

CHAPTER 12
FOREIGN AND INTERNATIONAL LAW RESEARCH

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TERMINOLOGY USED IN RESEARCHING INTERNATIONAL LAW

General Terms	Definitions
International Law	Rules and principles applied to the relations between states
Foreign Law	Internal law of countries outside the United States
Public International Law	Laws dealing with the relations between states
Private International Law	Rules that govern the choice of law (conflict of laws) in private matters such as family law, business disputes, etc.
Customary International Law	Rules arising from general and consistent practices of states that are accepted as legally binding
Terms Relating to Formal Agreements	Definitions
Convention	Includes treaties and other international agreements of all kinds; the word is used interchangeably with “agreement”
Treaty	A formal written agreement between states
Bilateral Treaty	Treaty between two states
Multilateral Treaty	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
Executive Agreement	An agreement entered into by the U.S. President that does not require consent of the Senate
Travaux Préparatoires	The documentary records of the negotiation and drafting of a treaty

SELECTED SOURCES FOR RESEARCHING UNITED STATES TREATIES

Treaties are one of the main sources of international law. Moreover, under the Supremacy Clause of the U.S. Constitution, treaties are a part of the supreme law of the U.S. legal system. Selected resources for researching treaties to which the U.S. is a party include:

Indexes and Finding Aids

- *Treaties in Force*
Published since 1964, *Treaties in Force* (TIF) is an annual publication from the U.S. Department of State that lists 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. Print volumes are located in the TMLL, Level 4 (JX236 1929c). Online versions are also available from [HeinOnline](#), [Lexis](#), and [Westlaw](#) (login required). Note that in 2014 and 2015, only supplements to the 2013 edition were published; annual publication resumed in 2016.
- *A Guide to the United States Treaties in Force*
Published annually since 1982, the *Guide* supplements *Treaties in Force* (above) by providing more up-to-date coverage of U.S. treaties and more detailed indexing to treaties and international agreements. Print volumes of the *Guide* (1982 to 2015) are located in the TMLL, Level 4 (JX236.5 G84). The *Guide* is available online through [HeinOnline](#) (login required).
- *United States Treaty Index* (TMLL, Level 4, JX236.5 .C87)
This is a multi-volume index of treaties and international agreements entered into by the United States from the late 18th century through the 21st century.
- *Kavass's Current Treaty Index* ([HeinOnline](#), login required)
This publication further updates the *United States Treaty Index* (above), and includes multiple indexes that list treaties by subject, chronologically, and geographically.
- *Treaties Pending in the Senate*
Published by the U.S. Department of State, this website lists and links to the full text (PDF) of treaties awaiting the advice and consent of the Senate.
- *Congressional Index* (CCH)
This is a multi-volume set that provides coverage of congressional activities. There are two volumes for each congressional two-year session. Volume 1 for each congressional session has a “treaties” section that can be used for locating summaries and status information on treaties. TMLL has print volumes from the 88th (1963-64) through the 111th (2009-2010) Congresses located on Level 1, J69 .C6).

Treaty Texts

- *International Legal Materials*
International Legal Materials (ILM) is a bi-monthly publication that contains various documents prior to their publication in official sources, including 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. Print volumes are located in the TMLL, Level 1 ([Periodical Stacks](#)). Online versions of ILM are also available from [HeinOnline](#), [Lexis](#), and [Westlaw](#) (logins required).
- *Treaties and Other International Acts Series*
The *Treaties and Other International Acts Series* (T.I.A.S.) consists of several individually paginated pamphlets containing the texts of agreements in English and other official languages of an international agreement. These pamphlets are consecutively numbered and are often referred to as “slips.” Pamphlets are published somewhat chronologically with a lag time of several years. T.I.A.S. pamphlets are located in the TMLL, Level 4 ([JX231.A341](#)). Online access is also available from [HeinOnline](#), [Lexis](#), and [Westlaw](#) (logins required).
- *Treaties and Other International Agreements of the United States of America: 1776-1949*
Commonly referred to simply as “Bevans” in honor of the editor, this multi-volume set is widely regarded as the most comprehensive collection of U.S. treaties from 1776 to 1950. The set includes the text of multilateral and bilateral treaties as well as a helpful country and subject indexes. Print volumes are located in the TMLL, Level 4 ([JX236 1968.A5](#)). Online access is also available from [HeinOnline](#) (login required).
- *United States Statutes at Large*
Until 1948, all U.S. treaties and international agreements ratified by the Senate were published in the *Statutes at Large*, a chronological compilation of laws enacted by Congress. Print volumes are located in the TMLL, Level 3 ([KF50](#)). Online access is also available from [HeinOnline](#), [Lexis](#), and [Westlaw](#) (logins required).
- *United States Treaties and Other International Agreements*
A multivolume set consisting of several bound volumes containing treaties first published in the T.I.A.S. The *United States Treaties and Other International Agreements* (U.S.T.) publication schedule lags well behind most current U.S. treaty actions. Print volumes (1950 to 1984) are located in the TMLL, Level 4 ([JX231.A34](#)). Online access is also available from [HeinOnline](#), [Lexis](#) and [Westlaw](#) (logins required).

