

# Sources of Public International Law

**Abstract:** This paper by Lesley Dingle, Squire Law Library, University of Cambridge was presented at the BIALL Seminar held on 3 March 2009. It covers the major sources, both paper and electronic, of international law.

**Keywords:** international law; law reports; legislation; treaties

## Introduction

This article summarises materials discussed by Lesley Dingle at a BIALL seminar in 2009 at the Institute of Advanced Legal Studies<sup>1</sup>. Four speakers gave presentations: Sarah Spells (SOAS)<sup>2</sup>, Hester Swift (IALS)<sup>3</sup>, Dr Peter Clinch (Cardiff University)<sup>4</sup>, and Lesley Dingle<sup>5</sup> (Squire Law Library, Cambridge). Emphasis will be placed on non-fee based resources, but mention is also made of numerous high quality subscription services that can be found particularly in academic libraries.

## I. What is international law?

A fundamental problem confronting those seeking sources in public international law is the amorphous nature of a subject that is not bounded by well-defined municipal criteria. To address this dilemma, the question has to be posed “What is international law?” I plan to discuss the categories of international as currently formally defined.

International law is a corpus of treaties, agreements, customs, state practices, decisions of tribunals etc by which states agree to abide. In contrast to state laws, there is no central, all-high authority to hand down such laws and what legitimises international law and obliges states to uphold it in modern times is Article 38(1) of the Statute of the International Court of Justice. The sources identified therein are:

1. International conventions
2. International custom
3. General principles of law recognized by civilised nations
4. Judicial decisions and teachings of publicists

I will also describe some additional materials which, although not in themselves sources specifically identified by Article 38(1), provide evidence of rules of customary international law thus

5. Other sources – including UN Resolutions and areas of “soft law”.

Finally, I include two categories which may be useful as starting points for searches

6. Encyclopaedias, digests etc
7. Research guides and resources

A difficulty in researching international law in recent years is the increasing specialisation and fragmentation of the discipline. To emphasise this point I can quote Martti Koskenniemi (University of Helsinki) whom I interviewed in his capacity as the Visiting Goodhart Professor at Cambridge University. In answer to a question on the need to overhaul international law, or whether the norms that prevail when the UN was established are still adequate, he said<sup>6</sup>:

*“For a number of years now, or maybe one could say twenty years, the old law, public international law, has been undergoing what international lawyers now call the process of fragmentation. It has become more and more technical so that, for instance, in the United States in many law schools there are no longer courses on public international law. There are courses on international human rights law, international environmental law, international business transactions, law and globalisation etc. And all of these disciplines are by their nature much more technical, much more specialised. And their specialisation also often carries a particular political bias, or a political ethos, so that if you see a group of trade lawyers you, by and large, know what parties they vote for, and they will not be the same parties that if you see a group of environmental lawyers will vote. So I think this is quite natural but it’s somewhat worrying and something should be done about it.*

*So for me it seems that it’s both professionally negative as well as a small personal tragedy for lawyers to incarcerate themselves within these small worlds of, say, international investments law or international energy law and one does only that. And also one internalises the bias of the profession and becomes unable to have a broad view and a broad political view on one’s own activities.”* And also “I have been in my recent articles, critical of what I call managerialism and have wanted to point out how technical experts including

*economic experts are seizing the field of politics from politicians and perhaps idealistically said, citizens in general."*

## 2. International conventions

International conventions are written bilateral or multilateral treaties (agreements, conventions, protocols and covenants) between states or international organisations.

