Non-U.S. Treaty Research

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I. Introduction

The focus of this guide is on how to efficiently research treaties and other international agreements to which the United States is not a party. Information on researching U.S. treaties is available in the Gordon D. Schaber Law Library’s guide entitled United States Treaty Research.¹

Legally binding international agreements are often generically referred to as treaties, but they can also be known by a variety of other names: convention, covenant, charter, protocol, etc.² This guide uses the word “treaty” as a generic term for all binding international agreements between nation states and/or intergovernmental organizations. Such treaties can be bilateral (between two parties) or multilateral (between three or more parties). Knowing if an agreement is multilateral or bilateral is important, as some treaty resources only cover one type of agreement. In general, non-U.S. multilateral agreements are more readily available than bilateral agreements.

When researching non-U.S. treaties, it is important to keep in mind that treaty practice can vary significantly between countries. The approval process might differ and treaties may have very different legal weight under another country’s domestic law relative to treaties under United States law. Many countries (but not the United States) are parties to the Vienna Convention on the Law of Treaties, which lays out rules regarding international treaty practice between nation states.³ The treatise National Treaty Law and Practice is an excellent source for background information on the domestic treaty practice of other countries.⁴

There are several steps common to most treaty research. These are:

- checking for relevant secondary sources;
- finding the authorized text of the treaty;
- verifying its current status, including determining the parties to the agreement;

¹ Available at http://mcgeorge.edu/Library_Home/Research_Guides.htm.
² Generally, the name assigned to an international agreement does not affect its legal status under international law. A useful discussion on the meaning of different terms is available at http://treaties.un.org/Pages/Overview.aspx?path=overview/definition/page1_en.xml.
• ascertaining whether there are any reservations or declarations;
• locating statutes and regulations that implement the agreement; and
• finding interpretative materials, such as judicial decisions and the travaux préparatoires (treaty negotiation and drafting documents).

Each of these different issues will be discussed below.

II. Secondary Sources

Often the most efficient way to begin a research project is by consulting secondary sources, such as treatises, journal articles and research guides. Treatises, articles and similar materials may identify relevant treaties and other documents and provide an explanation of their legal effect. Research guides and texts can be used to identify important research resources in a given area and will often offer helpful research suggestions.

A. Research Guides and Texts

There are two basic types of research guides and texts available. There are general works covering international law research that explain the major resources and issues related to treaty research. These are particularly useful for gaining an overview on how to do non-U.S. treaty research. The other type of resource is jurisdiction or topic specific works, which focus on the materials covering particular countries, international organizations, or subject areas.

1. General Research Guides and Texts

A guide to U.S. and non-U.S. treaty research.

This publication is part of West’s Nutshell series. It provides an overview of both foreign and international legal research. Chapter four discusses non-U.S. treaty research.

A legal research textbook the covers both foreign and international law research. Chapter six includes coverage of non-U.S. treaty research. An electronic version is available on Ebrary (a library subscription database) and through the book’s record in the library’s online catalog.
2. Jurisdiction Specific Guides and Texts

Research guides and texts focusing on specific countries or intergovernmental organizations may also be available. Some of these guides are accessible electronically through free websites. To locate these types of publications, enter the following terms into a search engine, such as Google: [jurisdiction or organization name] law research. Many guides are available through the following two sites:

**A Selective List of Guides to Foreign Legal Research, Columbia Law School.**
   Includes regional and national guides covering dozens of countries.

**GlobaLex, New York University School of Law.**
Site: http://www.nyulawglobal.org/globalex/
   This highly useful site contains research guides covering over 100 countries as well as other guides covering international topics and organizations.

Some country guides are available in print in the library’s collection. To find these titles, do a keyword search in the library’s catalog (GOCAT) using the following terms: legal research [jurisdiction name].

3. Topic Specific Guides

Research guides covering particular international law topics are available on the internet, especially through law school websites. These guides will discuss how to research different subject areas such as human rights, international environmental law, trade law, etc. These publications can help you identify treaties relevant to particular areas of law. To retrieve these guides, enter the following terms into a search engine: [topic] law research.

