

COMPILATION OF PROVISIONS ON TREATY PRACTICE OF THE UNITED NATIONS

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IMPORTANT NOTES

This document forms part of the “**Compilation of Constitutional and Legislative Provisions on Treaty Practice of Selected States and International Organisations**” (**Compilation of Provisions on Treaty Practice**) which has been published as an online resource by the British Institute of International and Comparative Law (the Institute) and the Centre for International Law, National University of Singapore (CIL). The full Compilation is available at www.biicl.org and www.cil.nus.edu.sg

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This document was last amended in December 2012.

1. Charter of the United Nations 1945
(as amended, most recently in 1965)

[Extracts from relevant provisions]

...

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

...

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.
2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

...

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.
2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

...

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

...

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

...

Article 102

1. Every treaty and every 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.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

...

Note:

The full text of the UN Charter, as amended, is available on the website of the United Nations at: <http://www.un.org/en/documents/charter/>

2. General Assembly Resolutions

A GA Resolution 23(1) of 10 February 1946

[Extracts of relevant provisions]

Registration of Treaties and International Agreements

...

Therefore, the General Assembly instructs the Secretary-General:

1. To submit to the General Assembly proposals for detailed regulations and other measures designed to give effect to the provisions of Article 102 of the Charter;
2. To invite the governments of Members of the United Nations to transmit to the Secretary-General for filing and publication, treaties and international agreements entered into in recent years, but before the date of entry into force of the Charter, which had not been included in the League of Nations treaty series, and to transmit for registration and publication treaties and international agreements entered into after the date of entry into force of the Charter.
3. To receive, from the governments of non-member States, treaties and international agreements entered into both before and after the date of entry into force of the Charter, which have not been included in the League of Nations treaty series and which they may voluntarily transmit for filing and publication; and to dispose of them in accordance with the foregoing provisions, and subject them to such detailed regulations and other measures as may hereafter be adopted.

Twenty-eighth plenary meeting, 10 February 1946

Note:

The full text of this resolution is available on the website of the United Nations at:
<http://www.un.org/documents/ga/res/1/ares1.htm>

B GA Resolution 24(1) of 12 February 1946

[Extracts of relevant provisions]

Transfer of Certain Functions, Activities and Assets of the League of Nations

I. Functions and Powers belonging to the League of Nations under International Agreements

...

3. The *General Assembly* declares that the United Nations is willing in principle, and subject to the provisions of this resolution and of the Charter of the United Nations, to assume the exercise of certain functions and powers previously entrusted to the League of Nations, and adopts the following decisions, set forth in A, B and C below.

A. Functions pertaining to a Secretariat

Under certain of the instruments referred to at the beginning of this resolution, the League of Nations has, for the general convenience of the parties, undertaken to act as custodian of the original signed texts of the instruments, and to perform certain functions, pertaining to a secretariat, which do not affect the operation of the instruments and do not relate to the substantive rights and obligations of the parties. These functions include: The receipt of additional signatures and of instruments of ratification, accession and denunciation; receipt of notice of extension of the instruments to colonies or possessions of a party or to protectorates or territories for which it holds a mandate; notification of such acts to other parties and other interested States; the issue of certified copies; and the circulation of information or documents which the parties have undertaken to communicate to each other. Any interruption in the performance of their functions would be contrary to the interests of all the parties. It would be convenient for the United Nations to have the custody of those instruments which are connected with the activities of the League of Nations and which the United Nations is likely to continue.

Therefore:

The General Assembly declares that the United Nations is willing to accept the custody of the instruments and to charge the Secretariat of the United Nations with the task of performing for the parties the functions, pertaining to a secretariat formerly entrusted to the League of Nations.

...

C. Functions and Powers under Treaties, International Conventions, Agreements and Other Instruments Having a Political Character

The General Assembly will itself examine, or will submit to the appropriate organ of the United Nations, any request from the parties that the United Nations should assume the exercise of functions or powers entrusted to the League of Nations by treaties, international conventions, agreements and other instruments having a political character.

II. Non-Political Functions and Activities of the League of Nations other than those mentioned in Section I

...

2. *The General Assembly* requests the Secretary-General to make provision for taking over and maintaining in operation the Library and Archives and for completing the League of Nations treaty series.

...

Twenty-ninth plenary meeting, 12 February 1946.

