CHAPTER 11
FOREIGN AND INTERNATIONAL LAW RESEARCH

TERMINOLOGY USED IN RESEARCHING INTERNATIONAL LAW

<table>
<thead>
<tr>
<th>General Terms</th>
<th>Definitions</th>
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<tr>
<td>International Law</td>
<td>Rules and principles applied to the relations between states</td>
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<tr>
<td>Foreign Law</td>
<td>Internal law of countries outside the United States</td>
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<tr>
<td>Public International Law</td>
<td>Laws dealing with the relations between states</td>
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<tr>
<td>Private International Law</td>
<td>Rules that govern the choice of law (conflict of laws) in private matters such as family law, business disputes, etc.</td>
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<tr>
<td>Customary International Law</td>
<td>Rules arising from general and consistent practices of states that are accepted as legally binding</td>
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<table>
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<tr>
<th>Terms Relating to Formal Agreements</th>
<th>Definitions</th>
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<tr>
<td>Convention</td>
<td>Includes treaties and other international agreements of all kinds; the word is used interchangeably with &quot;agreement&quot;</td>
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<tr>
<td>Treaty</td>
<td>A formal written agreement between states</td>
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<td>Bilateral Treaty</td>
<td>Treaty between two states</td>
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<tr>
<td>Multilateral Treaty</td>
<td>Treaty between three or more states; typically a minimum number of countries must join a multilateral treaty before it becomes binding on the countries that agree to it</td>
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<tr>
<td>Executive Agreement</td>
<td>An agreement entered into by the President that does not require consent of the Senate</td>
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SELECTED SOURCES FOR RESEARCHING UNITED STATES TREATIES

Indexes

*Treaties in Force* (U.S. Department of State) (JX236.1929c, Level 4)
Published since 1964, this is an annual publication listing all treaties and other international agreements in force and of which the United States is a party. Part 1 lists bilateral treaties by country and includes subdivisions by subject. Part 2 lists multilateral treaties by subject. Electronic versions are available on the Department of State web page [http://www.state.gov/s/l/treaty/tif/index.htm](http://www.state.gov/s/l/treaty/tif/index.htm) and HeinOnline (subscription access.)

*A Guide to the United States Treaties in Force* (JX236.5 G84, Level 4)
Published since 1982, this annual publication supplements *Treaties in Force* by providing additional access points. The Guide is also available on HeinOnline (subscription access.)

*United States Treaty Index: 1776-1990 Consolidation* and *Current Treaty Index* (JX236.5 C87, Level 4)
Edited by Igor I. Kavass, this is "a comprehensive index of all documented treaties and agreements entered into by the United States from 1776 through 1990." It has been updated through revisions – until 2004. This title is further updated by the *Current Treaty Index* that is issued twice each year. The *Current Treaty Index* is also available in the HeinOnline database (subscription access.)

*Treaties Pending in the Senate* (U.S. Dept. of State web page) [http://www.state.gov/s/l/treaty/pending/](http://www.state.gov/s/l/treaty/pending/). This is a list of treaties awaiting the advice and consent of the Senate. Pending treaties are listed chronologically with the oldest first. There are links to the full text of the treaties in PDF format. For research on older treaties the *Congressional Index* (J69.C6 Level 1) is a good resource. Volume 1 has a "Treaties" tab that can be used for locating summaries and status information on pending treaties. A subject index is included. The Library has volumes from the 88th Congress (1963-64) through the 110th Congress (2007-2008).

Treaty texts

*International Legal Materials* (American Society of International Law) (Periodicals Stacks, Level 1)
A bi-monthly publication that contains a wide and well selected range of documents prior to publication in official sources. Included are treaties and agreements, judicial proceedings, legislation and regulations, and reports. Each issue includes tables of "recent actions regarding treaties to which the United States" is and is not a party. Electronic versions: Lexis Advance (Browse> sources>practice area> international law>>>secondary materials>search the “I” alphabet; WestlawNext – type ILM in the search box at the top of the home screen; JStor.org (subscription access); and HeinOnline (subscription access).
Treaties and Other International Acts Series (T.I.A.S.) (JX231 A341, Level 4)
T.I.A.S. is the first official publication in slip form of all treaties and international executive agreements. The Government Printing Office (GPO) no longer publishes the T.I.A.S. in print version. Electronic access is through the U.S. Dept. of State web page: http://www.state.gov/s/l/treaty/tias/index.htm (1996-2015) or HeinOnline where coverage is 1982 to the present (subscription access.)