B. Treatises and Law Review Articles

Many of the more prominent non-U.S. treaties are discussed in treatises and law review articles. In regard to treatises on Westlaw and Lexis, there is very limited coverage of non-U.S. agreements. Most are only available through the library’s print collection. There are two main approaches to locating these works: searching by treaty or by topic. Some important treaties will have commentaries that specifically focus on the agreement. These can be identified by doing a keyword search in the library’s catalog using the name of the agreement. Alternatively, other relevant treatises may concentrate on a particular topic and address international agreements as one facet of their coverage. There are also sets that

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compile agreements on particular subjects, sometimes with commentary. Such titles can be located by running a keyword search in the library’s catalog using terms related to your topic.

Law review articles offering analysis of particular agreements will also sometimes be available. The main sources for legal articles are: the full-text law review databases on Lexis, Westlaw, and HeinOnline (Law Journal Library);7 free Internet resources including Google Scholar8 and law review websites; and periodical indexes. In addition to indexes such as LegalTrac and the Index to Legal Periodicals that primarily focus on U.S. law reviews, it may also be helpful to try the following two indexes which concentrate on non-U.S. publications:

*Index to Foreign Legal Periodicals* (1960-).
Indexes over 500 periodicals, most of which are published in non-common law countries. It also includes selected international and comparative law journals from the United States, United Kingdom and the Commonwealth. An electronic version is available through HeinOnline and can be accessed through the library’s Databases page at http://libguides.mcgeorge.edu/databaselist.

*Legal Journals Index* (1986-).
Indexes articles from over 430 legal journals published in Europe. This index is particularly useful for United Kingdom and European Union research. Available through Westlaw Classic – use the following path to locate the database: Directory > International/Worldwide Materials > European Union.

Some treaties have little or no coverage in secondary sources. The rest of this guide will review other materials that can be used to locate the text of treaties, determine their status, and ascertain their impact on the law.

**III. Locating the Text**

The full-text of non-U.S. treaties can be located in a variety of sources. They may be published in treaty sets, the publications of individual countries or intergovernmental organizations, commercial sources, and free and subscription-based electronic resources. There are also a variety of indexes that allow the user to identify specific sources that provide the full-text of international agreements.

The most efficient approach for locating the text often depends on the nature of your research. If you are trying retrieve the text of a known treaty but do not have a citation, then

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7 This is a subscription-based source that is available through the library’s Databases page at http://mcgeorge.edu/Library/Databases.htm.
8 Available at http://scholar.google.com/.
running a query in an internet search engine can be an effective starting point.\(^9\) If this approach does not lead to the text, try searching full-text law review databases using the treaty name or other known information as your search terms (see § II.B). If the treaty is referenced, there is a good chance that the footnotes will indicate where the text can be found. Another possibility is searching the treaty indexes covered in § III.B.

If you are trying to locate treaties relating to a particular topic, the best way to identify the agreements is to start with secondary sources (see § II). If this is insufficient, search the relevant full-text treaty resources covered in § III.A. Of these materials, the United Nations Treaty Series is the broadest source for more recent agreements. Use the treaty indexes (see § III.B) and internet search engines to supplement these resources. Before engaging in extensive internet searching, review relevant research guides and texts as they may point you to useful resources (see § II.A.)

**A. Selected Full-Text Treaty Sources**

1. **Major Treaty Sets**


Contains the text of all multilateral and bilateral treaties registered with the United Nation’s Secretariat.\(^10\) Coverage begins in 1946, with the publication tending to be two or three years out of date at any given time. A cumulative index is included as part of this set. The United Nations Treaty Series is available electronically on HeinOnline (United Nations Law Collection library) and on the United Nations Treaty Collection website (see § III.A.2). HeinOnline provides a better full-text search capability than the United Nations Treaty Collection site.

*Council of Europe Treaty Series* (1949-). Location: Stack-1, JX625.9 E97.

Treaties negotiated under the auspices of the Council of Europe. Prior to 2004, this set was entitled the European Treaty Series. The treaties, along with status information, are available electronically through the Council of Europe’s website (see § III.A.2).


