



# TREATIES

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## I. INTRODUCTION

**Treaties** are agreements between two or more nations. When you are researching treaties, there are several initial questions you should ask in order to determine where to begin your research. Is the United States a party to the treaty? Is it a bilateral treaty (between only two countries), or are there more signatories, making it a multilateral treaty? Is the treaty still in force? Has it been amended? Or are you trying to determine whether a treaty even exists, rather than trying to find one you already know about?

To help you understand the treaty process, it's a good idea to look at a treatise on the basics of treaty law, such as Aust's *Modern Treaty Law and Practice*, 2d ed. (KZ1301 .A93 2007), at the beginning of your research. Also of interest are Nolte's *Treaties and Subsequent Practice* (KZ1304 .T74 2013) which includes information on treaty interpretation, Hollis' *The Oxford Guide to Treaties* (Ref. KZ1301 .O94 2012) which provides an in-depth introduction to treaties and covers the definition, formation, interpretation, and application of treaties, and Gardiner's *Treaty Interpretation* (KZ1304 .G37 2008) which provides in-depth information about treaty interpretation with a focus on using the Vienna Convention to interpret treaties.

## II. RESEARCH GUIDES

*Researching Public International Law* by Kelly Vinopal is published by the American Society of International Law (ASIL) and is available at [http://www.asil.org/sites/default/files/ERG\\_PUBLIC\\_INT.pdf](http://www.asil.org/sites/default/files/ERG_PUBLIC_INT.pdf). It includes information regarding researching treaties.

Mark Engsberg, *An Introduction to Sources for Treaty Research* ([http://www.nyulawglobal.org/globalex/Treaty\\_Research.htm](http://www.nyulawglobal.org/globalex/Treaty_Research.htm)) describes the tools necessary for researching both bilateral and multilateral treaties.

Jonathan Pratter, *Treaty Research Basics*, 89 L. Libr. J. 407 (1997) and *A la Recherche des Travaux Préparatoires: An Approach to Researching the Drafting History of International Agreement* ([http://www.nyulawglobal.org/globalex/Travaux\\_Preparatoires1.htm](http://www.nyulawglobal.org/globalex/Travaux_Preparatoires1.htm)).

Jeanne Rehberg, "Finding Treaties and Other International Agreements" in *Accidental Tourist on the New Frontier: An Introductory Guide to Global Legal Research* (Jeanne Rehberg & Radu D. Popa, eds.) (Ref. K85.A27 1998).

*United Nations Treaty Reference Guide* ([http://treaties.un.org/Pages/Overview.aspx?path=overview/definition/page1\\_en.xml](http://treaties.un.org/Pages/Overview.aspx?path=overview/definition/page1_en.xml)) provides definitions of important terms.

For hands-on practice researching treaties, take a look at the Duke University School of Law and University of California, Berkeley, School of Law *International Legal Research Tutorial* (<http://www.law.duke.edu/ilrt/>).

### III. LOCATING THE TEXT OF A TREATY

#### A. Treaties to Which the U.S. is a Party

In the United States, the Constitution requires that all treaties be signed by the President and then approved by the Senate. Robert E. Dalton, "National Treaty Law and Practice: United States" in *National Treaty Law and Practice* (K3342 .N365 2005 & online at <http://www.asil.org/files/dalton.pdf>) provides a detailed explanation of the ratification and implementation process for U.S. treaties, and is an excellent introduction to U.S. treaty law. Wiktor's *Treaties Submitted to the United States Senate: Legislative History, 1989-2004* (Ref. KF4989 .W55 2006) lists legislative history documents and implementing legislation for all treaties submitted to the U.S. Senate from the 101st-108th Congress. Other useful works include: *The Making of International Agreements: Congress Confronts the Executive* (KF5055 .J63 1984), *Treaties and Other International Agreements: The Role of the United States Senate: A Study* (KF4989 .A25 2004 & <http://www.gpo.gov/fdsys/pkg/CPRT-106SPRT66922/pdf/CPRT-106SPRT66922.pdf>) and the classic *Treaties: Their Making and Enforcement*, 2d ed., by Samuel Crandall (KF5055 .C73 1916).