United States Treaties and Other International Agreements (U.S.T.) (JX231 A34, Level 4) (1950-1984)
Since 1950, the U.S. Department of State has published official bound volumes containing all treaties and international executive agreements. The set follows the numerical order of documents as first published in pamphlet form in T.I.A.S. The last volume to be produced in print was Volume 35, Part 6, 1983-1984. You can search treaties by going to: http://thomas.loc.gov/home/treaties/treaties.html (90th Cong - present, 1976 – present). Other electronic access is via HeinOnline (subscription access.)

Charles I. Bevans, ed., Treaties and Other International Agreements of the United States of America 1776-1949 (JX236.1968 A5, Level 4)
This is the most comprehensive collection of pre-1950 treaties and agreements. Volume 13 is the general index. Bevans is available through HeinOnline (subscription access.)

Treaties on WestlawNext

Begin your search on WestlawNext (WLN) by typing the words you want to search in the search box at the top of the home page screen. A drop-down box will appear with a selection of databases.

Treaties on LexisAdvance

LexisAdvance offers access to United States treaties via the Browse selection at the upper left of the screen: Browse>topic>international law> general overview> statutes and legislation> treaties. LexisAdvance can also be searched by subject-specific terms. Search economic treaties: browse>topic>international trade law > general overview> get documents> statutes and legislation>category – treaties. Tax treaties can be found by searching: browse>topic>tax law> international taxes> general overview> get documents> statutes and legislation> treaties. You can also start typing search terms in the search box on the home page screen of LexisAdvance. Type the word(s) you wish to search in the box at the top of the screen. If you type in treaties, a drop-down box will appear will a number of choices.

Internet sites containing treaties

Congress.gov also has a link to treaties at the upper right of the home page: https://www.congress.gov . This link directs you to Thomas. Coverage begins is 1967 (90th Congress).
LOCATING IMPLEMENTING LAWS AND REGULATIONS AND JUDICIAL INTERPRETATIONS

Often, implementing legislation is required before terms of an international agreement become a part of United States law. In addition, implementing regulations may be found that have been issued by an appropriate federal agency, and federal court cases may interpret ambiguous treaty language. The usual sources of federal law (the U.S. Code, C.F.R., Federal Reporter, or United States Reports) may, therefore, have information relating to implementation of a particular treaty.


The normal access points should be used to search for implementing legislation. U.S.C.S. has a volume called "Annotations to Uncodified Laws and Treaties," that collects case notes to various multilateral and bilateral treaties to which the United States is a party.

Code of Federal Regulations and Federal Register

The usual access points and updating techniques should be used to search for implementing regulations.

United States case law databases on LexisAdvance and WestlawNext

The federal case databases can be helpful for locating cases that have applied or interpreted international agreements. Start with Browse on the LexisAdvance home page: browse> sources> jurisdiction> U.S. federal >cases. Type your search terms into the search box at the top of the screen. “Treaties” or the name of a treaty are good examples of a search.

Searching by Key Number is easy on WestlawNext. Choose the Key Numbers link on the home page. Change the jurisdiction to All Federal by clicking the link at the top of the screen. The West topic “Treaties” is assigned the topic number 385 online, and “International Law” is assigned topic number 221. Scroll down the screen to choose your Key Number.

Internet sites containing international law materials

The Internet has become an especially rich source of foreign law interpreting international agreements.