Websites and Databases

There are many online sources for finding the text of U.S. treaties. Conveniently, you can use a search engine like Google to search for the text of treaties. Several websites have collections of treaties and agreements. Some examples include: [Congress.gov](#) (follow hyperlink to “Treaty Documents” at the bottom of the homepage). Commercial services like [HeinOnline](#), [Lexis](#), and

[Westlaw](#) (logins required) also contain large collections of U.S. treaties and international agreements.

LOCATING IMPLEMENTING LAWS, REGULATIONS, AND JUDICIAL INTERPRETATIONS OF UNITED STATES TREATIES

Often, implementing legislation is required before the terms of an international agreement become a part of United States law. In addition, federal agencies may also issue implementing regulations, and federal court cases may interpret ambiguous language in treaties and international agreements. The usual sources of federal law—the *United States Code*, *Code of Federal Regulations*, and federal case reporters—should be consulted.

United States Codes

The normal access points for finding statutes should be used to search for implementing legislation. Additionally, the *United States Code Service* (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 (C.F.R.) and Federal Register

The usual access points and updating techniques should be used to search for implementing regulations. Additionally, Westlaw provides an [index to the C.F.R.](#) (login required). Regulations relating to the implementation of treaties are noted under the heading “Treaties” in the index.

United States Case Law

There are several sources for locating U.S. cases interpreting international law.

Federal case libraries on [Lexis](#) and [Westlaw](#) (logins required) contain cases that have applied or interpreted treaties or international agreements and implementing statutes and regulations.

Publications like *West’s Federal Practice Digest* can also be helpful. The *Digest* provides federal court case summaries organized by topic according to West’s Key Number System, a comprehensive classification system for organizing cases by legal issues. For example, the topic “International Law” is useful for finding cases that relate to more general questions about the sources of international law and their relationship to U.S. law. The topic “Treaties” collects references to cases that interpret and apply U.S. treaties.

Print volumes of *West’s Federal Practice Digest* (no longer updated as of 2012) are located in the TMLL, Level 3 ([KF127 .M6 - KF127 .M612](#)). Online researchers can also find cases using an up-to-date version of West’s Key Number System through [Westlaw](#) (login required). To use the online version, log in to Westlaw and select the “Content types” tab from start page, then select “Key Numbers.” Browse the Key Number outline or use keyword searching to find cases associated with relevant topics and Key Numbers.

The *Restatements of the Law, Foreign Relations Law of the United States, Third and Fourth*, are excellent resources for locating U.S. cases applying international law. The *Restatements* synthesize U.S. law and practice regarding international law and U.S. law that has substantial significance for U.S. foreign relations. *Restatement (Fourth)* updates selected parts of *Restatement (Third)* that no longer reflect the current state of U.S. foreign relations law. *Restatement (Fourth)* is limited to the examination of treaties, but not other forms of international agreements; U.S. views on jurisdiction, but not generally on separation of powers or federalism; and U.S. views on sovereign immunity, but not other immunities required or regulated by international law.

Print volumes of the *Restatement (Third)* ([KF4651 .A452 1987](#)) and *Restatement (Fourth)* ([KF395.A2 F674 2018](#)) are located in the TMLL, Level 2. Online versions of these *Restatements* are available through [HeinOnline](#), [Lexis](#), and [Westlaw](#) (logins required).

Websites Containing International Law Materials

The internet has become an especially rich source of foreign and international law materials. For example, the [ASIL Electronic Resource Guide](#) (ERG), a project of the American Society of International Law, provides chapters on researching the European Union, International Humanitarian Law, International Intellectual Property Law, the United Nations, and more. Other excellent sources of international materials are the web pages of non-governmental organizations (NGOs). The [World Intellectual Property Organization website](#) is one example. Always double check to ensure the information on websites is up to date.