Prior to 1950, treaties to which the U.S. was a party were published in *Statutes at Large* (Federal Alcove & online at <http://search.library.duke.edu/search?id=DUKE004426833>). In 1950, a new series, *United States Treaties and other International Agreements* (UST) (Doc. S 9.12:[vol.]) began. The slip law version of this set is known as *TIAS (Treaties and other*

*International Acts Series*) (Doc. S 9.10:[no.]). This began in 1945 as a continuation of two earlier slip law series, *Treaty Series* (Perkins Doc. S 9.5/2) and *Executive Agreement Series* (Docs S 9.8). *UST* (vols. 1-35) and *TIAS* (11060 to 13179) are also available on HeinOnline (<http://search.library.duke.edu/search?id=DUKE003131760>).

For a complete compilation of U.S. treaties from 1776-1949, the best source is C. Bevans, *Treaties and Other International Agreements of the United States of America, 1776-1949* (Doc. S 9.12/2), published by the government from 1968-75. It is a thirteen volume set, with cumulative indexes. Other important historical series are *Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers* (Doc. S 9.5/4) compiled by William M. Malloy, which covers the years 1776-1938, and *Treaties and Other International Acts of the United States of America* (Doc. S 9.5/1) compiled by Hunter Miller, covering 1776-1863. All three series are also available in HeinOnline (<http://search.library.duke.edu/search?id=DUKE003131760>).

Treaties from 1776, including older terminated, superseded, or abolished treaties, as well as Senate Treaty Documents are available on Lexis.com from the 104th Congress forward within the source called U.S. Treaties on Lexis (follow the path Legal > Area of Law – By Topic > International Law > Find Treaties & International Agreements > U.S. Treaties on LEXIS). Treaties since 1778 are on WestlawNext (United States Treaties and Other International Agreements). In WestlawNext, type United States Treaties and Other International Agreements in the global search bar to find this source.

## **B. Recent U.S. Treaties**

The best place to find the text of recent treaties to which the U.S. is a party are the **Treaty Documents** issued by the United States Senate. Since the Senate must consent to the President's ratification of a treaty, all treaties are presented to the Senate in full. The Treaty Document will generally also contain a message from the President and the Secretary of State about the treaty. Treaty documents are indexed in *Congressional Index*, and are part of the CIS microfiche set (Microforms Room, Level 1 & online in Lexis.com and ProQuest Congressional, <http://search.library.duke.edu/search?id=DUKE002487153>). Treaty Documents are also on **WestlawNext** (follow the path from the All Content tab > Administrative Decisions and Guidance > Federal Administrative Decisions & Guidance > Department of State > United States Treaties in Force (which includes the most recent list of Treaty Actions published on the U.S. Department of State's website)) and **on Lexis.com** ( follow the path Legal > Area of Law – By Topic > International Law > Find Treaties & International Agreements > US Treaties on LEXIS). The USTRTY source covers 1776 to the present, and includes the full text of both ratified and unratified treaties, and international agreements to which the United States is a party or signatory). As of this writing, treaty information has not been transferred to Lexis Advance®.

The Government Printing Office's **FDsys** website contains Senate Congressional Documents from the 94<sup>th</sup> Congress forward (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CDOC>) and Senate Executive Reports (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CRPT>) from the 104th Congress forward. **THOMAS** (<http://thomas.loc.gov/home/treaties/treaties.html>) provides the text of treaties from the 90th Congress forward. By the end of 2014, THOMAS.gov will be retired and congress.gov will replace it. Currently, Congress.gov does not include information regarding nominations, treaties, and communications. See <http://beta.congress.gov/about>.

