

GUIDE SERIES 6 – INTERNATIONAL LAW



GUIDE #6A - TREATIES

Treaties are formal agreements between nations. "Bilateral" treaties involve two nations, while "multilateral" treaties involve three or more nations. All treaties to which the U.S. is a party are negotiated by the Executive Branch, but require approval by a two-thirds vote of the Senate.

Treaties are also referred to as conventions, covenants, pacts, accords, protocols, or agreements. You should be aware, however, that these other terms technically mean an agreement that is obligatory, but less formal or significant in nature than a treaty. An "executive agreement" is an agreement made between the President of the U.S. and the executive of another country. Executive agreements do not require approval by the Senate.

Bluebook citation to treaties includes title, date of signing, the subdivision referred to (if any), parties (if three or fewer), and references to the main sources of publication.

Treaty research requires a minimum of two steps: (1) finding an authoritative text, and (2) determining the status of the treaty. Further research for judicial interpretations and the legislative history of the treaty may also be necessary.

HOW TO FIND A TREATY

To find the text of a treaty, use the international law resources at Golden Gate University Law Library. Unless otherwise noted, these are identified with the classification *JX*, and are located on the Basement Level.

Treaties can be found in a number of publications, only one of which is the "official" publication. The "unofficial" sources generally have better finding aids. The best source to start with depends on the particular treaty being sought, and what you know about the treaty.

If you have a citation, find that citation in bold in the "Sources" sections of this guide. If you know the treaty's subject, its popular name, or the parties, go to the "Finding Aids" section of this guide, and use one of the sources listed under "*Indexes*." Generally, the first determination you must make is whether the U.S. is a party to the treaty. Once you know that, you can choose a publication that covers the year the treaty was signed.

HOW TO DETERMINE THE STATUS OF A TREATY

"Status" refers to whether the treaty has entered into force. It is also important to know which countries have signed the treaty, and whether it was amended or terminated.

The term "in force" means that a treaty is binding in that jurisdiction. An agreement "enters into force" when it has been ratified by the required number of signatories, and any other conditions for entry into force as specified in the agreement are met. An "unperfected" treaty is one which was signed but never went into force.

The status of U.S. and U.N. treaties is usually easy to determine. Once you have located a particular treaty, go to the "Finding Aids" section of this guide and use one of the sources listed under "*Status Information*."

For other treaties, you may need to try a variety of search techniques. One place to start is with "yearbooks" on current international law, which are annual updates published by countries and international organizations. Look in the online catalog under the subject "international law periodicals" for the Library's holdings.

Another source is topical looseleafs, which you can locate through *Legal Looseleafs in Print* (Ref. KF1 S7). Articles in periodicals can be searched through LegalTrac, Lexis or Westlaw. You also might try searching news sources, particularly a newspaper published in a country that has signed the treaty. The Internet sometimes has status information.

If all else fails, use the telephone. Calling the embassy of a country that has signed the treaty may connect you to someone who can give you the information, or you can try the appropriate "country desk" at the Department of State. These telephone numbers can be found in directories at the Reference Desk.

HOW TO FURTHER RESEARCH A TREATY

The next step in U.S. treaty research is interpreting the treaty's provisions with the aid of judicial decisions and legislative history.

To find judicial decisions, you can "shepardize" *United States Treaty (U.S.T.)* and *Statutes at Large (Stat.)* citations in the *Statutes* volume of the federal and state *Shepard's Citations*. An alternative is to search the federal and multistate court decision databases on Lexis or Westlaw, using the treaty's title or citation as a search term.

Legislative history documents are produced by the Senate, which refers pending treaties to its Foreign Relations Committee. The House of Representatives plays no role. Use the sources listed in the Library's Guide Series #1B, *Federal Legislative History*, and *Senate Treaty Documents* (#16 in the "Sources" section of this guide). In addition, use *CIS Index-Abstracts* (Reserve) to look for *Senate Executive Reports*, which are the Foreign Relations Committee's analyses and recommendations.

To learn more about treaty research, use *Fundamentals of Legal Research, 7th ed.* (Ref. KF240 J3 1998) or *How to Find the Law, 9th ed.* (Reserve KF240 C538 1989).

Definitions of terms and phrases can be found in *Dictionary of International and Comparative Law* (Open Reserve, KZ1226 .F69 2003). Short articles explaining subjects of international law can be found in *Parry and Grant Encyclopedic Dictionary of International Law* (Open Reserve, KZ1160 .P33 2004).

FINDING AIDS FOR U.S. AND INTERNATIONAL TREATIES

I. INDEXES

In addition to the following, each set of collected treaties listed in the "Sources" section of this guide has its own index. Keep in mind that indexes include treaties no longer in force, so it is important to also check the status of a particular treaty.

