



Treaty Research

BOSTON COLLEGE LAW LIBRARY

INTRODUCTION

Treaties are binding agreements between or among sovereign states. Along with international agreements they are the most important form of binding international law (the law among nations). In the United States, treaties that have been signed and ratified by Congress are the law of the land.

Treaties affect the conduct of the United States in the international arena and the actions of individuals in both the international and domestic arenas. They are also extremely important in foreign law contexts (the law of countries other than the United States). However, the exploration of treaty research in the context of foreign law is beyond the scope of this research guide.

This guide is intended as a general guide to conducting treaty research. If you have questions, please contact a legal information librarian.

Types of Treaties

Treaties can either be multilateral (many nations are, or can be, parties) or bilateral (only two states are, or can be, parties). If the United States is a party to a bilateral or multilateral treaty, the same or similar sources may be used to identify and locate both types of treaties. If the United States is not a party, a researcher will still have easy access to most multilateral treaties.

It only becomes difficult to identify and locate a treaty when one is looking for a bilateral treaty that does not involve the United States. In such a case, the researcher should resort to a subject compilation of treaties or hope that the treaty was interesting enough to international legal scholars to have merited inclusion in International Legal Materials (ILM).

A Note on Citation Preferences

The Uniform System of Citation ("Bluebook") requires researchers to cite to treaties from specific sources. In general, official versions (versions from sources published by the government or by a publisher with governmental approval) are preferred.

The Bluebook specifies that the following sources should be used, when possible. It also indicates the order of preference (see Bluebook Rule 21.4.5 and Table T.4):

For Bilateral Treaties to Which the United States is a Party

First try to cite to United States Treaties ("UST") or Statutes at Large ("Stat") depending on the date the treaty went into force for the United States. Your second choice is to cite to Treaties and Other International Acts Series ("TIAS"), Treaty Series ("TS"), or Executive Agreement Series ("EAS"), again depending on the date the treaty went into force. If the treaty has not been published in any of the above sources, cite to International Legal Materials ("ILM"). See Bluebook Rule 21.4.5(a)(i).

For Multilateral Treaties to Which the United States is a Party

You must cite to the sources listed in the paragraph above and also to the United Nations Treaty Series ("UNTS") or League of Nations Treaty Series ("LNTS"). If not to UNTS or LNTS then cite to the Pan-American TS or the European TS. If the treaty is not in one of the intergovernmental organization series (UNTS, LNTS, European TS or Pan-American TS) then cite to International Legal Materials (ILM). See Bluebook Rule 21.4.5(a)(ii).

For Multilateral Treaties to Which the United States is not a Party

Cite to one of the intergovernmental sources listed in the above paragraph, if available. If not, cite to one of the official sources of one of the signatory states. See Bluebook Rule 21.4.5(b).

Treaty Research: Commonly Used Abbreviations And Terms

| <u>Abbreviation</u> | <u>Full Title</u> |
|---------------------|---|
| Bevans | Treaties and Other International Agreements of the USA 1776-1949 |
| CTS | Consolidated Treaty Series |
| EAS | Executive Agreement Series |
| ILM | International Legal Materials |
| KAV | Kavass is the compiler and editor of a number of treaty publications |
| LNTS | League of Nations Treaty Series |
| Malloy | Treaties, Conventions, International Acts, Protocols and Agreements between the US and Other Powers 1776-1963 |
| Miller | Treaties and Other International Acts of the USA 1776-1863 |
| Stat | United States Statutes at Large |
| TIAS | Treaties and Other International Acts Series |
| TIF | Treaties in Force |
| TS | Treaty Series (United States) |
| UNTS | United Nations Treaty Series |
| UST | United States Treaties and Other International Agreements |

Steps Involved in the Treaty Research Process

- 1) Identify the treaty in question.
- 2) Locate the text of the treaty.
- 3) Determine whether the treaty is in force, for which parties it is in force, and verify the treaty's current status.
- 4) Identify any "reservations," "understandings" or "declarations" (RUD) that a party may have regarding the treaty.
- 5) Identify the rules for treaty interpretation that are used by signatory states.