Provides the full-text of treaties from 1920 to 1946 that were registered with the League’s Secretariat. The set includes an index listing treaties by party, subject and chronologically. The publication is accessible electronically through HeinOnline’s United Nations Law Collection Library and through the United Nations Treaty Collection website (see § III.A.2).

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\(^9\) Before relying on information found on the internet, you need to evaluate the reliability of the website. Possible factors to consider: the publisher of the site; whether the site has been updated recently; whether the documents are the official version; and is the site being linked to by reputable websites. Also, keep in mind that citation manuals, such as the Bluebook, may require you to cite to the treaty text from specific sources. See Rule 21.4.5 in *The Bluebook: A Uniform System of Citation* (19\(^{10}\)th ed. 2010), for a discussion of citing to non-U.S. treaties.

\(^10\) Article 102 of the Charter of the United Nations requires members to register all of their treaties with the U.N. Secretariat, which is then published in the United Nations Treaty Series. Despite this requirement, not all treaties entered into by member states are registered with the United Nations.

2. Intergovernmental Organization Websites

Intergovernmental organization (IGO) websites often provide access to information on treaties negotiated under their auspices or for which they serve as the depositary. Secondary sources can be used to help identify IGOS that were connected with the drafting of a particular treaty. If an agreement is regional in nature, then it is likely that a regional IGO was involved in its drafting.

In some instances IGOS have created topical treaty databases that cover a wide range of multilateral and bilateral treaties that relate to a specific subject area connected with the organization’s mandate. Topical research guides can be particularly useful for identifying these sites (see § II.A.3).

Selected examples of IGO treaty websites are listed below.

- **African Union. OAU/AU Treaties, Conventions, Protocols & Charters.** Site: http://www.au.int/en/treaties
  - Treaties drafted under the auspices of the African Union / Organization of African Unity, including status information.

- **Council of Europe. Treaty Office.** Site: http://conventions.coe.int/
  - Includes an electronic version of the *Council of Europe Treaty Series* (see § III.A.1), status information, and reservations and declarations.

- **ECOLEX (FAO, IUCN and UNEP).** Site: http://www.ecolex.org/start.php
  - Extensive coverage of environmental law materials, including treaties.

  - Includes the founding and accession treaties of the European Union, as well as treaties between the E.U. and other parties. Status information is also available.

- **FAOLEX (Food and Agriculture Organization).** Site: http://faolex.fao.org/faolex/index.htm
  - Covers treaties and legislation on food, agriculture and renewable natural resources from countries throughout the world.

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11 The depositary of a treaty acts as the custodian of the official documentation for the agreement. It can be either an international organization or a country.
Site: http://www.hcch.net/index_en.php?act=conventions.listing
  Treaty texts, status information, and reservations and declarations on assorted private international law topics.

Organization of American States. Treaties and Agreements.
Site: http://www.oas.org/DIL/treaties_and_agreements.htm
  Treaty texts, status information, and reservations and declarations for treaties drafted under the auspices of the OAS.

  Provides electronic versions of the United Nations Treaty Series and the League of Nations Treaty Series (see § III.A.1). Status information and reservations and declarations for U.N. depositary treaties are provided in Multilateral Treaties Deposited with the Secretary-General.

Water Treaties. Food and Agriculture Organization.
Site: http://faolex.fao.org/watertreaties/index.htm
  Searchable database of selected full-text multilateral and bilateral water law treaties enacted from 1909 to present.

3. Country Specific Treaty Sources

Country specific resources are useful for locating the text of an agreement to which a particular country is a party. Countries may publish their own treaty sets or provide them electronically through government sites. If a treaty party has an official gazette, then treaties will usually be published in this source upon their promulgation.12 The best approach for identifying the available country specific resources is by using a research guide (see § II.A). Additional information on researching the legal materials of other countries is available through the library’s guides entitled Foreign Law Research and Guide to Foreign Law in English Translation.13

4. Lexis and Westlaw

Only a limited number of non-U.S. treaties are available on either Westlaw or Lexis. The best source is International Legal Materials, which is provided through Westlaw Classic and traditional Lexis (see § III.A.5). International Legal Materials has not been migrated to Lexis Advance or WestlawNext.

