

Frequently Asked Legal Research Questions

Researching Treaties



Inner Temple Library 2011

Frequently Asked Questions: Researching Treaties

This guide aims to answer questions frequently asked of the staff at the Inner Temple Library. The sources suggested are not intended to be exhaustive. Rather they are sources that the staff have found to be most useful. The sources include free web-based sources and hard copy materials. Details of the coverage of the web sites can be found at the end of the guide. Works held by the Inns of Court Libraries are available for consultation to members only.

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What is the definition of a treaty?

- “A written agreement by which two or more states or international organisations create or intend to create a relation between themselves operating within the sphere of international law” (Lord McNair, Law of Treaties, 1961).

What do the terms bilateral and multilateral mean?

- Bilateral - between two states
- Multilateral - between several states
- It is important to know whether a treaty is bilateral or multilateral as the finding tools may only look at one type of treaty or may deal with the two types differently.

What are conventions, protocols and exchanges of notes?

- Convention - implies a multilateral treaty e.g. European Convention on Human Rights.
- Protocol - usually indicates a treaty which amends or supplements an earlier principal treaty e.g. the protocols amending/supplementing the European Convention on Human Rights since it was made in 1950.
- Exchange of notes - usually a bilateral agreement on a subject of no great general importance.

What is an MOU?

- A Memorandum of Understanding (MOU) is an informal record of a non-legally binding arrangement between states on matters that are considered unsuitable for inclusion in treaties. The terminology used in MOUs is different from the terminology used in treaties.
- The UK does not publish MOUs and does not register them at the UN. In addition they may not be deposited at the National Archive until many years later.
- The FCO (Foreign & Commonwealth Office) does not automatically make MOU material available but it is worth contacting the FCO to find out what is available. The FCO's contact details are as follows: tel: 020 7008 1109; email: treaty.fco@gtnet.gov.uk
- Modern Treaty Law and Practice (2nd edition 2007) by Aust - has a table of MOUs. This is held by all the Inns of Court Libraries.

What is an explanatory memorandum?

Since 1997 any treaty laid before the UK Parliament has to be accompanied by an explanatory memorandum (EM). The aim of an EM is to provide information about the treaty.

EMs are available on the FCO website - <http://www.fco.gov.uk/en/about-us/publications-and-documents/treaty-command-papers-ems/> from 1997 onwards.

Where can I find a glossary of terms used in treaty research?

Free web sources

- FCO website - <http://www.fco.gov.uk/en/about-us/publications-and-documents/treaties/practice-procedures/glossary-treaty-terms>

Hard copy sources

- Modern Treaty Law and Practice (2nd edition 2007) by Aust - held by all the Inns of Court Libraries.

How are treaties cited?

Main elements - title, date of signature, and (for multilateral treaties) place of signature.

- Title - every treaty has a formal title, but an abbreviated form may be commonly used e.g. European Convention on Human Rights - the original formal title was Convention for the Protection of Human Rights and Fundamental Freedoms.
- Date of signature - usually essential to know for tracing purposes.
- Place of signature - not always essential, but often used in popular titles, e.g. the Warsaw Convention, the Treaty of Rome, and the Schengen Agreement.
- The component sections of a treaty are usually called articles. These may be divided further into paragraphs and sub-paragraphs.

What are the different stages in treaty making?

- Signing - there will be negotiations which result in an agreed text. The parties to the treaty sign but it is not yet legally binding. In the UK treaties that require ratification are laid before Parliament under the Ponsonby rule 21 days before ratification. The date of signature is important as some of the finding aids are arranged chronologically by date of signature. Occasionally the treaty will state that it will come into force on signature.
- Ratification - follows signature and signifies the consent of a State to be bound by the treaty. It consists of the deposit of an instrument of ratification with the other state (if bilateral), or the depositary (if multilateral).
- In force - the date the treaty comes into force will be stated in the treaty itself. However, often the date is an indeterminate one which depends on subsequent events e.g. the UN Convention on the Law of the Sea 1982, states that it will come into force after the 60th country has ratified it.

