

*Translated from French*

## **Permanent Mission of Switzerland to the United Nations**

42-2020

The Permanent Mission of Switzerland to the United Nations presents its compliments to the Office of Legal Affairs and has the honour to reply to note verbale LA/TR/230/Regulations/2019-2 of 27 June 2019, in which the Office requests Governments to send any information or observations in connection with the outstanding issues to be taken into account in the preparation of the report of the Secretary-General to be provided to the General Assembly, at its seventy-fifth session, on practice and possible options to further review the regulations to give effect to Article 102 of the Charter of the United Nations of 14 December 1946.

Switzerland attaches great importance to the registration of treaties with and publication thereof by the United Nations and is convinced of the need for an efficient registration procedure. It welcomes the amendments to the regulations, adopted by the General Assembly in its resolution 73/210 of 20 December 2018 and which entered into force on 1 February 2019, especially as regards the explicit acknowledgement of the role of depositaries in the registration of multilateral treaties and the possibility of submitting in electronic format the certified copy of a treaty for registration.

To further the discussion on one of the aims of the amendments to the regulations, namely, to simplify registration, Switzerland would like to reiterate a proposal it has made previously.

Switzerland believes that the regulations should allow for the registration of treaties that refer to older, as yet unregistered, treaties, unlike the current practice of deferring registration in such cases.

Since joining the United Nations in 2002, Switzerland, pursuant to Article 102 of the Charter, has endeavoured to transmit all its new international agreements to the Secretariat for registration. To date, however, the Secretariat has deferred the registration of many of the agreements transmitted simply because they refer to treaties concluded by Switzerland before or immediately after it joined the United Nations and which, consequently, had not been registered by Switzerland, or by any other party to those treaties.

This shows that many other States are not registering their treaties or at least are significantly behind schedule. This also means that those States are in the same situation as

Switzerland, because once they are in a position to proceed with registration or to catch up, they will similarly be unable to register treaties that refer to a prior instrument.

To help to solve the problem, Switzerland reiterates the proposal it made at the seventy-third session of the General Assembly during the negotiations to review the regulations, that a new paragraph 2 be added to article 1, which could read as follows:

“2. Registration shall also apply to any treaty or international agreement transmitted by a Member of the United Nations containing a reference to other treaties concluded previously and that have not yet been registered”.

If an amendment to article 1 of the regulations is not possible, another solution might be to include this amendment by adding a new subparagraph (d) to article 10, which could read as follows: “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: (...): (d) Treaties or international agreements transmitted by a Member of the United Nations containing a reference to other treaties previously concluded and as yet unregistered”.

Switzerland is willing to consider taking further steps to catch up with the registration of its old treaties. However, owing to the strict formalities required for registration and, above all, the number of agreements and the volume of work involved, it will still need time, as it will not be able to catch up completely with the registration of its hundreds of old unregistered agreements. In order to gradually clear this backlog, it is indispensable that all agreements containing references to old agreements be accepted for registration.

If a solution for the registration of such treaties cannot be found, it would be necessary at the very least to continue the practice adopted so far, namely, to put on hold and to defer the registration by the United Nations of treaties referring to old unregistered agreements, in the light of the possibility recently raised by the Office of not registering any such treaty, which would undermine the efforts made by Switzerland. Fortunately, the Office has since agreed to continue deferring registrations, as a minimum temporary solution, so as not to discourage or block all States that decide to start or catch up with the registration of their treaties.

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

New York, 26 February 2020

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