(A) Indexes for U.S. Treaties

1. Kavass, Igor. *United States Treaty Index: 1776-1990 Consolidation. 2001 Revision.* (KZ235 .U58 1991)

This is an index of all treaties and agreements entered into by the U.S. through 2001 by number, subject matter, country, and year.

2. Kavass. *Current Treaty Index.* (KZ235 .U585 1991)

Use this index as a supplement to *U.S. Treaty Index* (#1). It is an annual index to the U.S. slip treaties, and to treaties not yet published in *Treaties and Other International Acts Series (T.I.A.S.)* (#17).

3. *Hein's U.S. Treaty Index on CD-ROM.* (Computer Lab & Ref. Terminals)

This is the CD-ROM version of *U.S. Treaty Index* (#1). It includes the information in *Current Treaty Index* (#2).

4. *Congressional Index* (CCH). (Ref. & Reserve KF49 C6)

Use this two-volume set to find pending U.S. treaties, which are called "Treaty Documents" and given a number. Look for the tab marked "Treaties" in volume 1. This section summarizes and gives the status of treaties submitted to the Senate for advice and consent to ratification. You do not need to know when the treaty was submitted, because pending treaties are carried over to the next Congress.

5. *Shepard's Acts and Cases by Popular Name.* (Ref. KF90 S52 1992)

It is not comprehensive, but this publication does list several important treaties. Also try *Bevans* (#22) if you have a popular name.

(B) Indexes for International Treaties

6. *Current United Nations Treaty Index.*

(This title consists of a paper volume located at KZ171 .U55 Spr. 1999, and a companion CD-ROM called *United Nations Master Treaty Index on CD-ROM*, located at the Reference Terminal.)

Use the paper volume as a quick reference source for verification. Use the CD-ROM to search by subject, year, country, organization, or number.

7. Rohn, Peter. *World Treaty Index.* 2d ed. 1983. (KZ173 .R63 1983)

This five-volume set indexes *League of Nations Treaty Series* (L.N.T.S.) (#26) and *United Nations Treaty Series* (U.N.T.S.) (#27), as well as many other treaties for the years 1920 to 1980.

8. U.S. Dep't. of State. *Catalogue of Treaties 1814-1918.* (KZ118 .U4 1965)

Despite its name, this publication covers more than just American treaties, and has an appendix of selected treaties entered into between 1353 and 1814.

(C) Index for Tax Treaties

9. *Worldwide Tax Treaty Index* (K4473 W67)

This publication indexes bilateral, multilateral, and model tax treaties, including pending and terminated treaties. It also gives status information.

II. STATUS INFORMATION

(A) Status of U.S. Treaties

10. *Treaties in Force*. (KZ236 .T74)

The U.S. Department of State compiles this annual list of all bilateral and multilateral agreements in force for the United States as of January 1 of the relevant year.

11. Kavass & Spudz. *A Guide to the United States Treaties in Force*.

(KZ236 .T73 G85)

This publication provides essentially the same information as *Treaties in Force* (#10), but it has much better indexing.

12. *U.S. Dep't of State Bulletin or Dispatch*.

Periodicals:

The *Bulletin* (1939-1989) was continued by the *Dispatch* (1990-present). This weekly publication has a "Treaty Actions" section every four to six weeks that contains information on status and other developments. Use it to update *Treaties in Force* (#10). There are semi-annual and annual indexes.

(B) Status of International Treaties

13. *Multilateral Treaties Deposited with the Secretary General*.

(KZ171 .M86)

This annual United Nations publication began in 1981, but the Library holds it only from 1986 to current. It lags several years behind. Use the U.N.T.S. Annexes A and B (Micro) to find subsequent treaty activities.

(C) Status of Tax Treaties

14. *Worldwide Tax Treaty Index*

(K4473 W67) (See #9.)

15. *Tax Treaties*(CCH).

(Law Stacks Tax Colletion, KF6306 U54)

This publication contains the text plus background material for bilateral income and estate tax treaties of the U.S., plus pending treaties, terminated treaties, and status information. It is organized by country.

SOURCES FOR UNITED STATES TREATIES

All treaties to which the U.S. is a party can be found in one or more of the following publications. This list begins with sources for pending treaties, followed by sources for recent and older treaties. Online sources available on Lexis and Westlaw, and on the Internet, are listed at the end of this guide.

While other sources are easier to use, keep in mind that the Blue Book requires a citation to *Statutes at Large* (*Stat.*) (#21) for treaties from 1778-1949, or to *United States Treaties* (*U.S.T.*) (#18) for treaties from 1950 to date.