### 2.1. General treaty sources

*United Nations Treaty Collection*<sup>7</sup>

*Consolidated Treaty Series*<sup>8</sup>

Council of Europe<sup>9</sup>

European Union (Europa website<sup>10</sup>)

#### National treaty collections

(FCO<sup>11</sup> State Dept<sup>12</sup>, Lexis<sup>13</sup>, Westlaw<sup>14</sup>, HeinOnline<sup>15</sup> Harvard Law Library<sup>16</sup>)

#### Major treaty portals and sources

EISIL

Minnesota Human Rights Library

Avalon<sup>17</sup>

*International Legal Materials*<sup>18</sup>

#### Treaty indexes

*Flare Index to Treaties*<sup>19</sup>

*Multilateral Treaties: Index and Current Status*<sup>20</sup>

*Multilateral Treaty Calendar 1648–1995*<sup>21</sup>

#### 2.1.1. Notes on general treaty sources

*United Nations Treaty Collection [UNTC]*. The United Nations Treaty Collection is a potentially useful non-fee source of image based treaty texts. Each treaty includes status information, as well as the text of reservations and declarations. The database is not without its quirks, for example the League of Nations Treaties are currently not available. Furthermore it is not possible to search by treaty citation.

There are two important databases in the UNTC:

- a. *United Nations Treaty Series*. The text of treaties registered or filed with the UN and published by the Secretariat since 1946, pursuant to Article 102 of the Charter. The collection currently contains over 158,000 treaties and related subsequent actions. Use the Advanced Search in this database. The full text of the treaty is available from a "Text Document" box. Not all the treaties have a "Text Document". At times users will only be given a "Volume in pdf" which means the entire volume for the treaty required will have to be searched. Beneath the link to the treaty text is a table with a variety of information on the circumstances of signature/ratification/accession by individual member states. To check on the current status of particular treaties *vis a vis* individual countries

e.g. recent withdrawal from optional protocols, inspect the Status Table in the *Status of Multilateral Treaties Deposited with the Secretary General* (MTDSG).

- b. *Status of Multilateral Treaties Deposited with the Secretary General*. Gives the current status (signatures, ratifications, reservations, etc) of over 500 treaties. In the Status Table, countries underlined are those which registered reservations, declarations, etc at the time of signing or ratifying, while countries with attached footnotes have undergone some form of change in their constitutional status since treaties were ratified in their name. Non-underlined countries have bought the treaty lock stock and barrel.

See also the Vienna Convention on the Law of Treaties 1155 U.N.T.S. 331.

If users cannot find a particular treaty in the UNTC or a national treaty collection, websites of sponsoring organisation may be consulted. International organisations often publish treaties for which they are depositories. For example, the ILO is the depository for many multilateral treaties in the field of labour law. Users might also contact local Foreign Ministry Treaty Sections, particularly for status information, e.g. whether a country has ratified a treaty. A further useful tool is the FLARE Index to Treaties (see below).

*Consolidated Treaty Series*. The text of treaties, bilateral and multilateral, concluded between 1648 and 1919 (some only in the vernacular). Comprises 231 volumes. Contains Party Index and chronological list. Currently this resource is not online. Publication was begun by Professor Clive Parry at Cambridge in 1969 and ceased in 1981.

*National treaty collections*. Countries publish agreements into which they enter with other states in various ways, depending upon their constitutions, legislation and legal practices, and publication can be in government gazettes, journals or some other official treaty series. In the UK, treaties need to be enacted into law by Parliament to be effective, and the process involves, *inter alia*, laying them before Parliament for twenty-one days for scrutiny in a formality known as the Ponsonby Rule.<sup>22</sup> They are then published as Command Papers which, since 1997, have been available as PDF documents on the FCO website.

Recent international agreements of the U.S. can be found on the State Department's website on the Treaty Affairs page. Other countries with good databases of treaties are France, Switzerland, Ireland, Canada and Australia. For a listing of national collections online see Harvard University Law Library.

*International Legal Materials*. This journal contains current international and foreign documentation on international law, including treaties, some MOU's, as well as cases of international interest and other documents of



Figure 1: International Arbitration. UK v France, 1974 (The Hague): the “Anglo-French Fisheries Jurisdiction”. This resulted in the UK/France Channel Arbitration 1977. UK team, (from the left): unknown; Dr Derek Bowett; David Johnson (Foreign Office representative); a Ministry of Agriculture and Fisheries lawyer; Counsel (who later entered House of Lords); Attorney General Rawlinson (in full wig); Foreign Office representative. (Identifications supplied by the late Sir Derek Bowett in 2007)

current relevance. Often the first general publication of instruments is through ILM.