**SELECTED SOURCES FOR RESEARCHING WORLD TREATIES**

When searching for information on treaties to which the United States is not a party, the following sources should be consulted:

**Historical**

**Clive Parry, ed. Consolidated Treaty Series** (JX120 P35, Level 4)
This is a collection of world treaties, with limited annotations, in their original languages and existing translations in English or French from 1648 to the beginning of the *League of Nations Treaty Series* (approximately 1918 to 1920). Also available on HeinOnline (subscription access)

*League of Nations Treaty Series* (JX170 L4, Level 4)
Treaties of member and nonmember nations registered with the Secretariat from 1920 to 1946. Also available on HeinOnline (subscription access)

**Current**

Beginning with 1946, this set contains the text of all treaties registered with the Secretariat by its member states, or filed and recorded by nonmember states or international organizations. It is not as comprehensive as the United Nations intended, especially for bilateral treaties. Cumulative indexes are published for every 50 volumes of the Series. The Series is currently published with a lag time of about 10 years and the Index with a lag time of about 15 years. This publication is available in the United Nations Treaty Database: [http://treaties.un.org/Pages/UNTSOnline.aspx?id=1](http://treaties.un.org/Pages/UNTSOnline.aspx?id=1). Also available on HeinOnline (subscription access).

**Indexes and finding aids**

*United Nations Office of Legal Affairs. Multilateral Treaties Deposited with the Secretary-General* (JX1977, Level 4)
Since 1968, this yearly publication covers all multilateral treaties that have been concluded under the auspices of the United Nations and that have been deposited with the Secretary-General. An electronic version of this title is available through the United Nations Treaty Collection database. Also available on HeinOnline (subscription access).
STRATEGIES FOR RESEARCHING INTERNATIONAL LAW

Background research

As is true in other subject areas, general law reviews may contain articles that can be used as starting points. Searching the journal databases on LexisAdvance and WestlawNext can be a helpful first step in the research process. Many law reviews exist that relate to specific international law topics. Coverage of these on Lexis and Westlaw is not complete and, even if the title is included, contents may not go back very far. Therefore, the legal periodical indexes may be more helpful for this purpose than the full text journal databases. The Legal Resource Index (or LegalTrac) is available on LexisAdvance. Start typing “legal resource index” in the home page search box – Legal Resource Index will appear in the drop down box – click the link for access. Current Index to Legal Periodicals is available on WestlawNext. Choose Secondary Sources from the list on WestlawNext’s home page. Click Law Reviews & Journals. The Current Index to Legal Periodicals link is located at the upper right corner of the screen. The print indexes, Current Index to Legal Periodicals and the Index to Legal Periodicals, are shelved on Level 1. Both the Current Index to Legal Periodicals (Legal Trac) and the Index to Legal Periodicals are also available in electronic format via the TMLL web page. Search the database listings on the page to access. Once citations are obtained, you will find that our library subscribes to many of the law reviews that relate to international law topics. HeinOnline also has a searchable database for law reviews and journals with full coverage and PDF format.

Searching the library’s online catalog allows access to the treatise collection in this library, which contains many works relating to international law topics. Coverage ranges from discussion of specific subject areas to general texts on international law. For information on current topics, newspaper articles may provide useful information.

In addition, there are several extremely good international legal research guides available on the Internet. Lyonette Louis-Jacques, from the University of Chicago Law School, D'Angelo Law Library lists many of them on her own international legal research website: http://www2.lib.uchicago.edu/~llou/forintlaw.html

And the LRRX web page has a wide variety of international research guides: http://www.llrx.com/international_law.html.

Updating international agreements

Once an international agreement has been located, it is necessary to consult a listing of treaties currently in force to determine its status. Either Treaties in Force http://www.state.gov/s/l/treaty/tif/index.htm or A Guide to the United States Treaties in Force can be used to answer questions concerning the current status of particular
agreements. The indexing in the Guide is more detailed than that in the official Treaties in Force; the Guide is also more up to date. Further updating should be done using the Department of State publication Treaty Actions: http://www.state.gov/s/l/treaty/c56220.htm and possibly the American Society of International Law publication International Legal Materials.