I. PENDING TREATIES

16. S. Treaty Doc. No. or S. Exec. Doc.

Senate Treaty Documents or Senate Executive Documents

(Micro)

The text of pending treaties, along with accompanying messages from the President and the Secretary of State, can be found in *Senate Treaty Documents* (called *Senate Executive Documents* until the 97th Congress). To find a particular treaty, use *CIS Index-Abstracts* (Reserve). Look for your treaty by subject in the *Index*, or by number in the *Abstracts* under the heading "Senate Committees - Foreign Relations -

Executive Reports and Executive Documents" (S384 and S385). The number (which usually looks like "385-5") is the location of the fiche that contains the text of the treaty.

II. RECENT TREATIES (1950- PRESENT)

17. T.I.A.S. *Treaties and Other International Acts Series*
(KZ235.32 U55)

The U.S. Department of State first issues the official version of treaties chronologically in slip form (pamphlets), in the language of the parties. This series began in 1945 with the number 1501. The Law Library does not hold the previous series (*Treaty Series* and *Executive Agreement Series*).

18. U.S.T. *United States Treaties and Other International Agreements*
(KZ235.3 .U55)

After appearing in slip form, treaties are bound in chronological order. This set, which began in 1950, contains treaties in English and the other official languages of the treaty. Use it if you have a T.I.A.S. number. You will not have a T.I.A.S. number if the treaty is very recent, because publication is several years behind schedule.

19. C.T.I.A. *Consolidated Treaties & International Agreements - Current Service*.
(KZ235.5 .U55)

Use this set if you are looking for treaties issued from 1990 to current. It is sometimes referred to by the name of its publisher ("Oceana.") Since this service publishes treaties within a few months of release or ratification, you can find a treaty even if a T.I.A.S. number has not yet been assigned to it. Use the index in each volume to search by country or topic.

20. Hein's No. KAV *Hein's United States Treaties and Other International Agreements - Current Microfiche Service*. (Micro)

Another set for treaties issued from 1990 to current. This one is arranged chronologically by KAV number (Igor Kavass is the compiler and editor), and Temporary State Department number. The index is *Hein's U.S. Treaty Index* on CD-ROM (#3).

III. OLDER TREATIES (BEFORE 1950)

21. Stat. *United States Statutes at Large*.
(KF50.A2)

This is the official publication source for treaties the U.S. entered into between 1776 and 1950. Treaties up to the year 1845 are contained in volumes 7 (Indian tribes) & 8 (other nations). After that, treaties are included in parts 2 or 3 of each volume. Indian tribes are included through volume 16. An index by country and topic is contained in volume 64, part 3.

22. Bevans, *Treaties and Other International Agreements of the United States of America, 1776-1949*.

(KZ 236 1968 A5)

Like *Malloy* (#23) and *Miller* (#24), Bevans is known by the name of its compiler. All three were an attempt by the federal government to publish treaties together, rather than have them spread out over many volumes of the *Statutes at Large* (#21). After *Bevans, U.S.T.* (#18) continues the idea. *Bevans* contains treaties and agreements in English text. Volumes 1-4 cover multilateral treaties and agreements arranged chronologically. Volumes 5-12 cover bilateral treaties arranged by name of country and then chronologically. Volume 13 is the index.

23. Malloy, *Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States Of America and Other Powers, 1776-1909*. (KZ236 .T745 1910a)

In addition to Malloy, compilers were Redmond (volume 3) and Trenwith (volume 4),

but all are cited as *Malloy*. This set contains treaties, in English text and with annotations, for the years 1776-1937. Finding aids are in Volume 4.

24. Miller. *Treaties and Other International Acts of the United States of America*. (KZ236 1931)

This set contains both the English and official language of treaties for the years 1776-1863. There is no index, but volume 1 explains the arrangement.

SOURCES FOR INTERNATIONAL TREATIES

Use the following sources if the U.S. is *not* a party to the treaty. The first three sources listed provide a collection of international treaties from 1648 (the end of the Thirty Years War and the beginning of the modern nation-state system) to the present. Since all three collections are incomplete, you may need to use one of the other sources listed to find a particular treaty.

25. C.T.S. *Consolidated Treaty Series*. (KZ120 .P35)

This set reprints treaties for the years 1648-1920 chronologically and in their original language. Most include either an English or French translation, or a summary in English. An index-guide constitutes five volumes.

26. L.N.T.S. *League of Nations Treaty Series*. (Microfiche)

This is a collection of treaties entered into by any member. It covers the years 1920-1944, and has translations in English and French. There is a nine-volume general index, as well as an index within each volume.