What does it mean to “accede” to a treaty?

- Accession is the act whereby a state becomes party to a treaty that is already in force; accession has the same effect as ratification.

What does a depositary do?

- The depositary is designated in the terms of the multilateral treaty. It performs various functions with regard to the treaty. These include: receiving signatures and instruments of ratification; communicating comprehensive and up-to-date information on the status of the treaty.

How can I find out who is the depositary for a treaty?

For multilateral treaties, the depositary is stated in the terms of the treaty.

Hard copy sources

- Multilateral Treaties: Index and Current Status by Bowman and Harris (1984, supplement 1993) - this lists depositaries. This is held by all the Inns of Court Libraries.

What are “travaux préparatoires” and where can I find them?

- “Travaux préparatoires” (literally “preparatory works”) is the commonly found French term for what are called in English “preparatory materials”. They provide an official record of the negotiation of a treaty, and may be helpful in clarifying a treaty’s intention.
- If they are published, they will generally be available from the depositary, or may be placed on any official site for the treaty.

How are UK treaties published?

Once the UK has ratified a treaty, the text is included in the United Kingdom Treaty Series. The treaty is then published by The Stationery Office as a Command Paper. The treaty will have a Treaty Series number and a Command Paper number. For citation purposes, the Command Paper number is more important.

Free web sources

- Official Documents website - www.official-documents.gov.uk/ - includes Command Papers in full text from 2005 onwards.

Hard copy sources

- The following Inn Libraries hold Command Papers: Inner Temple (1940/41 onwards); Lincolns Inn (1833 onwards) and Middle Temple (1861 onwards).

Where will I find the text of UK treaties?

Free web sources

- FCO website - <http://www.fco.gov.uk/en/about-us/publications-and-documents/treaties/> - this has a list of the multilateral treaties for which the UK government is the depositary. Also UK Treaties Online contains links to the texts of Command Papers published in the Treaty Series from 1892 to 1996 inclusive. The texts of treaties published as Command Papers since 1997 are currently accessible only on the Treaty Command Paper and Ems page.
- Official Documents website - www.official-documents.gov.uk/ - there are Command Papers in full text. Coverage is 2005 onwards.

Hard copy sources

- The following Inn Libraries hold Command Papers: Inner Temple (1940/41 onwards); Lincolns Inn (1833 onwards) and Middle Temple (1861 onwards).
- The Inner Temple Library holds British and Foreign State Papers (BFSP) which includes treaties, 1812-1968. Middle Temple holds BFSP 1812-1968 and Lincolns Inn 1812-1832/33.
- Hertslet's Commercial Treaties (HCT) - covers 1827-1925. Inner Temple, Lincoln's Inn and Middle Temple Libraries hold this series.
- Index to British Treaties by Parry. This has 3 volumes and covers all treaties from 1101 to 1968. A fourth volume covers 1969-88 and updates the previous 3 volumes. This is arranged chronologically by date of signature. There are subject and country indexes. Command Paper numbers and other citations are given. All the Inns of Court Libraries have this publication.
- Multilateral Treaties: Index and Current Status by Bowman and Harris. First published in 1984 with supplements covering the period up to 1st January 1994. It includes multilateral treaties where the UK is a party. It is arranged chronologically by date of signature. There is a subject index and an index of keywords used in the treaty title. Command Paper numbers and other citations are given. Inner Temple, Lincolns Inn and Gray's Inn Libraries have this work.
- Textbooks - the texts of treaties are sometimes found in textbooks, e.g. Brownlie: Basic Documents on Human Rights; Singh: International Maritime Law Conventions; Copinger and Skone James on Copyright; Shawcross and Beaumont on Air Law; Simons Direct Tax Service.
- Acts and Statutory Instruments - the schedules to Acts and SIs may contain the text of treaties if the treaty is incorporated into domestic law by the piece of legislation.
- Indexes to government publications - these can be used to track down Command Papers.

Where will I find the text of treaties to which the UK is not a party?