Sometimes the full text of a treaty is printed in the *Congressional Record* when it is considered by the Senate. You may also find recent treaties in *International Legal Materials* (Periodicals, Level 4 & in HeinOnline). The microfiche set *Hein's United States Treaties and Other International Agreements: Current Microfiche Service*, which began in 1991, contains the text of current unreleased international agreements and treaties (Microforms Room, Level 1 & in HeinOnline). The treaties have "KAV" numbers (after the set's editor, Igor Kavass). Recent treaties are indexed in Igor I. Kavass, *Current Treaty Index* (Ref. Doc. S 9.12u:[year]). Treaties and international agreements released by the U.S. Department of State, but not yet printed in *TIAS* are also in Lexis.com (INTLAW; USTRTY).

A good source for selected recent agreements other than treaties (e.g., memoranda of understanding) is *Texts of International Agreements to which the United States is a Party (TIAS)* (<http://www.state.gov/s/l/treaty/tias/index.htm>) on the State Department's website.

### C. Treaties of International Organizations

The *United Nations Treaty Series* (KZ172 .T73 & online at <http://search.library.duke.edu/search?id=DUKE004425678>) began publication in 1946. Its predecessor, the *League of Nations Treaty Series* (KZ170.5 .T73 & online at <http://search.library.duke.edu/search?id=DUKE004425679>), was published from 1920-1946. All treaties entered into by a member of the United Nations are supposed to be registered with the U.N. Secretariat as soon as possible, but because there are no sanctions for failure to do this (except that an unregistered treaty may not be invoked before any organ of the U.N.), many treaties are never registered, and therefore are not published in the series.

There may also be a long delay between the signing of treaties and their publication. One reason is that a party to the treaty must initiate registration. Another is that all treaties must be translated into both English and French before publication. Thus, all treaties in the series are in their original language and in English and French. *Texts of Recently Deposited Multilateral Treaties* (<http://search.library.duke.edu/search?id=DUKE003346137>) links to texts of multilateral treaties deposited with the Secretary-General that have not yet been published in the

U.N.T.S. (some of these treaties haven't yet been translated, and are available only in their original language).

Treaties of the European Community can be found in a variety of sources, including the *Encyclopedia of European Union Law* (KJE 926 .E52) and in the *European Union Law Reporter* (KJE925.5 .E97). Treaties are also available in Lexis.com (follow the path Legal > Area of Law – By Topic > International Law > Find Treaties & International Agreements > EC Treaties in BDIEL for European Community treaties in Basic Documents of International Economic Law; and follow this path Legal > Area of Law – By Topic > International Law > Find Treaties & International Agreements > EUR-Lex EU Law Database: Combined Files) and WestlawNext (in the European Union Legislation: Treaties database which covers 1951 to the present; type European Union Legislation: Treaties into the global search bar). Selected treaties can also be found on the EU website ([http://europa.eu/abc/treaties/index\\_en.htm](http://europa.eu/abc/treaties/index_en.htm)). One may read the full texts of treaties and other legislation at the Eur-Lex database of EU law (<http://eur-lex.europa.eu/homepage.html?locale=en> and <http://eur-lex.europa.eu/collection/eu-law/treaties.html>).

The websites of international organizations, such as the **Council of Europe** (<http://conventions.coe.int>) and **Organization of American States** ([http://www.oas.org/en/sla/dil/treaties\\_agreements.asp](http://www.oas.org/en/sla/dil/treaties_agreements.asp)) are often good sources for texts of their treaties.

#### **D. Other Treaties to Which the U.S. is Not a Party**

Good sources for older treaties include the *Consolidated Treaty Series* (KZ120 .P35) edited by Clive Parry, which covers the years 1648 to 1919, and *The Major International Treaties of the Twentieth Century* (Ref. KZ173 .G744 2001) which includes historical background and analysis. Denys P. Myers's *Manual of Collections of Treaties and of Collections Relating to Treaties* (KZ118 .M94 1922) is a bibliography of sources for treaties concluded before World War I. *List of Treaty Collections* (KZ118 .L57 1956), compiled by the United Nations, is a bibliography of treaties for about 70 countries from the 18<sup>th</sup> century to the 1950s.

