

Translated from French

Permanent Mission of France to the United Nations

ShG/Secpol

No. 2020-0136625

The Permanent Mission of France to the United Nations presents its compliments to the Office of Legal Affairs and has the honour to convey, in accordance with the Office's request in its note verbale of 27 June 2019 (LA/TR/230/Regulations/2019-2), the observations of the Government of France on the practice and possible options to review the regulations to give effect to Article 102 of the Charter.

Noting that "some Member States consider that there remain outstanding issues where the regulations may need further consideration or possible updating" (A/RES/73/210, para. 4), the General Assembly requested the Secretary-General to provide, at its seventy-fifth session, "a report, following broad consultations with Member States, with information on practice and possible options to review the regulations, taking into account outstanding issues identified by Member States" (A/RES/73/210, para. 12).

France should like to make a number of points in that regard.

France welcomes the review of the regulations to give effect to Article 102 of the Charter following the adoption of General Assembly resolution 73/210. The review has helped to simplify registration procedures and to allow the use of electronic resources in the registration and publication process.

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France shares the objective, recalled in the preamble to resolution 73/210, of the expeditious processing, registration and publication of treaties and treaty-related actions. Nevertheless, it considers that the Secretariat's report should make it clear that shorter publication delays should not be achieved at the expense of the objectives and principles of transparency and accessibility of the law and the fundamental United Nations value of multilingualism, recalled in resolution 73/210, all of which constitute the very *raison d'être* of the registration and publication of treaties by the Secretariat.

Consequently, any review of the regulations to give effect to Article 102 of the Charter should not create new obligations for Member States and international organizations. Such obligations, such as the requirement to provide the United Nations Secretariat with translations, could even restrict the ability of some Member States and international organizations, and especially those with very limited administrative and financial resources, to fulfil their obligations under Article 102 of the Charter. This could lead to a drop in the number of treaties sent for registration and the establishment of a two-tier registration and publication system, which would undermine the objectives and principles of transparency and accessibility of the law.

France also believes that adherence to the principles of transparency, accessibility of the law and multilingualism demands the rejection of any recommendation to abolish the requirement to translate treaties into English and French, as provided for in article 12(1) of the regulations to give effect to Article 102 of the Charter. France further considers that a lifting of the requirement to translate treaties into English and French would be incompatible with the need for the United Nations Secretariat and the International Court of Justice to have access to treaties registered and published in their working languages, which continue to be French and English, as recalled in resolution 71/328, cited in the preamble to resolution 73/210.

As a result, France believes that, in order to keep the debates of the Sixth Committee at the seventy-fifth session of the General Assembly focused on the examination of effective and consensual proposals for a review of the regulations to give effect to Article 102 of the Charter, the abolition of the English and French translation requirement, as mentioned in the report of the Secretary-General of 11 May 2017 (A/72/86, para. 44), must not be seen as a potential avenue for reform. If it were abolished, however, in a change that France does not support, at the very least the non-consensual nature of such a measure should be made clear and more balanced language on the translation requirement should be used, taking into account more than just budgetary considerations. In fact, although the report A/72/86 (para. 41) presents this requirement as a "heavy burden" and a

“delicate, time-consuming and expensive endeavour”, it should be emphasized that the requirement to translate instruments into English and French makes an important contribution to the goals of transparency, accessibility of the law and multilingualism.

France considers that other concrete, consensual measures that respect the principles of transparency, accessibility of the law and multilingualism should be reviewed to reduce the time taken to publish and translate treaties registered with the Secretariat. Such measures could include the following:

- **Further easing of the constraints associated with the publication of the *Treaty Series*.** In particular, the publication of monthly statements, which are no longer referred to in the regulations as amended by resolution 73/210, could be discontinued. It could be replaced by publication of a treaty in only electronic form, in its English and French language versions, as well as related information once all these elements are available for a registered treaty. The Secretariat would no longer have to wait until it had these elements for all treaties registered in a given month before proceeding with publication.
- **An expansion of the scope of limited publication, provided for in article 12(2) of the regulations to give effect to Article 102 of the Charter, to new categories of treaties.** For Member States to be able to take decisions regarding any new categories proposed by the Secretariat, it could be useful, if capacity so permits, to have information on the number of treaties likely to be affected by such a measure, by category (including an estimate of the number of treaties already registered but not yet published that might be covered by the different categories).

In conclusion, France believes that there should be no change in the obligations for depositaries, as currently set out in article 1(3) of the regulations to give effect to Article 102 of the Charter, which merely states “when a treaty or international agreement designates a depositary, the depositary is encouraged to effect registration unless otherwise provided in the treaty or international agreement or agreed by its parties”. Registration of treaties by the depositary should remain “encouraged” and not required, in line with article 77(1) of the Vienna Convention on the Law of Treaties, which gives the parties to a treaty the right to have it registered by a body other than a depositary.

The Permanent Mission of France to the United Nations takes this opportunity to convey to the Office of Legal Affairs the renewed assurances of its highest consideration.

New York, 6 March 2020