IDENTIFYING A TREATY

The first step in treaty research is to consider the information you have in hand. Do you know some of the parties to the treaty? Is the United States a party to the treaty? Is it a multilateral or bilateral treaty? Is it really a treaty or is it some other type of agreement? Many official documents create international obligations but are not treaties. These types of documents may confuse the researcher because they resemble treaties but are not included nor indexed in treaty sources.

Another factor that may affect your search is the purpose for your research. Is it necessary for you to have the official text or will any reputable text serve your purpose? Your search may be limited further by which languages you can read.

Other information that can help in the research process include: the date the treaty was signed, the date or time period it went into force, the proper name of the treaty, the popular name of the treaty, or the sponsoring agencies of the treaty.

After you have analyzed the information at hand, as well as your needs, you can then proceed to a treaty index. Treaty indexes generally contain a subject index, party index and chronological index. The index will provide a citation to the treaty. You can then proceed to the available full-text source that contains as authoritative a text as you need, in a language you can read.

In addition to comprehensive treaty indexes, subject-specific collections and other sources of treaties contain tools to help you determine whether a specific treaty is part of that set.

Selected Indexes and Finding Aids

If You are Looking for a Bilateral or Multilateral Treaty and the US is a Party

Kavass, Igor. *A Guide to United States Treaties in Force*. Law General Collection KZ235.G85 (current). Locate treaties by number (TS, EAS, TIAS, KAV), by country, subject, or date. The guide does not indicate parties to multilateral treaties other than the United States. It does provide the "in force" date for the United States.

Kavass, Igor. *Current Treaty Index*. Law General Collection KZ 235 .C87. Locate treaty by number (TIAS or KAV), by country, subject, geographical subject or date. The index does not provide parties to multilateral treaties other than the United States. It does provide the "in force" date for the United States.

Kavass, Igor. *United States Treaty Index: 1776-1990 Consolidation*. Law General Collection KZ 235 .U58 1991. This index is supplemented by the *Current Treaty Index*, listed above, and contains the same information.

United States Department of State. *Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force on January 1*. Current edition available at <http://www.state.gov/s/l/treaty/treaties/>, older editions at Law General Collection KZ 235 .T74. Locate bilateral treaties by country then subject, and multilateral treaties by subject. It indicates the parties to multilateral treaties, the date the treaty came into force and the date on which the treaty came into force as to the United States.

If You are Looking for a Multilateral Treaty and the US is Not Necessarily a Party

Bowman, M.J. and D.J. Harris. *Multilateral Treaties: Index and Current Status*. (1856 - early 1994.) Law Reference Area KZ 118 .B68 1984. Locate treaties by subject or significant words. The treaties are arranged by date. It indicates parties and the dates upon which the treaty came into force for each party. Please note that the publisher no longer updates this index.

Multilateral Treaties Deposited with the Secretary General. Law Reference Area KZ 171 .U65. Older editions are in the Law General Collection KZ 171 .U65. The current print edition has not been updated since 1994. Treaties are organized by general subject. There also is a subject index. The publication includes a list of parties, the date each signed the treaty, and the date it came into force for each party. Current data is available at <http://untreaty.un.org/>. This is a subscription service to which the BC Law Library has access. Please contact a librarian if you have trouble gaining access.

Rohn, Peter. *World Treaty Index*. Law General Collection KZ 173 .R63 1983. (1900 - 1980). Locate treaties by party or significant words. It indicates parties, date signed, date ratified and date the treaty came into force for each party.

SOURCES OF FULL-TEXT TREATIES

Treaties to Which the United States is a Party

Official Version

United States. *United States Statutes at Large (1776 - 1950)*. Law General Collection KF 50 .U5. To find treaties in this set use the indexes described in the "Selected Index and Finding Aids" section of this guide. The first eight volumes of the *Statutes at Large* contain material from the founding of the United States until the mid-1840s. Volume seven contains treaties between the United States and Native American tribes concluded between 1778 and 1842. Volume eight contains the treaties between the United States and foreign nations concluded between 1778 and 1845. The *Statutes at Large* for the 1st - 42nd Congress (1789 - 1873) are available electronically at <http://memory.loc.gov/ammem/amlaw/lwsl.html>.