*Flare Index to Treaties*. This searchable database contains details of over 1,500 multilateral treaties from 1856 to the present with details of print and online access. *Inter alia* it will direct users to **original** texts of older treaties, when only the text of later, amended versions is available on a depository website. Treaties have been selected from the *Multilateral Treaties: index and current status*, compiled and annotated by M.J. Bowman and D.J. Harris<sup>23</sup>, as well as *International Legal Materials*.<sup>24</sup> Where relevant, the entry will link to EISIL. Developed by the ASIL, EISIL has been designed as an open database of authenticated primary and other materials across international law. Particularly interesting are the “More Information” links (following each treaty), which bring together supplementary materials previously scattered in libraries, archives and specialised web sites.

[See further p. 262]

## 2.2. Specific subject areas

UN Intergovernmental Organisations  
 Investment treaties: UNCTAD  
 Human rights: UNCHR  
 Labour: ILOLEX  
 Environment: UNEP

Other Intergovernmental Organisations  
 International humanitarian bodies: e.g. ICRC  
 World Intellectual Property: WIPO

### 2.2.1. Notes on specific subject areas

International organisations publish treaties for which they are depositaries. An example of this is the ILO in the area of labour law. If these websites do not have the original text, consult one of the older print treaties collections (e.g. Martens<sup>25</sup> or BFSP<sup>26</sup>). With luck users will be directed to these older treaty series through the *Flare Index to Treaties*.

## 2.3. Treaty interpretation

Travaux Préparatoires<sup>27</sup>  
 International Law Commission<sup>28</sup>  
 International organisations, e.g. ILO<sup>29</sup>  
 UN Records—ODS<sup>30</sup>

(See Section 8.1 UN Resources)

### 2.3.1. Notes on treaty interpretation

The International Law Commission is an obvious place to search the legislative history of a particular instrument although it has not defined what is included in the travaux. According to Aust (2007 p. 246–47) however, it includes “written material such as successive drafts of the treaty, conference records, explanatory statements by an



Figure 2: International Investment Arbitration panel: International Centre for Settlement of Investment Disputes (ICSID). 1997, the *Metalclad Corporation v. United Mexican States* (ICSID) Case No. ARB(AF)/97/11): Waste disposal case. The panel consisted of (from left to right): Benjamin Civiletti (USA), Sir Eli Lauterpacht (UK, Chairman), José Luis Siqueiros (Mexico), and Alex Escobar (ICSID). (Identifications supplied by Sir Eli Lauterpacht in 2008)

expert consultant at a codification conference, uncontested interpretative statements by the chairman of a drafting committee and ILC Commentaries”.

Lowe (2007 p. 74) comments that “Lawyers .... commonly present a wide range of material to tribunals as aids to interpretation: monographs and journal articles, commentaries and summaries produced by one party or another, implementing legislation...”

### 3. International custom: state practice and *Opinio Juris*

Customary international law comprises state practice (actions/inactions of states) and *opinio juris* (the obligation for action/inaction). Art. 38 of the *Statute of the International Court of Justice* defines customary law as “evidence of a general practice accepted as law.” Brownlie (2008 p. 6) also suggests that sources will include diplomatic correspondence, policy statements, official manuals, state legislation, international and national decisions.

#### 3.1. Foreign Ministry websites

Increasingly, foreign ministries are providing information on policy and position across a wide range of international issues on their websites. For instance, the FCO has useful manuals on diplomatic law. The US State Department’s “*Digest of International Law*” which supplements the print *Digest of United States Practice in International Law*, is also now available online (see Pratter 2009).

UK Foreign & Commonwealth Office: Consular Services<sup>31</sup>

State Department Guidelines<sup>32</sup>, White House Memoranda<sup>33</sup>

#### 3.2. State legislation

A good starting point to find where items of state legislation are held in UK libraries is the FLAG Foreign Law Guide.