**Locating the text of international agreements**

The official sources of agreements for which the United States is a party are United States Treaties (U.S.T.) and Treaties and Other International Acts (T.I.A.S.) Because these publications are no long published in print, researchers must use the Department of State web page: http://www.state.gov/s/l/treaty/tias/, International Legal Materials or WestlawNext or one of the Internet sites to find the text of recent treaties.

**Researching customary international law**

In addition to formal international agreements, much of international law practice relates to determining "international custom." Customary law is derived from numerous sources and such a search is beyond the scope of a basic introduction. Type the words “customary law” into the search box on the TMLL catalog page to find titles on this topic.

**Researching adjudications at the international level**

A variety of forums and mechanisms exist for the settlement of differences between states. These range from mediation and arbitration to decisions of the International Court of Justice. Current decisions of the International Court of Justice are available at the official website, accessed through the Thurgood Marshall Law Library Research International Law LibGuide. Again, these sources are beyond the scope of an introduction, but would be important for serious research in international law.

**Summary**

International law is a specialty area that requires considerable expertise and familiarity with the sources. It is not unusual, however, for attorneys who do not consider themselves to be specialists in international law to become involved in such questions. Commercial transactions and domestic relations are examples of areas where international law questions arise on a regular basis.

It is important to recognize that many of the same techniques that are used for researching U.S. law are appropriate for international law research as well. Beginning with secondary sources, for example, is a technique that is often helpful.
BASIC FOREIGN LAW RESEARCH

Cautions on performing foreign law research

The following cautions on undertaking foreign law research are summarized from Susan Van Syckel, Strategies for Identifying Sources of Foreign Law: an Integrated Approach, 13 TRANSNAT’L LAW. 289 (2000):

(1) There may not be published sources of law for the country you are researching;
(2) If there are published sources, they may not be in English;
(3) If they’re in English, a particular law library might not have them; and
(4) If the library has them, they may not be current, or the translations may be inaccurate.

Furthermore, without knowing something about the legal system of the country you are researching, it will be difficult to evaluate the reliability of the sources you find. And even if they are reliable, you won’t know how to use them. For example, suppose you find a relevant case from a court in the country whose law you are researching. Are cases binding or even persuasive in the courts of your target country? What is the relationship between cases and statutes?

Selected sources for foreign law research

World Constitutions Illustrated is a HeinOnline library that contains current constitutions in the original language and an English translation. In addition there are links to constitutional periodicals, classic books and links to scholarly articles. HeinOnline is a subscription access database. For historical research go to Constitutions of the Countries of the World (K3157 A2B4, Level 4). This title contains the English translations of constitutions of nations of the world. It also includes annotated bibliographies.

Foreign Law Guide (Brill Online Reference Works). This database is one of the best places to start your research on foreign law. Searchable by country or subject, the Guide first presents an overall view of a country’s legal system and then sets out sources of the law and cases. Live links to online resources are also provided. Access this database through the library web page database list. Use is limited to University of Maryland Carey Law faculty, students and staff.

Thurgood Marshall Law Library Research Guide on Researching Foreign Law: 
http://law.umaryland.libguides.com/foreign_law

Thurgood Marshall Law Library Research Guide on Researching International Law: 
http://law.umaryland.libguides.com/researching_international_law
SELECTED SOURCES FOR RESEARCHING EUROPEAN COMMUNITY LAW

One of the best sources of information on the European Union. This database contains links to statutes, enabling treaties and case law. In addition, there are links to reports and other excellent sources of information.

*European Union Law Guide.* (KJE949 E97, Level 4)
Multi-volume looseleaf that contains "the major treaties setting up the European Union together with other important institutional acts and the most recent legislative program of the Commission."

*Foreign Law Guide.*
There is an excellent section on European Union sources in this database. An historical overview of the EU is provided and there are links to online resources. There is also a section on print resources.

Council of Europe. *European Conventions and Agreements.* (JX626 1971 C68, Level 4)