*International Legal Materials (ILM)* (1962- ) (Periodicals, Level 4) contains the text of many important treaties soon after they appear, and treaties to which the U.S. is not a party. These treaties are usually too recent to have appeared in more official collections, or they have been copied and translated from foreign gazettes not generally available to most users. *ILM* is published by the American Society of International Law; the society's journal, the *American Journal of International Law* (Periodicals, Level 4) also contains selected recent treaties. Both journals are online in Lexis.com (follow the path > Legal > Area of Law - by Topic > International Law > Search Law Reviews and Journals > American Journal of International Law

or International Legal Materials), Westlaw (ILM and AMJIL –Type ILM or AMJIL into the global search bar to see either journal.) & HeinOnline (<http://search.library.duke.edu/search?id=DUKE003131760>).

Many treaties to which the U.S. is not a party are published only in the **gazettes** of the signing countries. Most commonwealth countries have a treaty series similar to UST. In Great Britain the *Treaty Series* (KZ635.3.T74) is issued as part of the Command Papers. The **Australian Treaties Library** (<http://www.austlii.edu.au/au/other/dfat/>) contains the full text of treaties along with status information provided by the Department of Foreign Affairs and Trade. *Researching Non-U.S. Treaties* ([http://www.llrx.com/features/non\\_ustreaty.htm#Bilateral](http://www.llrx.com/features/non_ustreaty.htm#Bilateral)) provides links to collections of treaties by country. Another idea is to check the yearbook or review of international law of the countries involved, e.g., the *British Yearbook of International Law* (Periodicals, Level 4). *Sources of State Practice in International Law* (Ref. KZ64.S68) includes information about treaty sources for selected countries.

## IV. TREATY INDEXES

### A. When the U.S. Is a Party

There are several **indexes** that can be checked to determine whether the U.S. has a treaty on a certain subject with another country, and whether that treaty is in force. Once a treaty is signed, it does *not* automatically come into force. Approval for **ratification** must first be given by the Senate. Treaties which are signed but not ratified are called **unperfected** treaties (approximately one-third of the treaties signed by the U.S. are never ratified). Unperfected treaties may still be important though, because countries may choose to follow their provisions even without ratification.

Christian L. Wiktor, *Unperfected Treaties of the United States of America* (KZ236 1976) provides the text for unratified treaties signed by the U.S.; the set contains nine volumes, covering treaties from 1776-1976. Unratified treaties are available on Lexis.com (Follow the path > Legal > Area of Law - by Topic > International Law > Find Treaties & International Agreements > U.S. Treaties on LEXIS). So far, there is not an efficient way to search by treaty ratification status (ratified or unratified).

*Treaties in Force* is issued annually by the U.S. Department of State. (Ref. Doc. S 9.14: [year] & online at <http://www.state.gov/s/l/treaty/tif/index.htm>). It is a two-part index to all treaties and other international agreements in force as of January 1 of that year: Part 1 lists bilateral treaties, and Part 2 lists multilateral treaties. The bilateral treaties are listed by country, and within each country's listing, by subject. Multilateral agreements are organized by subject. Each entry includes the title of the agreement, the date it was signed and entered into force, and citations to treaty series where it appears. *Treaties in Force* is also available on Lexis.com (Follow the path > Legal > Area of Law - by Topic > International Law > Find Treaties &

International Agreements > U.S. Treaties in Force) and WestlawNext (type United States Treaties in Force into the global search bar) which provide hypertext links to the full text of some treaties. The Lexis.com, WestlawNext, and Internet versions are sometimes less current than the print version. The Treaties & Agreements Library in **HeinOnline** (<http://search.library.duke.edu/search?id=DUKE003131760>) also contains *Treaties in Force* (1929- ).