*FLAG Foreign Law Guide*<sup>34</sup> *Foreign Law Guide*<sup>35</sup> *Martindale-Hubbell Digest*<sup>36</sup>

Harvard Law Library Foreign & Comparative Metapages<sup>37</sup>

Globalex<sup>38</sup>, LLRX Country Guides<sup>39</sup>, WorldLII<sup>40</sup>

##### 3.2.1. Notes on state legislation

*FLAG Foreign Law Guide*. This is a collaborative internet gateway to the holdings of foreign and international law in the UK (see Clinch 2002<sup>41</sup>). It provides collection descriptions of primary materials in print for foreign jurisdictions. The search facility allows access to holdings for obscure jurisdictions which may not provide official government websites. Users will also find historical material that government websites do not normally carry.

[See further p. 264]

*Foreign Law Guide*. Because this subscription database is centrally compiled by a single editor, Tom





Figure 3: Full International Court of Justice session: opening of proceedings in the Nuclear Tests Case, 1973, Australia v France (ICJ Publication 400). The Australian team on the left consisted of (from left) Professor D. P. O'Connell, Mr Eli Lauterpacht, Mr Maurice Byers, Attorney-General L. Murphy, and Mr Pat Brazil (Attorney-General's department). On the right hand side are members of the Court: the President Judge Manfred Lachs is second from the right. (Identifications supplied by Sir Eli Lauterpacht in 2008)

Reynolds, with the assistance of Arturo Flores at UC Berkeley, there is a common philosophy and format throughout the database. Coverage is extensive (189 jurisdictions), with every UN member state represented. For each entry there is a scholarly introduction, providing its constitutional and legal history, as well as outlines and comments on the legislative and judicial systems, sources to the legal system and an outline of legislation. Text on specific topics is in the form of lists rather than a narrative. Availability of English translations or digests of particular laws is provided.

*Martindale-Hubbell International Law Digest.* Updated annually and provides short summaries of the laws of 80 jurisdictions. These are listed under standard topics, e.g. Family law and include some statutes and codes. This digest is compiled by a multinational company which subcontracts upgrades to law firms and academic institutions around the world. This invariably creates variation in both content and the detail. Further contrasts with the Reynolds digest are the brief national introductions, in comparison with the detailed and scholarly Reynolds introductions. In addition, the Martindale-Hubbell texts on particular issues are more narrative, and annual upgrading tends to make legislation content current.

### 3.3. Yearbooks and journals

Yearbooks for international law (E.g. *British Yearbook of International Law*)

Journals (E.g. *American Journal of International Law*)  
UN International Law Journals and Yearbooks<sup>42</sup>

#### 3.3.1. Notes on yearbooks

*British Yearbook of International Law.* 1920– Publishes summaries of decisions of international tribunals and digests of national cases.

## 4. General principles of international law

These include principles general to the different national law systems that are then brought to the international level, and general principles of international law itself. Reference to “civilised nations” is now largely antiquated. Examples of general principles include the principles of good faith and equity. General principles have also been used in “newer” areas of the law such as international environmental law and international criminal law.

## 5. Judicial decisions and teachings of publicists

Although there is no doctrine of precedent in the ICJ and international tribunals, cognisance is taken of previous decisions of the Court. The writings and opinions of academics play some role in judicial decision-making, but since this influence varies, even between states, its

role tends to be restricted to particular points of law and/or reasoning in judgments of courts or tribunals.