United States. *United States Treaties and Other International Agreements*. (1950 - current). Law General Collection KZ 235.3 U55. There can be significant delay in publishing this official publication. This set contains the full text of all treaties to which the US has been a party since 1950. To find treaties in this set use the indexes described in the "Selected Index and Finding Aids" section of this guide.

United States. *Treaties and Other International Acts Series*. Law General Collection KZ 235.3 U55. TIAS is the "advance sheet" service of *United States Treaties and Other International Agreements (UST)*. Eventually the treaties published in TIAS pamphlets will be placed in a UST volume and assigned a UST citation.

Other Collections of Treaties

United States. *Treaties and Other International Acts of the United States of America (1776 -1852)* (compiled by Hunter Miller). Law General Collection KZ 236 1931. To find treaties use the indexes described in the "Selected Index and Finding Aids" section of this guide.

United States. *Treaties and Other International Agreements of the United States of America (1776 - 1949)* (compiled by Charles I. Bevans). Law General Collection KZ 236 1968. Multilateral treaties are organized by date. Bilateral treaties can be accessed by state or subject.

Hein's United States Treaties and Other International Agreements: Current Microfiche Service (1990 -). KZ 235 .U55. Law Microfiche (Cabinet 17, Drawers 6 - 7). To identify treaties in this set use Igor Kavass' Current Treaty Index, Law General Collection KZ 235 .C87.

US Treaties on LexisNexis. A compilation of many full-text ratified treaties and international agreements from 1776 to the present, where the United States is a party or signatory. This includes not only treaties signed by the President with the advice and consent of the US Senate but also international agreements from the US Government.

International Legal Materials. Law General Collection KZ 64 .I58. Contains selected treaties from 1963 to the present. To find specific treaties use an index to legal periodicals or the ILM treaty database on LexisNexis or Westlaw (ILM database).

United States Treaties that Never Came into Force

Wiktor, Christian L. *Unperfected Treaties of the USA, 1776 - 1976*. LAW GENERAL COLLECTION KZ 236 1976. Contains indexes that allow you to find treaties by date or subject.

Treaties to Which the United States is Not Necessarily a Party

Tufts University. Fletcher School of Law and Diplomacy. The Multilaterals Project provides access to selected current multilateral treaties, arranged by date and by subject. <http://www.fletcher.tufts.edu/multilaterals.html>.

International Legal Materials. Law General Collection KZ 64. I58. Selected treaties from 1963 to the present can be found in ILM. To find specific treaties use an index to legal periodicals or the ILM treaty databases on LexisNexis or Westlaw (ILM database).

Parry, Clive. *Consolidated Treaty Series (1648 - 1919)*. Law General Collection KZ 120 .P35 1969. Covers treaties until around 1920 when the League of Nations Treaty Series begins. There is a general chronology, a special chronology for colonial and postal treaties, and an index by party.

League of Nations. *Treaty Series (1920 - 1946)*. Law General Collection KZ 170.5 T74. The LNTS is the official publication of the League and the predecessor publication to the United Nations Treaties Series (UNTS). To locate treaties in this set use the indexes described in the "Selected Indexes and Finding Aids" section of this guide. The series also contains indexes by date and subject.

United Nations. *Treaty Series (1946 -)*. Law General Collection KZ 172 T74 and Law Microfiche, Cabinet 2, Drawer 8. This is the official publication of the United Nations. It contains the full text of all treaties that have been deposited with the UN Secretary General. The treaties are in English, French and all other official languages. To find treaties in this series use the indexes described in the "Selected Indexes and Finding Aids" section of this guide. In addition, indexes by date, party and subject covering a range of volumes of the series are published as part of the print set. There can be significant delays in the publication of the print volumes. The entire UNTS can be searched electronically at the UN Treaty web site: <http://untreaty.un.org/>. The BC Law Library subscribes to this database; please contact a librarian if you have trouble gaining access.

Subject-Specific Collections of Full-Text Treaties

If a treaty cannot be located in an official or more general source, the researcher should search for a subject collection. There are many subject-specific collections of treaties. Search Quest, the Boston College Libraries catalog, for subject-specific treaty collections owned by Boston College.

Some of the more frequently consulted subject compilations of treaties include:

Lex Mercatoria: an international trade and commercial law monitor. <http://www.lexmercatoria.org>. Treaties in this database are organized by date and subject. Other materials in the database are organized by subject.