27. U.N.T.S. *United Nations Treaty Series*. (Microfiche)

Use this set for treaties entered into by any member after the U.N. Charter came into force (Oct. 24, 1945) to current. Treaties are in their original language, with translations in English and French. Publication is extremely slow. The index is *World Treaty Index* (#7), or you can use *United Nations Master Treaty Index on CD-ROM* (#6).

28. E.T.S. *The European Treaty Series*, which is the Council of Europe's official reporter, is not held by the Library. If you have a citation to E.T.S., use the cross-references in *European Conventions and Agreements*. (KJC39 C68)

This set contains international treaties concluded within the Council of Europe from 1949 to current, in both English and French. Publication lags several years behind.

29. I.L.M. *International Legal Materials* (Periodicals)

Published six times per year by the American Society of International Law, this publication includes information on treaties to which the U.S. is a party, as well as treaties to which the U.S. is not a party. It includes the full text of selected treaties from 1962 to current, along with background notes. An annual index is in each November issue, and cumulative indexes cover a range of years. *I.L.M.* is also available on Lexis and Westlaw.

30. U.K.T.S. or T.S. *United Kingdom Treaty Series*. (Micro JX636 1892)

This U.K. collection covers the years 1892 to present. It is indexed in *World Treaty Index* (#7).

OTHER SOURCES FOR TREATIES

I. COMPILATIONS BY SUBJECT

Collections of treaties are available from commercial publishers in some subject areas. These collections usually contain practice aids and other editorial enhancements. The following are examples of this type of collection.

31. *International Tax Treaties of All Nations*. (KF4473 I58)

This set covers the years 1975 to present. Series B contains tax treaties not yet published by the United Nations.

32. *United Nations Legislative Series*.

(KZ4012 .M37 1982)

Each series collects national legislation in an area of interest to the U.N. Some, such as the series on the law of the sea, contain treaties.

34. *Environmental Law Treaties of the United States*. (K3583.2 U6 1997)

Volume 2 contains a research guide to environmental law on the Internet.

II. LEXIS

Other materials are available. Use the *Lexis-Nexis Directory of Online Services* (Ref. Desk) to determine coverage.

International Legal Materials (I.L.M.) from 1962 to present is in the Library INTLAW, File ILM.

U.S. treaties from 1783 can be found in the Library INTLAW, File USTRTY.

European Commission Treaties from November 19, 1979 to present can be found in the Library EURCOM, File TREATY.

International Bureau of Fiscal Documentation Tax Treaties can be found in the Library FEDTAX, File IBFDTR.

III. WESTLAW

Use the *Westlaw Database Directory* (Ref. Desk) to determine the Database Identifier for other materials.

International Legal Materials (I.L.M.) is in the Database ILM, but coverage is selective. Search the cumulative index in Database ILM-INDX, which covers from 1962 to present.

T.I.A.S. documents from 1979 to current are in the Database USTREATIES.

Tax agreements between the U.S. and foreign governments are in the Database FTX-IA.

IV. Hein Online

Hein Online has a Treaties and Agreements Library that contains: US Statutes At Large, vols. 7-8, United States Treaties and Other National Agreements, Treaties and International Acts Series (TIAS), and KAV Agreements (Victor Kavass).

V. INTERNET

The full text of treaties, as well as status and background information, can often be found on the Internet. Educational sites tend to link to a variety of sources, while government sites tend to contain a lot of information about the particular organization and its activities.

The *Bluebook* has rules for citing to documents on the Internet. The basic citation form is author, title or top-level heading, and Uniform Resource Locator (URL). The date of publication (for journals), last modification, or when visited should be given. Keep in mind that materials on the Internet are transient, are often lacking in authenticity, and are sometimes incomplete. Citation to them is discouraged unless the document is unavailable in printed form.

There are many useful web sites. Use the following as a representative sample and a starting point.

(A) Government Sites

Department of State Foreign Affairs Network (DOSFAN)

<http://dosfan.lib.uic.edu/ERC/index.html>

Europa : The EU web sever

http://europa.eu/index_en.htm

United Nations Treaty Database

<http://treaties.un.org/Pages/Home.aspx?lang=en>

North Atlantic Treaty Organization (NATO)

<http://www.nato.int/>

Organization of American States (OAS)

<http://www.oas.org/main/english/>

(B) Educational Sites

Foreign and International Law

Maintained by Washburn University School of Law Library.

<http://www.washlaw.edu/>

Multilaterals Project

Maintained by Fletcher School of Law and Diplomacy, Tufts University.

<http://fletcher.tufts.edu/multilaterals.html>

International Law and Agreements

Maintained by Yale Law School.

<http://www.law.yale.edu/library/about/firesources.asp>

The Legal Information Institute Maintained by Cornell Law School

<http://www.law.cornell.edu/topics/international.html>

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