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12 Some countries, especially those following the civil law tradition, have an official gazette in which many primary authority documents are published. Such gazettes are usually published on a daily basis. Examples of official gazettes include Journal Officiel de la République Française (France), Bundesgesetzblatt (Germany) and Diario Oficial de la Federación (Mexico).
13 Available at http://www.mcgeorge.edu/Library/Research_Guides.htm.
Both Lexis and Westlaw also have extensive collections of European Union treaties. These are available on traditional Lexis, Westlaw Classic and WestlawNext. E.U. treaties are not currently accessible through Lexis Advance.

Treaties on traditional Lexis can be found through the following trail: Legal > Area of Law - By Topic > International Law > Find Treaties & International Agreements. On Westlaw Classic, European Union treaties can be found here: Directory > International/Worldwide Materials > European Union. Other treaties on Westlaw Classic can be located under this trail: Directory > International/Worldwide Materials > Multi-National Materials > Legislation.

5. Other Selected Full-text Sources

This well-respected source publishes selected international documents in full-text. Noteworthy treaties are frequently included among these materials. This publication is available in print, on HeinOnline (Treaties and Agreements Library), Lexis (1962 to present), and Westlaw (1980 to present, selective coverage only).

Investor State Law Guide.
Subscription database: http://libguides.mcgeorge.edu/databaselists
Provides multilateral and bilateral investment treaties (BITs) and arbitral awards that apply these agreements.

Kluwer Arbitration.
Subscription database: http://libguides.mcgeorge.edu/databaselists
Includes the text of numerous bilateral investment treaties (BITs), as well as multilateral treaties with arbitration provisions. Provides the text of selected cases and arbitral awards related to some of these agreements.

B. Treaty Indexes

There are a number of indexes that can be used to identify treaties pertaining to particular topics or jurisdictions. The following are the most noteworthy.

Multilateral treaties indexed by subject and date. Covers treaties concluded between 1856 and 1993. Provides citation information as to where the treaties are published, indicates the depositary, and includes treaty status information as of January 1994.

Flare Index to Treaties.
Searchable database of multilateral treaties concluded since 1856.


**IV. Status Information**

There are a number of possible resources that can be checked in order to determine whether a non-U.S. treaty is in force and ascertain the parties to a multilateral agreement.

The most useful source to check for multilateral agreements is the treaty depositary, which is the custodian of the documentation related to the agreement. Depositaries may be either national governments or international organizations, and often provide status information through their websites.\(^{14}\) The depositary for multilateral agreements will sometimes be designated in the treaty, but not always. Oftentimes multilateral agreements will be negotiated under the auspices of an international organization, and in such instances these organizations may serve as the depositary. If an intergovernmental organization sponsors an agreement but does not serve as its depositary, status information may still be available through the organization’s website.\(^{15}\)

The United Nations serves as the depositary for many important multilateral agreements. The U.N. provides status information for these agreements in *Multilateral Treaties Deposited with the Secretary-General*, which covers over 500 multilateral treaties. The most current version is available at http://treaties.un.org/pages/ParticipationStatus.aspx. Additional versions can be found on HeinOnline (United Nations Law Collection) and in print (Stack-1, JX171 .U558).

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\(^{14}\) Examples include the Council of Europe (http://conventions.coe.int/), the African Union (http://www.au.int/en/treaties), and the Organization of American States (http://www.oas.org/juridico/english/treaties.html).

\(^{15}\) For instance, the Netherlands serves as the depositary of conventions negotiated under the auspices of the Hague Conference on Private International Law. Both the Dutch government (http://www.minbuza.nl/en/key-topics/treaties/treaties.html) and the Hague Conference site (http://www.hcch.net/index_en.php?act=conventions.listing) provide status information.
Status information for both bilateral and multilateral treaties can sometimes be found on national government websites. Use research guides (see § II.A) to help identify these resources. For more information on researching the laws of other countries, see the library’s foreign law research guides.

V. Reservations and Declarations

Reservations are unilateral statements made by a party to an international agreement that seeks to exclude or modify the legal effect of provisions in that agreement as they apply to that party. Declarations are statements that interpret the provisions of an agreement but which do not alter their legal effect. Both types of statements may be made to a treaty upon a party’s signing or ratification of the agreement. Reservations and declarations are usually made in connection with multilateral treaties and are seldom issued for bilateral agreements.