Basic Documents of International Economic Law. On LexisNexis.

International Economic Law Documents. On Westlaw in the IEL database.

International Environmental Law Documents. On Westlaw in the INTLENVL database.

International Environmental Law: Multilateral Agreements. Law General Collection K 3581 .A35 I57.

Vogel, Klaus. United States Income Tax Treaties. Law General Collection KF 6303 .S53 1989.

World Intellectual Property Organization. "WIPO Treaties" contains a collection of treaties administered by WIPO. <http://www.wipo.int/treaties/index.html>.

DETERMINING THE CURRENT STATUS OF A TREATY

Parties to a Treaty and Dates "In Force"

Frequently a researcher will need to find out whether a particular nation is a party to a multilateral treaty. The researcher may also need to determine when the treaty generally "came into force" and when it "came into force" for a particular nation. Usually a treaty requires, by its terms, that a certain number of parties sign and ratify the treaty before it comes into force, or becomes effective.

Several treaty indexes and some treaty collections indicate the parties to multilateral treaties. Some indicate the important dates that surround a treaty, such as the date it was signed, the date it came into force, and the dates on which it was ratified by various countries.

Tools for Determining the Current Status of a Treaty

If the United States is a Party

Kavass, Igor and Adolf Sprudz. A Guide to the United States Treaties in Force. Law General Collection KZ 235 .G85.

United States Department of State. Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force on January 1. Current edition at <http://www.state.gov/s/l/treaty/treaties/>, older editions at Law General Collection KZ 235 .T74.

Wiktor, Christian L. Unperfected Treaties of the USA, 1776 - 1976. Law General Collection KZ 236 1976.

If the United States is Not Necessarily a Party

Bowman, M.J. and D.J. Harris. Multilateral Treaties: Index and Current Status. Law Reference Area KZ 118. B68 1984. Please note that the publisher no longer updates this publication. The last cumulative supplement is current through January 1994.

Multilateral Treaties Deposited with the Secretary General: Status as at December 31. Law Reference Area KZ 171 .U65. The print edition of this publication has not been updated since 1994. Current data is available at <http://untreaty.un.org/>. This is a subscription service to which the BC Law Library has access; please contact a librarian if you have trouble using the database.

United Nations. United Nations Treaty Collection. <http://untreaty.un.org/>. Contains a searchable copy of the UN Treaty Series as well as the most current version of Multilateral Treaties Deposited with the Secretary General. The BC Law Library subscribes to this database. Please contact a librarian if you have trouble gaining access.

World Intellectual Property Organization. "WIPO Treaties" contains a collection of treaties administered by WIPO. <http://www.wipo.int/treaties/index.html>.

SELECTED COLLECTIONS OF FULL-TEXT TREATIES IN PRINT

Multilateral and Bilateral Treaties to Which the United States is a Party

| Coverage | Treaty Collection | Indexed in |
|----------------------------|---|---|
| 1945 - | Treaties and Other International Acts Series (TIAS). Law General Collection KZ 235.3 U55 | <p>Kavass, Igor. Current Treaty Index. Law General Collection KZ 235 .C87</p> <p>United States Treaty Index: 1776-1990 Consolidation. Law General Collection KZ 235 .U58 1991</p> <p>Treaties in Force. http://www.state.gov/s/l/treaty/treaties/ Law General Collection KZ 235 .T74</p> <p>Kavass, Igor. Guide to United States Treaties In Force. Law General Collection KZ 235 .G85</p> <p>Multilateral Treaties Deposited with the Secretary General. Law General Collection KZ 171 .U65</p> |
| 1950 - | United States Treaties and Other International Agreements (UST). Law General Collection KZ 235.3 U55 | See above. |
| 1776 - 1950 | United States Statutes at Large (Stat), Vols. 8 - 64. Law General Collection KF 50 .U5 | See above. |
| 1963 - (selected treaties) | International Legal Materials (ILM). Law General Collection KZ 64 .I58 | <p>Index to Legal Periodicals</p> <p>Current Law Index</p> <p>LegalTrac</p> |
| 1990 - | Hein's United States Treaties and Other International Agreements Current Service. Law Microfiche, Cabinet 17, Drawers 6-7 | Kavass, Igor. Current Treaty Index. Law General Collection KZ 235 .C87 |
| 1776 - 1949 | Treaties and Other International Agreements of the United States of America (Bevans). Law General Collection KZ 236 1968 | Volume 13 is the index to the set. |