SELECTED SOURCES FOR RESEARCHING WORLD TREATIES

Resources for information on treaties to which the United States is not a party include:

Indexes and Finding Aids

- [Monthly Statements of Treaties Registered with the Secretariat](#)
Provides summaries of treaties registered with the United Nations from 1946 forward.
- [Multilateral Treaties Deposited with the Secretary-General](#)
This publication provides status information on multilateral treaties that have been registered with the United Nations. Print volumes are located in the TMLL, Level 4 ([JX1977 .A21](#)). Online versions are also available from [HeinOnline](#) (login required).
- [Flare Index to Treaties](#)
The Flare Index to Treaties is an online database that includes key multilateral treaties from the 17th century to date and key bilateral treaties from 1353 to 1815. Hyperlinks are provided to full text sources, if available.

Historical Treaties

- *Consolidated Treaty Series* (TMLL, Level 4, [JX120.P35](#))

The *Consolidated Treaty Series* (CTS) is a multi-volume set containing world treaties from 1648 to c.1920. Treaties are provided in their original languages along with existing translations in English or French, as available. Also included are limited annotations noting the source of the treaty text, alternative sources, and the status of treaties. Online access to treaties from the *Consolidated Treaty Series* is available through the Historical Treaty Index on [HeinOnline](#) (login required).

- *League of Nations Treaty Series*
This is a multi-volume set containing treaties of member and non-member nations registered with the League of Nations Secretariat from 1920 to 1946. Print volumes of the *League of Nations Treaty Series* (L.N.T.S.) are located in the TMLL, Level 4 ([JX170.L4](#)). Online access is also available from [HeinOnline](#) (login required).

Current Treaties

- *United Nations Treaty Series*
Beginning with 1946, this multi-volume set contains the text of all treaties registered with the United Nations. Cumulative indexes are published for every 50 volumes of the series. There is a significant lag time between ratification of treaties and publication in the *United Nations Treaty Series* (U.N.T.S.). Print volumes of the U.N.T.S. are located in the TMLL, Level 4 ([JX170.U35](#)). Online access is also available from [HeinOnline](#) (login required).

STRATEGIES FOR RESEARCHING INTERNATIONAL LAW

Background Research

As is true in other subject areas, secondary sources like law journal articles are good starting points for researching international law topics. However, many international law related articles are not available on popular legal research services like Lexis or Westlaw. Moreover, even if they are available, Lexis and Westlaw may not have all the issues for the journal.

Legal periodical indexes offer researchers an alternative approach to locating articles about international law topics. These indexes may cover law journals not available on Lexis or Westlaw, and they often provide expanded date coverage for journals.

Legal periodical indexes exist in both print and online versions. However, unlike full text databases, online indexes often do not provide, or only selectively provide full text access to articles. Use indexes to find citations to specific articles and then use library resources or services like other library databases or interlibrary loan to get the full text of the article.

One of the best indexes for researching articles relating to foreign and international law is the *Index to Foreign Legal Periodicals* (IFLP). IFLP indexes articles relating to international law from over 500 legal publications from around the world. Print volumes covering 1960 to 2004 are located in the TMLL, Level 1, Indexes ([K33.I5](#)). Online access is available from [HeinOnline](#) (login required) covering 1984 to date.

The *Index to Legal Periodicals* (ILP) primarily covers U.S. law, but it does provide some coverage of international law articles. Print volumes of ILP covering 1926 to 2012 are located in the TMLL, Level 1, Indexes (K9. N32). Online access is available from [Legal Periodicals Retrospective: 1908-1981](#) (login required) which covers publications from the early twentieth century to the early 1980s.

Current Law Index (CLI) primarily covers U.S. law, but it also includes some coverage of international law. Print volumes of CLI covering 1980 to 2014 are located in the TMLL, Level 1, Indexes (K33 .C87). Online access is available through the [Legal Resource Index](#) on Westlaw (login required) and the database [LegalTrac](#) (login required).

You also can find books on international law topics by searching the TMLL's [online catalog](#), the "International Law" practice areas on [Lexis](#), and the "International Treatises" page on [Westlaw](#) (logins required).

For information on current topics, newspaper articles may provide useful information. Newspapers and current awareness publications are also available on commercial databases such as Bloomberg Law, Lexis, and Westlaw.

Finally, there are several extremely good international legal research guides available on the internet. The TMLL has a research guide on [Researching International Law](#) and other law schools and organizations also produce research guides. For example, the Georgetown Law Library maintains several [international and foreign law research guides](#). You can also try Google or another search engine to look for other guides. Try such keywords as: *research guide international law*.

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 the publication schedules for the print versions of these titles have a long lag time, researchers often use other sources such as the State Department's Office of Treaty Affairs website, *International Legal Materials*, and Lexis or Westlaw. Researchers can also use Google or other search engines to find treaty texts online.