### 5.1. Judicial decisions

- European Courts = ECJ, ECHR
- International Criminal Court<sup>43</sup>
- International Criminal Tribunals<sup>44</sup>
- International Tribunal for the Law of the Sea<sup>45</sup>
- PICT<sup>46</sup>
- Decisions of Municipal Courts: (Austlii<sup>47</sup>, US Supreme<sup>48</sup> & Federal Courts<sup>49</sup>, *International Law in Domestic Courts*<sup>50</sup>).
- International Court of Justice: (ICJ website<sup>51</sup>, ILM<sup>52</sup>, Westlaw<sup>53</sup>)
- International Arbitrations
  - Reports of International Arbitral Awards (R.I.A.A.)*<sup>54</sup>
  - International Law Reports*<sup>55</sup> 1919–present
  - World Trade Organization Dispute Settlement<sup>56</sup>
  - Investment Arbitrations
    - Investment Claims*<sup>57</sup>
    - ITA<sup>58</sup>
    - ICSID<sup>59</sup>
    - UNCTAD<sup>60</sup>
    - TDM<sup>61</sup>
    - KluwerArbitration<sup>62</sup>
    - Westlaw<sup>63</sup>

#### 5.1.1. Notes on judicial decisions

*European Courts.* *European Court of Justice* – The Court’s website (Curia) provides access to all case law since 1953.

*European Court of Human Rights* – According to Lowe (2007 p.127), the largest number of pending claims before a single international tribunal is the backlog of the applications to the European Court of Human Rights, which had 90,000 cases pending at the end of 2006, a figure expected to rise to 250,000 by 2010. Case law is contained in a database called HUDOC which provides decisions and judgments from both the Court and the Commission.

*International Criminal Court.* The International Criminal Court (ICC) (established by the Rome Statute of the International Criminal Court), is a standing international tribunal to complement the national courts in prosecuting war crimes, genocide and crimes against humanity.

Malcolm Shaw’s 6<sup>th</sup> Ed (2008) has a new chapter on Individual Criminal Responsibility in International Law “to mark the growing importance of the international prosecution of alleged war criminals and others accused of egregious crimes.” Brownlie’s latest edition (2008) renovates the treatment of *inter alia* international criminal justice and informal extradition.

The Court website provides access to the activities and documentation of the Court. To see the Cases, click the link “Situations and cases”.

*International Criminal Tribunals.* Unlike the ICC, these are ad hoc institutions created to address particular situations for a limited amount of time, and are the result of singular political and historical circumstances (see PICT). They include the *Criminal Tribunal for the Former Yugoslavia* and *International Criminal Tribunal for Rwanda*, both established by Security Council Resolutions, as well as the hybrid *Special Court for Sierra Leone* established by Sierra Leone and the United Nations. The best way to follow the judgments and activities of these tribunals is through their websites.

#### *International Tribunal for the Law of the Sea.*

Established under the 1982 International Convention on the Law of the Sea, this tribunal (ITLOS) has heard only 15 cases in its first eleven years because states seem to prefer using the ICJ or ad hoc arbitral tribunals. This is despite the fact that the Court has “an exemplary record for speedy decision” (Lowe 2007 p. 128–129). Judgments may be found on the ITLOS website.

#### PICT

The Project for International Courts & Tribunals was jointly established in 1997 and since 2002 is a joint undertaking of University College London and New York University. As an open database, it strives to facilitate access to and transparency in the work of international courts and tribunals.

*Decisions of municipal courts.* Decisions of municipal courts come from a variety of sources. They are often reported in official reporters, commercial or unofficial sources. There is no systematic reporting of cases in civil jurisdictions so researchers may need to use commercial journals. A useful source is the FLAG database where users can search for foreign court reports held in UK libraries.

Lowe (2008, p. 125) comments that in English law, customary law is one of the sources of the common law. Courts will draw on it to decide cases. Also, treaties are not a source of English law unless transposed by legislation. International law issues are frequently raised in domestic courts and (op.cit p. 126) “a glance at the cases reported in *International Law Reports* or at the on-line *International Law in Domestic Courts*, many of which are concerned with the relationship between municipal law and international law, [gives] an indication of the extent to which international law has permeated our national legal system.”

*International Court of Justice.* The judgments of the ICJ are singled out because they are the most important component of the source of law known as judicial decisions (Pratter 2009). Shaw (2008, preface) says “the increasing significance of the International Court of Justice is recognised by devoting a separate chapter to it”.