| Coverage | Treaty Collection | Indexed in |
|------------------------------------|--|---|
| 1776 - 1937 | Treaties, Conventions, International Act, Protocols, and Agreements between the United States of America and Other Powers (Malloy). Law General Collection KZ 236 1910 | Volume 4 contains an index to the set. |
| 1776 - 1863 | Treaties and Other International Acts of the U.S. 1776 - 1863 (Miller). Law General Collection KZ 236 1931 | There is no index to this set. Volume 1 provides some explanation on how the set is arranged. |
| 1776 - 1976 (unperfected treaties) | Wiktor. Unperfected Treaties of the United States of America, 1776 - 1976. Law General Collection KZ 236 1976 | Use indexes provided as part of the set. |

Multilateral Treaties When the US is Not Necessarily a Party

| Coverage | Treaty Collection | Indexed in |
|----------------------------|--|---|
| 1963 - (selected treaties) | International Legal Material (ILM). Law General Collection KZ 64 .I58 | Index to Legal Periodicals Current Law Index LegalTrac |
| 1946 - | United National Treaty Series (UNTS). Law General Collection KZ 172 .T74 | Bowman & Harris. Multilateral Treaties: Index and Current Status. Law Reference Area KZ 118 .B68 1984 Rohn. World Treaty Index. Law General Collection KZ 173 .R63 1983. Multilateral Treaties Deposited with the Secretary General. Law General Collection KZ 171 .U65 |
| 1920 - 1946 | League of Nations Treaty Series (LNTS). Law General Collection KZ 170.5 T74 | See Bowman & Harris and Rohn entries above. |
| 1648 - 1919 | Parry, Clive. Consolidated Treaty Series (CST). Law General Collection KZ 120 .P35 | See Bowman & Harris and Rohn entries above. |

RESERVATIONS, UNDERSTANDINGS AND DECLARATIONS (“RUD”)

Unless expressly forbidden by the treaty at issue, a party may choose to “reserve” a portion of the treaty. This means that a portion of the treaty does not apply to the “reserving” party. A party may also “understand” or declare that a portion of a treaty means a particular thing. Therefore, unless a researcher has the text of the RUD, the meaning of a treaty term may not be clear.

Sources of Texts for RUDs

Horn, Frank. *Reservations and Interpretative Declarations to Multilateral Treaties*. Law General Collection JX 4171 .R4H65 1988.

Multilateral Treaties Deposited with the Secretary General: Status as of December 31. Law Reference Area KZ 171 .U65. This is a convenient source of the RUDs for treaties found in this publication. The print copy has not been updated since 1994. Current data is available at <http://untreaty.un.org/>. The BC Law Library subscribes to this database; please contact a librarian if you have trouble gaining access.

Senate Consideration of a US Treaty

References to documents relating to Senate consideration of US treaties can be found by using standard federal legislative history tools. Please see Boston College Law Library Legal Research Guide #6, *Federal Legislative Histories*, for more information.

Senate Treaty Documents from the 104th Congress (1995) to the present are available on the web at <http://www.gpoaccess.gov/serialset/cdocuments/index.html>. Senate Executive Reports, which accompany treaty documents, are available from the 104th Congress (1995) to the present at <http://www.gpoaccess.gov/serialset/creports/index.html>.

The following specialized tools can also be helpful:

Compilation of Reports of Committee on Foreign Relations, United States Senate, 1789 - 1901: First Congress, First Session, to Fifty-sixth Congress, Second Session. (Sen. Doc. No. 213, pts. 1-8, 56th Cong., 2d session KF 4987 .F6.) Not available at the BC Law Library.

Foreign Relations of the United States. Law General Collection KZ 233 .A3 (1861 -). This set was known by various titles until 1870. From 1870 until 1932, it was known as *Papers Relating to the Foreign Relations of the United States*. From 1932 until 1946, it was known as *Foreign Relations of the United States: Diplomatic Papers*. Since then, it has been known by its current title. For a listing of all *Foreign Relations* volumes and for access to those volumes available online, go to <http://www.state.gov/r/pa/ho/frus/>. Please note that this title is very out of date.