Updating International Agreements

Once an international agreement has been located, it may be necessary to determine its status. Determining a treaty's status usually involves identifying if the treaty is in force, if there are reservations to treaty provisions, and the parties to a treaty.

For treaties where the U.S. is a party, try using resources discussed elsewhere in this guide such as the *Treaties in Force* website or *A Guide to the United States Treaties in Force* to answer questions concerning the current status of particular agreements. For multilateral treaties, try consulting the *Multilateral Treaties Deposited with the Secretary-General*.

Researching Travaux Préparatoires

An important resource for researching the history and meaning of treaties are travaux préparatoires (travaux). Travaux are the documentary records of the negotiation and drafting of a treaty or international agreement. The Vienna Convention on the Law of Treaties—a treaty that establishes rules for treaties—provides for considering travaux when interpreting treaties.

Travaux are not always publicly available, but some sources for travaux include treaty websites, books, and law journal articles. Law journal indexes may also point to sources for travaux documents. Some helpful search terms for locating travaux include: *travaux*, *commentary*, *records*, or *documentary*, combined with the name of the treaty or agreement.

Many travaux documents are freely available online. The [Yale Law Library](#) has published a travaux collection. The [Historical Archives of the United Nations Audio Visual Library of International Law](#) has travaux documents for some multilateral treaties. If the treaty was negotiated through U.N. institutions, then travaux documents may be available through the [U.N.’s Digital Library](#) or [Official Document System](#).

Researching Customary International Law

In addition to treaties, much of international law practice relates to determining “international custom.” Customary law is derived from numerous sources and an in-depth treatment of this topic is beyond the scope of this chapter. However, some good resources to begin researching customary international law include law journal articles, treatises, the *Digest of United States Practice in International Law* (DUSPIL), the United Nations Legislative Series website, and the *Max Planck Encyclopedia of Public International Law* (MPEPIL).

See the section “Background Research” above for information on finding law journal articles and treatises.

DUSPIL provides information on the customary practices of the U.S. Government with respect to public and private and international law. DUSPIL is available online through the [State Department’s website](#) and commercial services like [HeinOnline](#) (login required).

The *Legislative Series* is a collection of books, published by the United Nations, containing legal materials from countries and intergovernmental organizations around the world on matters of international interest. The materials include laws, treaties, judicial decisions, diplomatic correspondence, and other materials.

MPEPIL is an online resource containing peer-reviewed articles on all aspects of public international law, including several articles on customary international law topics. Access is available through the [MPEPIL database](#) (login required).

Researching International Court and Tribunal Cases

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 (ICJ). While these sources would be important for serious research in international law, a comprehensive review of sources for finding these decisions is beyond the scope of this chapter. However, researchers should look for decisions on court websites, such as the [International Court of Justice](#), research portals like [WorldLII](#), and commercial services such as Lexis or Westlaw. If you are using Lexis or Westlaw, try typing in the names of international courts or tribunals in the search box on the start page. A drop-down box will appear identifying sources for cases from international tribunals.

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 obstacles 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 are 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 may not know how to use and analyze them. For example, suppose you find a relevant case from a court in the country whose law you are researching. Before you can effectively use and analyze the case, you have to know: Are cases binding or even persuasive in the courts of your target country or what is the relationship between cases and statutes?

The TMLL has a research guide on [Researching Foreign Law](#) with information and resources for researching foreign legal issues. Additionally, law librarians are very helpful resources.

Selected Sources for Foreign Law Research

- [Cardiff Index to Legal Abbreviations](#)
When conducting foreign law research, you may encounter abbreviations for unfamiliar legal publications. The Cardiff Index to Legal Abbreviations is a free, online database that lets you search for meaning of abbreviations for legal publications from over 295 jurisdictions from around the world.
- [Foreign Law Guide](#) (login required)
Covering approximately 190 jurisdictions around the world, the Foreign Law Guide is one of the best places to start your research on foreign law. This online resource provides overviews of a jurisdiction's legal system, information on official sources and official versions of foreign law, links to online resources, and even information on English translations of a country's statutes, if available.
- [GlobaLex](#)
Published by the Hauser Global Law School Program at New York University School of Law, GlobaLex provides access to foreign law research guides, covering more than 160 jurisdictions.
- [Google Translate](#)
Google Translate is a free, online machine translation service that translates words, phrases, and web pages between English and over 100 other languages. Since foreign legal materials are often in a language other than English, researchers can use Google Translate for getting the gist of a foreign language document. However, these translations may not be accurate and they are not substitutes for the official documents.
- [Guide to International Legal Research](#) (Lexis, login required)
This publication discusses primary and secondary sources for researching foreign and international law. The first part of this title is organized by region and researchers will find chapters providing overviews of regional geopolitical climates, selected country profiles, and legal resources. New editions are published annually. Print copies of older editions are located in the TMLL, Level 4, while more recent editions are in the Reading Room, Level 2 ([KZ1234.G85](#)).
- [Index to Foreign Legal Periodicals](#) (HeinOnline, login required)
This resource indexes articles relating to foreign and comparative law from over 500 legal publications from around the world.
- [Legal Journals Index](#) (Westlaw, login required)
This index covers articles relating to the United Kingdom, Europe, and the laws of the European Union, from 1986 to present.