There are also three commercially published guides to U.S. treaties prepared by Igor Kavass. *A Guide to the United States Treaties in Force* (Ref. Doc. S 9.12u: Guide) contains lists of bilateral and multilateral treaties and agreements arranged numerically, by subject, and by country, along with a chronological index and a directory of multilateral treaties by country and international organization. The multi-volume set *United States Treaty Index: 1776-... Consolidation* (Ref. Doc. S 9.12k: Index) indexes all treaties to which the United States has been a party chronologically, by country and by subject. The Master Index, listing treaties by number, contains the most information on each treaty, including all relevant dates and citations to various treaty series. It is kept up to date by the *Current Treaty Index* (Ref. Doc. S 9.12u:/[year]) which indexes U.S. slip treaties and agreements and treaties that have not yet appeared in TIAS. The Treaties and Agreements Library in **HeinOnline** (<http://search.library.duke.edu/search?id=DUKE003131760>) contains *Guide to Treaties in Force* and *Current Treaty Index* (in HeinOnline, *Current Treaty Index* is listed as *Kavass's Treaty Index*).

## **B. When the U.S. Is Not a Party**

If the U.S. is not a party to the treaty, materials published by the U.S. government will not be of help. When you're looking for citations and text for a treaty to which the U.S. is not a party you will generally have to look either in a worldwide treaty source, or in a source of one of the signing countries. Worldwide sources are published both by international organizations and by commercial publishers; some of the most useful are listed below:

Bowman & Harris, *Multilateral Treaties: Index and Current Status* (Reserve KZ118 .B68 1984) lists treaties chronologically, gives citations to all sets where they can be found, lists the parties to each treaty, and contains notes on the contents of the treaty. There are subject and keyword indexes. Although the supplement is current only through January 1, 1994, this is still a very useful resource for finding citations and other information about treaties.

The *Flare Index to Treaties* (<http://193.62.18.232/dbtw-wpd/textbase/treatysearch.htm>) from the Institute of Advanced Legal Studies of the University of London covers more than 1,500 multilateral treaties concluded from 1856 to the present. The entry for each treaty includes citations to the text in printed publications and links the text on the Internet.

Wiktor's *Multilateral Treaty Calendar = Répertoire des traités multilatéraux, 1648-1995* (Ref. Desk KZ118 .W55 1998) is another very useful index. This chronological list of multilateral treaties includes citations and status information, but does not provide names of parties or signatories; there is a detailed subject index. The *Index to Multilateral Treaties* (Superseded Ref. KZ118 .H35 1965), which covers the 16th century to the 1960s, is another source for citations to older treaties.

The comprehensive, multi-volume *World Treaty Index*, 2d ed. (KZ173 .R63 1983) covers treaties from about 1900 through 1980. This set has indexes by party, date and keyword, and will give you citations for the treaty, as well as listing all the parties. The *World Treaty Index* also provides access to *UNTS* and *LNTS* with indexes by citation, serial number, title, parties, date of signature, and subject.

*Treaties and Alliances of the World*, 8th ed. (Ref. KZ1301 .T73 2007) provides an overview of important international, regional and bilateral treaties, and reprints some texts. The *Encyclopedia of Historical Treaties and Alliances* (Ref. KZ1160.P48 2006) covers treaties from ancient times to the 1930s.

Indexes to the *United Nations Treaty Series* (KZ172 .T73) were initially published for every hundred volumes; more recently they have covered only fifty volumes each, and they are far from being current. There is a chronological index by the date the treaty was signed, a chronological index for multilateral treaties, and a subject and country index. The web version of *United Nations Treaty Series* (<http://search.library.duke.edu/search?id=DUKE004425678>) can be searched by subject, name of country, etc.

*Multilateral Treaties Deposited with the Secretary-General* (KZ171 .M86 & online at <http://search.library.duke.edu/search?id=DUKE004402655>), published since 1967, reports on the status of and parties to multilateral treaties under the auspices of the U.N. The web version is updated daily. The commercial publication *United Nations Cumulative Treaty Index* (Ref. KZ171 .U546 1999) provides access to U.N. treaties by treaty number, date, country and subject.