There are several possible sources for obtaining the text of such statements. The best resource is the depositary website (see § IV), which in many instances will provide the full-text of all reservations and declarations made by the parties. Status information resources on national government websites may also provide such information (see § IV). Sometimes reservations and declarations will be included with the text of the agreement, but frequently this is not the case. They may also be published in treaty sets separate from the agreement text or in the official gazettes of parties to the treaties (see § III.A.3).

VI. Locating Implementing Statutes and Regulations

States that are parties to a treaty may enact statutes and regulations that implement the agreement within their domestic law. Such legislation may be required in order for the treaty to have domestic legal effect. In some instances secondary sources will identify the relevant legislation. The full-text of statutes and regulations can be located in a variety of sources, including national and intergovernmental organization websites, subscription databases, and print legislative publications. Detailed information on locating foreign legislation is available through the library’s foreign law research guides.

VII. Finding Interpretative Materials

Sources that can be used to construe the meaning of a treaty include secondary sources, court and arbitral decisions, and the documents generated during the treaty’s drafting process and

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17 For example, the text of the Convention on Biological Diversity appears in volume 1760 of the United Nations Treaty Series, while Austria’s declaration regarding this convention appears in volume 1820 along with its ratification notification.

18 The extent to which this may be required depends on each country’s legal system and the nature of the treaty. For additional information on the national treaty practices of other countries, see Duncan B. Hollis, Merritt R. Blakeslee & L. Benjamin Ederington, National Treaty Law and Practice (2005) (publication covers the treaty practice of nineteen countries, including the United States).
its subsequent ratification by parties. Implementing statutes and regulations may also aid in determining how the treaty is likely to be interpreted in a particular jurisdiction (see § VI).

A. Court and Arbitral Decisions

Decisions interpreting a treaty may emanate from international bodies or from the domestic courts of parties to a treaty. These decisions may be available through a combination of subscription databases, free websites, and print reporters. A basic overview of resources covering international court and arbitral decisions can be found in the library guide entitled *Public International Law Research*.\(^{19}\) Information on locating decisions of foreign domestic courts is available in the library’s foreign law research guides.

B. Finding the Travaux Préparatoires (Preparatory Works)

The travaux préparatoires is the negotiation and drafting history of an international agreement. These documents can be used as an aid in interpreting an agreement by providing information on the intent of the drafters.\(^{20}\) In general, these materials will only be available for multilateral conventions, as documents generated through bilateral treaty negotiations are usually not available.

There are two main methods of locating this information. The first is to check for secondary sources that have either compiled the text of these documents or provide citations to where they can be located. A limited number of prominent agreements have had their drafting documents published in a precompiled form, sometimes with analysis and usually only in print format. Search the library’s catalog using the treaty name to determine if such a title is available in our library for a particular agreement.\(^{21}\) Treatises that focus on a specific treaty and law review articles may provide detailed discussion of the drafting history of an agreement, so these can be useful for identifying relevant documents.

The other main approach is to search the official documents generated by the international organization sponsoring the agreement. The records for some organizations may be available in print or electronically through subscription-based or free resources. For detailed information on the availability of United Nations documents, use the library’s research guide entitled *United Nations Research Guide*.\(^{22}\) For additional information on this topic, a good source to look at is Jonathan Pratter’s guide *À la Recherche des Travaux Préparatoires: An Approach to Researching the Drafting History of International Agreements*.\(^{23}\)

\(^{19}\) Available at http://mcgeorge.edu/Library_Home/Research_Guides.htm.

\(^{20}\) See Vienna Convention on the Law of Treaties art. 32, May 23, 1969, 1155 U.N.T.S. 331 (article 32 provides that the travaux préparatoires may be used as a supplementary means of interpretation).


\(^{22}\) Available at http://mcgeorge.edu/Library_Home/Research_Guides.htm.

\(^{23}\) Available at http://www.nyulawglobal.org/globalex/Travaux_Preparatoires1.htm.