Note:

The full text of this resolution is available on the website of the United Nations at: <http://www.un.org/documents/ga/res/1/ares1.htm>

3. Other Documentation

A The United Nations Treaty Handbook, 2006¹

This document was prepared by the Treaty Section of the United Nations Office of Legal Affairs as a guide to the Secretary-General's practice as a depositary of multilateral treaties, and to treaty law and practice in relation to the registration function.² Its contents are divided as follows:

1. Introduction
2. Depositing multilateral treaties
3. Participating in multilateral treaties
4. Key events in a multilateral treaty
5. Registering or filing and recording treaties
6. Contacts with the Treaty Section: Procedural information

- | | |
|----------|--------------------------------------------------------------------------|
| Annex 1: | Note verbale from the Legal Counsel (full powers), 1998 |
| Annex 2: | Note verbale from the Legal Counsel (modification of reservations), 2000 |
| Annex 3: | Model instrument of full powers |
| Annex 4: | Model instrument of ratification, acceptance or approval |

¹ UNITED NATIONS PUBLICATION, Sales No. E.02.V2, ISBN 92-1-133645-7

² The Foreword to the Guide states: "This Handbook, prepared by the Treaty Section of the United Nations Office of Legal Affairs as a practical guide to the depositary practice of the Secretary-General and the registration practice of the Secretariat, is intended as a contribution to the United Nations efforts to assist States in becoming party to the international treaty framework. It is written in simple language and, with the aid of diagrams and step-by-step instructions, touches upon many aspects of treaty law and practice. This Handbook is designed for use by States, international organizations and other entities. In particular, it is intended to assist States with scarce resources and limited technical proficiency in treaty law and practice to participate fully in the multilateral treaty framework."

Annex 5:	Model instrument of accession
Annex 6:	Model instrument of reservation/declaration
Annex 7:	Model certifying statement for registration or filing and recording
Annex 8:	Checklist for registration

Glossary

Note:

The full text of the Treaty Handbook is available on the website of the United Nations at:

<http://treaties.un.org/doc/source/publications/THB/English.pdf>

B Summary of the Practice of the Secretary-General as Depositary of Multilateral Treaties (1999)³

This summary was prepared by the Treaty Section of the Office of Legal Affairs. The purpose of the summary is to highlight the main features of the practice followed by the Secretary-General in this field in the daily exercise of his functions, in his role as depositary for multilateral treaties. It includes a number of annexes, containing models of instruments, depositary notifications by the Secretary-General, etc. It is a more detailed study of these topics than is provided by the Treaty Handbook. Its contents are divided as follows:

- I. Introduction
- II. General aspects of depositary functions
- III. Original text
- IV. Certified copies
- V. States and international organizations which may become parties
- VI. Full powers and signatories
- VII. Deposit of binding instruments

³ ST/LEG/7/Rev. 1

- VIII. Reservations, objections, declarations
- IX. Entry into force
- X. Amendments, extension, suspension and termination of a treaty
- XI. Territorial application
- XII. Succession to treaties
- XIII. Depository notifications by the Secretary-General

ANNEXES

Note:

The full document is available on the website of the United Nations at: <http://untreaty.un.org/ola-internet/Assistance/Summary.htm>

C Repertory of Practice of United Nations Organs, Volume 5 and Supplements 1-10

The Repertory of Practice of United Nations Organs consists of a comprehensive summary of the decisions of UN organs, as well as a review of related material, organized by Charter Articles, and presented in such a way as to throw light on questions of application and interpretation of the Charter which have arisen in practice. The initial 1954-55 text has been updated by regular supplements.

The relevant text is contained in Repertory of Practice (1945-1954), Volume 5 and Supplements 1-10, and relates to Article 102 of the UN Charter, requiring registration of treaties with the UN Secretariat. The text relating to Article 98 of the UN Charter is also relevant, as it outlines the “Functions of the Secretary-General in Connection with international treaties, conventions and agreements”. The text relating to Article 97 of the UN Charter is relevant insofar as it relates to the staff of the UN Secretariat.

Note:

The text of the Repertory is accessible on the website of the United Nations at: <http://www.un.org/law/repertory/>

4. Online sources of treaty status information: the United Nations Treaty Collection

The United Nations Treaty Collection is available on the UN website at:
<http://treaties.un.org>

The Collection includes the following publications:

A Multilateral Treaties Deposited with the Secretary-General

This database provides information on the status of over 500 major multilateral instruments deposited with the Secretary-General of the United Nations (including the texts of reservations, declarations and objections), at:
<http://treaties.un.org/pages/ParticipationStatus.aspx>

B United Nations Treaty Series

A collection of treaties and international agreements registered or filed and recorded with and published by the Secretariat since 1946, pursuant to Article 102 of the Charter. The UNTS includes the texts of treaties in their authentic language(s), along with translations into English and French, as appropriate, at:
http://treaties.un.org/pages/DB.aspx?path=DB/UNTS/page1_en.xml&menu=UNTS

C Monthly statement of treaties and international agreements

This publication is issued monthly by the Treaty Section of the Office of Legal Affairs pursuant to article 13 of the Regulations prior to their publication in the UNTS pursuant to Article 102 of the Charter. It contains detailed records of treaties and related subsequent treaty actions which were registered or filed and recorded with the Secretariat on a given month, at:
http://treaties.un.org/Pages/DB.aspx?path=DB/MS/page1_en.xml&menu=MS