If you are having trouble finding a treaty, try searching on Lexis.com or WestlawNext in the law review files using the name of the treaty as a search query. Law review articles are heavily footnoted, and will generally give a citation for every document mentioned.

## VII. DETERMINING THE CURRENT STATUS OF A TREATY

The **Treaty Actions** page (<http://www.state.gov/s/l/treaty/c3428.htm>) on the website of the Office of the Legal Adviser of the U.S. Department of State is a record of actions taken by states in regard to international agreements, and provides information about treaties to which the U.S. is a party, but it is not always current. The **Office of the Legal Adviser**

(<http://www.state.gov/s/l/treaty/depositary>) also maintains a list of multilateral treaties for which the U.S. is depositary (which includes links to status lists for these treaties as the Office of Treaty Affairs makes them available).

**THOMAS** (<http://thomas.loc.gov/home/treaties/treaties.html#>) provides information on the status of treaties beginning with the 90th Congress. You can also check the status of a treaty document in *Congressional Index*. During the course of 2014, this information will be moved to Congress.gov.

For United Nations treaties, the latest developments can be found in *Multilateral Treaties Deposited with the Secretary-General* (<http://search.library.duke.edu/search?id=DUKE004402655>) which is updated weekly.

If all else fails, try calling **Treaty Affairs** at the Department of State (202-647-1345) or the **Treaty Section** of the Office of Legal Affairs at the U.N. (212-963-5047).

## VIII. CITATION FORM FOR TREATIES

*Bluebook* Rule 21.4 covers citation form for treaties. When the U.S. is a party to a multilateral treaty, Rule 21.4.5 (a)(ii) requires citations to both a U.S. treaty source and a source published by an intergovernmental organization.

Two excellent online resources that will help you find citations to treaties are the ASIL's **EISIL** database (<http://www.eisil.org>) and the University of Minnesota Law Library's *Frequently-Cited Treaties and Other International Instruments* (<http://library.law.umn.edu/researchguides/most-cited.html>).

Among the print sources where you can find parallel citations for multilateral treaties are Bowman & Harris, *Multilateral Treaties: Index and Current Status* (Reserve KZ118 .B68 1984) and Wiktor's *Multilateral Treaty Calendar* (Ref. Desk KZ118 .W55 1998).

## IX. INTERNET SOURCES

The Government Printing Office's **FDsys** website contains Senate Treaty Documents (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CDOC>) and Senate Executive Reports (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CRPT>) from the 104th Congress forward.

*HeinOnline: U.S. Treaties and Agreements Library* (<http://search.library.duke.edu/search?id=DUKE003131760>) includes treaty documents such as *UST* (vols. 1-35) and *TIAS* (11060 to 13179), Bevan's *Treaties and Other International Agreements of the United States of America, 1776-1949*, and *Treaties in Force* (1955- ).

Marci B. Hoffman & Robert C Berring, *International Legal Research in a Nutshell* (2008) (Reserve K1234 .H64 2008 & online at <http://www.law.berkeley.edu/library/intlnutshell/>) includes a list of web treaty collections.

*The Multilaterals Project* (<http://fletcher.tufts.edu/multilaterals/>), maintained by the Fletcher School of Law and Diplomacy at Tufts University, this site includes the texts of almost 200 multilateral agreements.

**THOMAS** (<http://thomas.loc.gov/home/treaties/treaties.html>) provides the text of treaties (90th Congress forward) and information on the status of treaties (90th Congress forward).

*United Nations Treaty Collection* (<http://search.library.duke.edu/search?id=DUKE003346137>) includes *Multilateral Treaties Deposited with the Secretary-General* and the *United Nations Treaty Series*.

*United Nations Audiovisual Library of International Law* (<http://www.un.org/law/avl>) includes historical and preparatory documents for selected UN treaties.

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