Legislative Calendar, Foreign Relations Committee, US Senate. O'Neill Government Documents Y4 .F76/2:.

RULES OF INTERPRETATION

There are rules about how a treaty should be interpreted. The first consideration, however, is to make certain you are looking at an “authentic text.” Not only should the treaty be from an official source, like the United Nations Treaty Series, but it should also be in one of the official languages of the treaty. Each treaty will define its own official languages and texts.

Once you have a treaty’s authentic text you should next consider the basic rules of treaty interpretation and construction. Many countries, although not the United States, are signatories to the Vienna Convention on the Interpretation of Treaties (1155 UNTS 331). If the parties in question have signed and ratified the Vienna Convention, then the rules laid out in that treaty will govern. If the parties are not members of the Vienna Convention community, then more general rules of statutory and treaty construction apply.

Works About the Interpretation of Treaties

Elias, T.O. *The Modern Law of Treaties*. Law General Collection JX 4165 .E37.

Hynning, C., “Treaty Law for the Private Practitioner,” 23 *University of Chicago Law Review*. 36 (1955-1956).

McDougal, Myres Smith. *The Interpretation of International Agreements and World Public Order: Principles of Content and Procedure*. Law General Collection JX 4171 .I6 M3 1994.

Sometimes Congress will pass legislation describing how a treaty or type of treaty should be interpreted. A recent example of this is the Extradition Treaties Interpretation Act of 1997, P.L. 105-323, 18 USCS 3181nt. (LexisNexis Supp. 2002). Please see Boston College Law Library Legal Research Guide #4 for more information about how to find federal legislation.

Whichever guidelines you use to interpret a treaty, it is important that you use an official text of the treaty in an official language. You should be careful not to characterize your interpretation as decisive, because another interpreter using another text in another official language within the context of another legal regime could interpret a treaty differently.

A researcher can determine how subsequent treaties and cases have construed treaties to which the United States is a party by Shepardizing the treaty. Shepard's Federal Statutes Citations covers treaties published in the Statutes at Large, United States Treaties and Treaties and Other International Agreements series. Unfortunately, you must use the print version of Shepard's to find this data; neither LexisNexis nor Westlaw have plans to provide this data in their online citators.

For More Information

Akehurst, Michael. "Treaties," in A Modern Introduction to International Law. Law General Collection KZ 1242 .M35 1997.

American Society of International Law. "ASIL Guide to Electronic Resources for International Law: Treaties." <http://www.asil.org/resource/treaty1.htm>.

"Codified Law/Treaties," in George Washington Journal of International Law and Economics, Guide to International Legal Research, 3rd ed. Law Reference Area KZ 1234 G84 1998.

University of Minnesota Law Library. "Research Treaty Sources." <http://www.law.umn.edu/library/tools/pathfinders/treaties.htm>.

CHECKLIST FOR TREATY RESEARCH

- 1) Choose the correct research source. The following questions will help you determine which resources will be most helpful in your research:
 - a) Is it a treaty or is it another official document that may have a treaty-like effect? These will have different creation and publication histories and patterns.
 - b) Is the United States a party to the treaty?
 - c) Is it a multilateral (many nations are parties) or bilateral (two nations are parties) treaty?
 - d) When was the treaty negotiated and signed?
 - e) Was the treaty ever in force? Is it still in force? Usually, a treaty requires, by its terms, that a certain number of parties sign and ratify the treaty before it comes into force, or becomes effective.
 - f) Will the treaty have a wide range of international interest?
 - g) Do you need the "official" version in an "official" language or will any version in a language you can understand suffice?
- 2) Find the treaty.
 - a) Use an index to locate a citation to the treaty in a collection.
 - b) Locate the treaty in the collection.
- 3) Do you need any background or interpretation assistance?
 - a) Identify "RUDs" (reservations, understandings or declarations)
 - b) Determine if you need the negotiation history of the treaty or the legislative history of the ratification of the treaty by the United States or other parties.

An electronic version of this guide may be found at <http://www.bc.edu/schools/law/library/research/researchguides/>

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