

Letter addressed to the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, H.E. Mr. Miguel de Serpa Soares.

Excellency,

I am writing to you in response to the note from the Office of Legal Affairs, dated 27 June 2019, with the reference LA/TR/230/Regulations/2019-2, in relation to the content of the General Assembly resolution 73/210, dated 20 December 2018, titled "Strengthening and promoting the international treaty framework". In its operative paragraph 12, the General Assembly requested the Secretary-General to submit a report containing information on the practice and possible options for a revision of the Rules of Procedure, taking into account the outstanding issues in this area, as identified by the Member States.

In order to provide an appropriate response to the above mentioned note, I would like to state that my country considers that among the referred outstanding issues mentioned above inclusion should be made of the issues in connection with the languages regime and translation arrangements that the Organization carries out in the course of its work of registering and publishing treaties in accordance with Article 102 of the Charter. This was shown by the informal consultations among States themselves in addressing the issue during the work of the Sixth Committee at the 73rd session, which resulted in the adoption of resolution 73/210.

In this regard, my country's attention is drawn to the need to reflect on possible options for revising the regulations governing the registration and publication of treaties in order to improve them and make them functional in terms of cost and time of publication of treaties in the United Nations Compilation. Therefore, Spain wishes to direct its commitments to address two concerns strongly related to the question of translations: the costs of translations of treaties whose authentic versions are not written in any of the 6 official languages of the Organization; and also the best formula to identify and handle a situation in which a treaty in its authentic version is already drafted in one of the 6 official languages of the Organization, and for whom it is legitimate to consider that having only one translation, and not two, could speed up the publication process (under the currency system publication sometimes takes up to 8 or 9 years).

Mr. Miguel de Serpa Soares

Under-Secretary-General for Legal Affairs

and United Nations Legal Counsel

In this functional way of approaching the above-mentioned concerns, Spain would like to draw the attention of the Office of Legal Affairs of the Secretariat to a number of specific aspects to be taken into account in preparing the report of the Secretary-General of the General Assembly on the practice and possible options for revision of the Regulations for the implementation of Article 102 of the Charter of the United Nations.

(a) Firstly, on the question of translations of treaties submitted for registration and publication, the authentic versions of which are in languages other than the six official languages of the Organization: Spain considers that this scenario makes it advisable to seriously consider the option of making it compulsory for Member States to submit treaties for registration and publication in at least one of the six official languages of the Organization, either in their authentic versions or in the form of translations into one of those six languages (Arabic, Chinese, English, French, Russian and Spanish). Such a rule would amount as to the elimination of the costs, both in resources and time, that the Secretariat must incur in order to make a first translation of the treaty into some of the 6 official languages, a translation for which the Secretariat does not have its own means and must rely on external contractors, with the increased costs and time that this implies.

My country considers that the establishment of a binding rule would not result (as has sometimes been argued by some delegations) in a "shift" of the costs now borne by the Secretariat to the member States, since it can be presumed (and my country's practice in negotiating international treaties attests to this) that a large number of treaties negotiated between two States (those treaties in which the States parties do not share a common language) will have been negotiated in a third language, this one among the six official languages of the organization. Thus, States generally have a language version of their treaties, which has been negotiated precisely in that "neutral" language, whether or not it has the status of a formal or authentic version, which they could make available to the Secretariat at the time of submission of the treaty for registration and publication free of charge, neither in resources nor in time, and which could significantly expedite the publication of such treaties. In these scenarios, the United Nations Secretariat could "take advantage" of these language versions in one of the six official languages of the Organization, which are already available to the States parties to the treaty as a result of their negotiations, at no cost either to the States concerned or to the Secretariat.

(b) Secondly, consideration of this question cannot disregard very specific cases in which treaties submitted for registration and publication are already drawn up in their authentic versions in one, or even two or more official languages of the United Nations, and for which it is legitimate to ask whether two translations into the

languages, English and French, are necessary precisely in cases where the authentic languages in which the treaties are drawn up are one of the other four official languages of the Organization (Arabic, Chinese, Spanish or Russian). In this scenario, which occurs in practice in a significant number of treaties submitted for registration and publication, is it intuitive to ask whether the cumulative requirement of two translations is necessary (with the consequent increase in resources and delay in publication), or whether it would not be enough to meet this requirement with a single translation. It would be worthwhile, in Spain's opinion, to consider possible formulas in this direction in this type of scenario, given the enormous potential for savings in costs and time. In addition, a useful premise of the organization would be to use the 6 official languages as much as possible, taking into account that in this type of scenario (treaties already drafted in one or several official languages of the United Nations, other than English and French) the use of the 6 official languages of the Organization would mean a saving in costs and time, and not an increase in expenditure.

(c) Thirdly, and also in relation to the previous question – on the need or not for two translations cumulatively into English and French – although already more generally applicable to all types of treaties and under the current system, Spain is also interested in the Secretariat considering possible formulas for early and individualized publication for each of the treaties, either in electronic/online format or in paper format, at the time of receipt of the first required translation of the treaty. This would be done without prejudice to the possibility that this advanced publication may be completed later, once the second translation is “received”, by means of “supplements” to the advanced publication. In this way it would be possible to bring forward considerably the publication of each of the treaties, to facilitate their early reading with the first translation for the delegations concerned, and this without prejudice to the completion of the publication with the second translation at a later date, without any increase in cost, only by saving time in publication.

These three specific aspects are of interest to Spain, and for that reason they are underscored by my request that they be taken into consideration by the Office of Legal Affairs in preparing the report of the Secretary-General referred to in his note of 27 June 2019.

In the same vein, I wish to refer to the letter I sent on 7 February 2020, on behalf of a group of interested Member States, in addition to Spain (Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico and Uruguay), to the Under-Secretary-General for General Assembly and Conference Management and Coordinator for Multilingualism in the United Nations Secretariat, H.E. Mr. Movses Abelian, who received a reply by letter dated 27 February 2020. I would like to thank the Secretariat for the replies and information contained in the above-mentioned

letter, which have been taken into account in formulating the comments set out in this communication.

Please accept, Excellency, the assurances of our highest consideration.

A handwritten signature in blue ink, consisting of a large, stylized 'A' followed by several vertical strokes and a long horizontal stroke extending to the right.

Agustín Santos Maraver

Ambassador Permanent Representative

CC: H.E. Mr. Movses Abelian
Under-Secretary-General for General
Assembly and Conference Management