- [World Constitutions Illustrated](#) (HeinOnline, login required).
This resource provides access to current and historic constitutions from every country in the world in the original language and an English translation. Also included are commentaries and articles on the constitutions.

SELECTED SOURCES FOR RESEARCHING EUROPEAN UNION LAW

The European Union (EU) is a political, legal, social, economic union of 27 member countries. The TMLL has a research guide on researching [European Union Law](#). Some resources for researching EU law include the following:

- [Europa](#)
Europa.eu is the official website of the European Union. As such, it is one the best sources of information on EU law. Europa provides access to information on how the EU works, EU news and events, and links to websites of EU institutions and agencies.
- [EUR-Lex](#)
EUR-Lex is an official EU government website and online database that provides access to the Official Journal of the European Union; EU treaties, directives, regulations, and legislation; EU case law from the EU Court of Justice; and other public documents.
- [Council of Europe, Treaty Office](#)
The website for the Council of Europe, Treaty Office, provides access to the full text of all Council of Europe treaties from 1949 to date. The treaties were published in the European Treaty Series, and its successor, the Council of Europe Treaty Series.
- [European Union Law in a Nutshell](#) (West Academic Study Aids, login required)
This title provides a concise overview of EU history and EU law; legislative procedures; European Court of Justice case law; the free movement of goods, capital, services, and labor within the EU single market; and recent controversies and developments such as Brexit. Print copies are also located in the TMLL, Level 4 and the Reading Room on Level 2 ([KJE949 .F55](#)).
- [European Union Law Guide](#) (Westlaw, login required)
This is a multi-volume loose-leaf treatise 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.” Print volumes (no longer updated as of 2013) are also located in the TMLL, Level 4 ([KJE949.E97](#)).

SELECTED SOURCES FOR RESEARCHING UNITED NATIONS MATERIALS

The United Nations (UN) is the largest and most well-known international organization in the world. The UN’s work has enormous influence on the development, practice, and enforcement of international law. Some resources for researching UN materials include:

- [United Nations](#)
The UN website is the principal online portal to information about current UN activities, the history of the UN, and the UN's principal organs—[General Assembly](#), [Security Council](#), [Economic and Social Council](#), [Trusteeship Council](#), [International Court of Justice](#), and [Secretariat](#)—and other related UN agencies and offices.
- [The United Nations System](#)
An organizational chart showing the structure of the UN, including principal organs, subsidiary organs, funds and programs, other entities, and related organizations.
- [United Nations Digital Library](#)
Online portal providing free access to UN documents, voting records, speeches, maps, open access publications, and other materials.
- [United Nations Official Document System](#)
The Official Document System (ODS) is an online database that contains official PDF versions of UN documents from 1946 to date, including resolutions of the principal organs, Security Council documents, and General Assembly Official Records.
- [United Nations Juridical Yearbook](#)
The *United Nations Juridical Yearbook* provides an overview of the legal activities of the United Nations and affiliated organizations for a given year. It contains legislative texts, treaty provisions, and selected summaries of decisions from UN tribunals. Print volumes covering the period 1963 to 2014 are available in the TMLL, Level 4 ([JX1977.A2](#)). Online access is also available through [HeinOnline](#) (login required).
- [UN Documentation: How to Find UN Documents](#)
This research guide by the UN Dag Hammarskjöld Library explains how to find UN documents.
- [Yearbook of the United Nations](#)
The *Yearbook of the United Nations* is a widely recognized, authoritative reference work that provides a public summary on the activities and achievements of the UN system in a single year. While there is a several year lag in production of the *Yearbook*, the *Yearbook* website provides access to all published volumes and pre-press volumes. Print copies of the *Yearbook* (1946 to 2008) are located in the TMLL, Level 4 ([JX1977.A37 Y4](#)).
- [International Legal Research in a Nutshell](#) (West Academic Study Aids, login required)
Chapter 8, in the most recent edition, discusses researching UN materials. Print copies of older editions are located in the TMLL, Level 4, while more recent editions are in the Reading Room on Level 2 ([KZ1234 .H64](#)).