Free web sources

- UN Treaty Series online - <http://treaties.un.org/Pages/Home.aspx?lang=en> - this contains a collection of treaties and international agreements registered or filed and recorded with and published by the Secretariat since 1946. It also includes a collection of treaties and subsequent treaty actions registered with and published by the Secretariat of the League of Nations between 1920 -1944.
- Flare Index to Treaties - <http://ials.sas.ac.uk/treatyindex.htm> - this site has information on over 1,500 of the most significant multilateral treaties. Each entry includes information about where the full text of each treaty can be found in print with live links to electronic versions on the internet, where available. The index covers treaties concluded between 1856 and the present. Searching can be done using subject keywords, words from the official or popular title, the reference number allocated to a treaty by either the Council of Europe or the International Labour Organization, the date on which the treaty was concluded (either the precise date or just the year), or the place where the treaty was concluded.
- Websites of international organisations - some organisations act as depositaries or secretariats for certain multilateral treaties e.g. Hague Conference on International Law, WIPO etc.
- National websites:

FCO website (national treaty collections) - www.fco.gov.uk/en/about-us/publications-and-documents/treaties/treatylinks

United Nations Audiovisual Library of International Law - <http://untreaty.un.org/cod/avl/researchlibrary.html#states>

Hard copy sources

- Multilateral Treaties: Index and Current Status by Bowman and Harris (1984, supplement 1993) for multilateral treaties whether UK is a party or not. Command Paper numbers and other citations are given. Inner Temple, Lincolns Inn and Gray's Inn Libraries have this work.
- Multilateral Treaty Calendar by Wiktor, 1648 -1995 - details are given as to where the printed text can be found. Inner Temple and Lincoln's Inn Libraries have this book.
- UN Treaty Series - all treaties made by members of the UN have to be registered with the UN Secretariat and published by it. Middle Temple Library has the UN Treaty Series in hard copy. There are chronological and alphabetical indexes to this.
- League of Nations Treaty Series 1920-1946 - predecessor to the UN Treaty Series. Middle Temple Library has this.
- International Legal Materials - this journal contains the texts of selected treaties. Inner Temple and Gray's Inn Libraries have this series, 1962 onwards.

Where will I find national collections of treaties?

- FCO website (national treaty collections) - www.fco.gov.uk/en/about-us/publications-and-documents/treaties/treatylinks
- United Nations Audiovisual Library of International Law - <http://untreaty.un.org/cod/avl/researchlibrary.html#states>

How can I find EU treaties?

- Treaties establishing the EU - see FAQs on Researching EU Legislation and "Where would I find the founding treaties?" at www.innertemplelibrary.org.uk/news/eufaq/EUFindFoundingTreaties.htm

Free web sources

- Council of Europe treaties - <http://conventions.coe.int/> - this has the full text of the treaties. This provides both full text and summaries of the complete European Treaty Series (ETS) 1949-2003, and its continuation the Council of Europe Treaty Series (CETS) 2004 onwards.

Hard copy sources

- Official Journal of the European Union L series - has the text of treaties entered into by the EU. This is held by Gray's Inn, Inner Temple and Middle Temple Libraries.
- European Conventions and Agreements (Council of Europe) - held by Inner Temple and Middle Temple Libraries, 1949 onwards.
- Europäische Verträge = European treaties = Traités européens (Council of Europe) - held by Inner Temple Library.

How can I check the status and the parties to a treaty?

- The official source of information on the status of a treaty (which parties have ratified or acceded, what date it comes into force, what reservations particular parties have made etc.) is the depositary body named in the treaty. The depositary body can be consulted if the information is not easily found in the published indexes, online or in the treaty itself.

