision and with the consent of all parties concerned, that its future participation in international agreements would no

longer extend to the Cook Islands or Niue; in 1991 the Cook Islands sought, and obtained, full participation in the United Nations Conference on Environment and Development Preparatory Committee and the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change, providing further evidence that the international community had accepted the Cook Islands as a “State” under international law. Consequently, and in the light of their admission to the membership of specialized agencies without any specifications or limitations, the Secretariat recognized the full treaty-making capacity of the Cook Islands in 1992 and that of Niue in 1994.

*\*\* (b) Entry into force of treaties and international agreements*

*\*\* (c) Scope of the expression “entered into by any Member of the United Nations”*

## 2. Obligation to register

12. On 3 December 1993, a Member State submitted an *objection* protesting against certain provisions of the Agreement of 21 August 1974 between Saudi Arabia and the United Arab Emirates concerning the delimitation of boundaries mentioned in paragraph 7 above. The Member State requested that its letter of protest be registered. Pursuant to article 2 of the Regulations, any subsequent action effected by a *party* in respect of the agreement already registered, is subject to registration. The State concerned, however, was not a Party to the said Agreement. Therefore, the Secretariat pointed out that only subsequent actions made *by the parties to an agreement*, can be registered. Under the relevant provisions of codified international treaty law,<sup>27</sup> and the Secretariat’s practice, it was not possible to register an *action by a third State* relating to a bilateral agreement to which it was not a Party. Accordingly, registration of the letter of protest could not be effected.

13. In similar circumstances but a different legal context, on 9 August 1991, the Secretariat registered a formal objection by Bahrain to the Agreed Minutes of 25 December 1990 between Qatar, Bahrain and Saudi Arabia on the settlement of disputes regarding joint boundaries.<sup>28</sup> The objection concerned the fact that one of the parties to the Agreed Minutes had registered it

<sup>26</sup> United Nations, *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties* (ST/LEG/7/Rev.1), p. 24.

<sup>27</sup> In accordance with article 20 of the *Vienna Convention on the Law of Treaties*, objections are allowed for Contracting Parties only.

<sup>28</sup> See United Nations, *Treaty Series*, vol. 1641, No. 28209.

with the Secretariat and Bahrain felt that it was not intended to constitute a binding treaty of such a nature as to fall within the terms of Article 102 of the Charter of the United Nations. Registration of the objection was effected, since Bahrain was a party to the Agreed Minutes.<sup>29</sup>

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

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

#### *(a) Scope of the term "publication"*

14. Until recently, the General Assembly has interpreted the word "published" to mean published in hard copy. During the period under review, the advances in electronic publishing had made it possible to expand the publication concept to also consider publishing on CD-ROM and on the Internet as part of the Secretariat's legislative mandate under Article 102 and the relevant Regulations. In the report of the Secretary-General entitled "Substantive questions: publications policy of the United Nations" it was noted that the term "publications" should cover both printed and "non-printed" materials, including the reproduction and dissemination of written materials in machine-readable form, such as CD-ROM.<sup>30</sup> During the period under review, the first steps towards the modernization of the computerized treaty information system of the Secretariat were taken to facilitate registration and publication of treaties and subsequent treaty actions.

#### *(b) Limited publication*

15. Pursuant to article 12 (2) (a) of the Regulations, as amended by resolution 33/141 A of 19 December 1978, the Secretariat has an option not to publish in extenso certain categories of bilateral agreements.<sup>31</sup> During the period under review, annexes to bilateral agreements containing lists of products would normally not be published. However, texts of multilateral treaties deposited with the Secretary-General with the relevant annexes would be published in extenso. One exception,

however, was made for lists of products annexed to the General Agreement on Tariffs and Trade (GATT), which were published in their authentic languages only. In view of the difficult financial situation of the Organization and the urgent need to expedite elimination of the backlog in the production of the UNTS, the Secretariat decided to adopt the following practice concerning the publication of *bilateral agreements*: agreements on commercial matters of *limited scope*, with annexes constituted of lists of products only, should be subject to limited publication. In the case of agreements on commercial matters of *extended scope*, with annexes constituted of lists of products, only the texts of the agreements would be published and translated, as necessary. Publication (and translation) of the annexes would be limited to the titles and substantive provisions only. As concerns the ex officio multilateral treaties, the Secretariat decided to extend its practice of publishing the authentic texts only of annexes to GATT to agreements similar in scope and nature to that of GATT.

16. In deciding whether to apply article 12 (2) of the Regulations, the Secretariat would also take into account that annexes may be of a substantive nature and the most important part of an agreement. In such cases, their omission from publication would defeat the underlying purpose of Article 102. Therefore, the Secretariat adopted a policy that agreements on commercial matters of extended or limited scope, with annexes of a substantive nature would be published in extenso with translations, as necessary. Several agreements on free trade fall under this category.<sup>32</sup>

<sup>32</sup> For bilateral agreements see: Finland and Denmark, Agreement on Free Trade between Finland and the Faroe Islands, signed at Copenhagen on 19 November 1992, I-30407; and Austria and Turkey, Agreement regarding Trade of Agricultural Products, signed at Vienna on 10 December 1991, I-30409. For multilateral agreements see: Agreement between the European Trade Association countries and Turkey relating to Trade, signed at Geneva on 10 December 1991, I-30369; Agreement between the European Free Trade Association countries and Israel relating to Trade, signed at Geneva on 17 September 1992, I-30370; Agreement between the European Free Trade Association countries and Romania relating to Trade, signed at Geneva on 10 December 1992, I-30371; Agreement between the European Free Trade Association countries and Bulgaria relating to Trade, signed at Geneva on 29 March 1993, I-30372; Agreement between the European Free Trade Association countries and Hungary relating to Trade, signed at Geneva on 29 March 1993, I-30373.

<sup>29</sup> See United Nations, *Treaty Series*, vol. 1647, No. 28209.

<sup>30</sup> See [A/AC.198/1993/4](#) and [A/AC.172/153](#) of 6 May 1993.

<sup>31</sup> See *Repertory, Supplement No. 5*, vol. V, under Article 102, paras. 2 and 16-18; *Supplement No. 6*, vol. VI, under Article 102, notes under article 12.