The Court's website is comprehensive and contains various documents, briefs, transcripts and final judgments.

**International arbitrations.** Although the ICJ is very important, in purely numerical terms it is not the primary means for the resolution of disputes. Only a few cases each year are referred to it for judicial settlement. Arbitration is more commonly used for the settlement of disputes, and operates purely on the basis of a voluntary agreement between the parties. The arrangements for these tribunals will differ from one to the next, and are *ad hoc* for a particular dispute, often with no provision for publication because proceedings are not undertaken by an institution. Consequently, sometimes the judgments and documentation are difficult to find.

### **Reports of International Arbitral Awards (R.I.A.A.).**

The UN publishes selected arbitration awards of international decisions between states and between states and international organisations. This is probably the most useful source of arbitral awards. The latest Volume XXVIII, contains awards from 34 different dispute-settlement procedures from the late 18<sup>th</sup> to the mid-20<sup>th</sup> century, all dealing with international boundary delimitation.

**International Law Reports 1919–.** Originally published as the *Annual Digest of Public International Law Cases*. This is the only publication in the world wholly devoted to the regular and systematic reporting in English of decisions of international courts and arbitrators, as well as judgments of national courts. Cases are published in full in their original form and, where necessary, translations of foreign judgments provided. Summaries follow each report.

Note: citations to treaties that have arisen in decisions of courts and tribunals can also be found in the Index to the *ILRs*. This is available online from *Justis*.

**World Trade Organization dispute settlement.** The main subscription database in this rapidly growing area is *WorldTradeLaw.net*<sup>64</sup> which contains some useful free components. The *Dispute Settlement Commentaries (DSC)* gives easily accessible summaries and analyses. The search engine is good, giving easy access via document reference number, keywords or phrases. The "Timelines" preface to each commentary allows users to learn *inter alia* the "Key Findings" and "Background to Dispute". In addition, there are citations to secondary sources at the end of each commentary. A further useful feature is that earlier DSC entries are updated when new decisions are effected. All documents are in pdf format.

**Investment arbitrations.** The area with the most traffic in international arbitration (in terms of the number of cases and tribunals) is probably investment arbitration, which concerns disputes between foreign investors and host states. Again these are difficult to find because they

are *ad hoc*. It is important that they are accessed because of their legal and commercial significance. For the wheels of global trade to continue turning smoothly there has to be certainty about the rights and obligations of companies in foreign jurisdictions.

## 5.2. Teachings of Publicists

The writings and opinions of academics play some role in judicial decision making, but since this influence varies, even between states, its role tends to be restricted to particular points of law and/or reasoning in judgments.

Textbooks and monographs<sup>65</sup>

Journals

UN Audiovisual Library of International Law<sup>66</sup>

Journal indices

Index to Legal Periodicals, Index to Foreign Legal Periodicals

UN Lecture Series<sup>67</sup>

### 5.2.1. Notes on Teachings of Publicists

**Journals.** A wide variety of journals cover international law. The following is a selection of some of the most important.

*Academie de Droit International de la Haye, Recueil des Cours* (Collected Courses of the Academy of International Law at the Hague). Starting in 1923, courses cover both public and private international law. After World War II published in English and French.

Since 2008 available online from *Kluwer Law International*.

*American Journal of International Law* 1962–  
Published by the American Society of International Law.

*European Journal of International Law* 1990–  
Published by OUP<sup>68</sup>

*International & Comparative Law Quarterly* 1952–  
Published by the British Institute of International and Comparative Law.

*Zeitschrift für Ausländisches öffentliches Recht und Völkerrecht*. Published since 1929<sup>69</sup>.

**UN Audiovisual Library of International Law: scholarly writings etc.** Article 38, paragraph 1(d), of the Statute of the International Court of Justice lists the "teachings of the most highly qualified publicists" as a subsidiary source for the determination of rules of international law. A significant number of such publications, as well as other research materials, have been, or are being, made available through the internet on a non-fee basis. The United Nations has an arrangement with HeinOnline to make available to the users of the United Nations Audiovisual Library of International Law a collection of scholarly writings to

promote a better understanding of international law around the world.