Free web sources

- FCO website - <http://www.fco.gov.uk/en/about-us/publications-and-documents/treaties/depositary> - this has the text of those treaties for which the UK is the official depositary. Details of their status and parties is given.
- UN Treaty series website - <http://treaties.un.org/Pages/ParticipationStatus.aspx> - this section of the UN website provides information on the status of over 500 major multilateral instruments deposited with the Secretary-General of the United Nations.
- Council of Europe treaties - <http://conventions.coe.int/> - has a chart of signatures and ratifications and a list of declarations, reservations and other communications. This provides both full text and summaries of the complete European Treaty Series (ETS) 1949-2003, and its continuation the Council of Europe Treaty Series (CETS) 2004 onwards.
- Treaties Office of DG External Relations of the European Commission - <http://ec.europa.eu/world/agreements/default.home.do> - this gives full status information of all the bilateral and multilateral treaties or agreements concluded by the European Community, the European Atomic Energy Community (EAEC) and the former European Coal and Steel Community (ECSC), and those concluded under the Treaty on European Union.

Hard copy sources

- Multilateral Treaties: Index and Current Status by Bowman and Harris (1984, supplement 1993) - this will give information on entry into force, duration, reservations, parties, signatories.
- Index to British Treaties by Parry (1970) - gives information on the date of signing, entry into force, duration and parties.
- Multilateral Treaty Calendar by Wiktor (1998) - gives information on the date of signing, entry into force, parties, duration etc.
- The texts mentioned above are not up to date. Contact the FCO to get up to date status information for UK treaties. The FCO contact details are: tel: 020 7008 1109; email: treaty.fco@gtinet.gov.uk

What is the procedure for treaties that involve UK dependencies and overseas territories?

- The UK government is responsible for the defence and international relations of dependent and overseas territories. Given this the UK signs treaties on their behalf. However, the dependencies and overseas territories must be given time to consider the terms of the treaty. The UK will then ratify the treaty on behalf of the territory or dependency.

Free web sources

- FCO website - www.fco.gov.uk/en/about-us/publications-and-documents/treaties/uk-overseas-territories/ - provides information on treaties applying to the dependencies and overseas territories.

What are the contact details for the Foreign & Commonwealth Office (FCO)?

- FCO Treaty Enquiry Service (which is free of charge) is open from 0900 to 1700 Monday to Friday
- Tel: 020 7008 1109; email: treaty.fco@gtnet.gov.uk

Database Coverage

What are the coverage dates for the websites?

Council of Europe treaties - <http://conventions.coe.int/> - covers the complete European Treaty Series (ETS) 1949-2003, and its continuation the Council of Europe Treaty Series (CETS) 2004 onwards.

FCO – www.fco.gov.uk/en/about-us/publications-and-documents/treaties/ - this has a list of the multilateral treaties for which the UK government is the depositary. Also UK Treaties Online contains links to the texts of Command Papers published in the Treaty Series from 1892 to 1996 inclusive. The texts of treaties published as Command Papers since 1997 are currently accessible only on the Treaty Command Paper and EMs page.

FCO – www.fco.gov.uk/en/about-us/publications-and-documents/treaties/treatylinks - for national treaty collections.

FCO – www.fco.gov.uk/en/about-us/publications-and-documents/treaties/uk-overseas-territories/ - provides information on treaties applying to the dependencies and overseas territories.

Flare Index to Treaties -

<http://193.62.18.232/dbtw-wpd/textbase/treatysearch.htm> - contains over 1,500 of the most significant multilateral treaties from 1856 to the present.

Official Documents website – www.official-documents.gov.uk – for Command Papers 2005 onwards.

OPSI – www.opsi.gov.uk – for Command Papers 2001 onwards.

Treaties Office of DG External Relations of the European Commission - <http://ec.europa.eu/world/agreements/default.home.do> - includes all the bilateral and multilateral treaties or agreements concluded by the European Community, the European Atomic Energy Community (EAEC) and the former European Coal and Steel Community (ECSC), and those concluded under the Treaty on European Union

United Nations Audiovisual Library of International Law -

<http://untreaty.un.org/cod/avl/researchlibrary.html#states> – covers national collections of treaties.

United Nations Treaty Series -

<http://treaties.un.org/Pages/Home.aspx?lang=en> – for United Nations Treaty Series (1946-) and the earlier League of Nations Treaty Series (1920-1944).