*Journal indices – Index to Legal Periodicals.* This large database goes back to 1908 as a product of the AALL (American Association of Law Libraries). In 1961 Wilson purchased ILP from AALL and since 1978 Wilson has assumed complete and independent responsibility for the publication. Indexing is done by one centralised team which deals with English language journals. This is a similar editorial set-up to that operated by Reynolds & Flores for *Foreign Law Guide* (i.e. indexing is not contracted-out to correspondents). ILP currently indexes about 1,000 mainstream journals with permanent reference value from common law jurisdictions. It also indexes 15 open access law journals. Subscription may also be through Westlaw or Lexis, which gives coverage from 1980 with about 500 titles.

*Journal indices – Index to Foreign Legal Periodicals.* Begun in 1960 at the Institute of Advanced Legal Studies (London), it has since 1984 been run from the University of California at Berkeley. Since 1980 online access has been via Ovid Technologies. *IFLP* is a multilingual index to articles and book reviews appearing in 470 legal journals published worldwide. It provides in-depth coverage of public and private international law, comparative and foreign law, and the law of all jurisdictions other than the United States, the U.K., Canada, and Australia. The latter are covered by *ILP* so the two databases complement each other.

Because *IFLP* indexes journals in the vernacular, there are correspondents globally handling obscure journals or lesser known jurisdictions. This is one of its strengths. It covers many esoteric publications, and new titles are added regularly. It also includes *festschriften* and similar items, which are becoming increasingly cited by academics in common law jurisdictions, but which tend to be overlooked by mainstream databases.<sup>70</sup>

*UN Lecture Series.* The Lecture Series contains a permanent collection of lectures of enduring value on virtually every subject of international law given by leading international law scholars and practitioners from different regions, legal systems, cultures and sectors of the legal profession.

## 6. Other sources

UN General Assembly Resolutions<sup>71</sup> (ODS online database)

These are not sources of international law but can constitute evidence for rules of customary international law.

Soft Law

Non-statutory guidelines, declarations, recommendations, etc

Standards set by associations and industry, e.g. FIFA.

## 7. Encyclopaedias, Digests etc

Encyclopaedias<sup>72</sup>, digests<sup>73</sup>, constitutions<sup>74</sup>, newspapers<sup>75</sup> and blogs.<sup>76</sup>

## 8. Research guides and resources

### 8.1. UN Resources

UN Treaty Reference Guide<sup>77</sup>, Research Guide<sup>78</sup>  
Audiovisual Library of International Law (AVL)<sup>79</sup>  
UNBISNET<sup>80</sup>, UN- I- QUE<sup>81</sup>, ODS<sup>82</sup>

#### 8.1.1. Notes on UN Resources

*Treaty Reference Guide.* Provides a basic – but not exhaustive – overview of the key terms employed in the United Nations Treaty Collection, such as treaties, agreements, conventions, charters, protocols, declarations, memoranda of understanding, *modus vivendi* and exchange of notes. Also included is a glossary of terms relating to treaty actions.

*Research Guide.* An overview of the various types of documents and publications issued by the Organisation including reports, resolutions, meeting records, sales publications, press releases and guidance on how to work with them.

*Audiovisual Library of International Law.* This is a unique, multimedia resource providing high quality international law training and research materials. It consists of three parts:

- (1) Historic Archives containing documents and audiovisual materials relating to the negotiation and adoption of significant legal instruments under the auspices of the UN and related agencies since 1945;
- (2) Lecture Series<sup>83</sup> featuring a permanent collection of lectures on international law by leading international law scholars and practitioners.
- (3) Research Library providing on-line international law library with links to publications and documents, scholarly writings and research guides.

*ODS (United Nations Optical Disk System).* This contains parliamentary documentation and official records which are described and indexed according to the United Nations Bibliographic Information System (UNBIS). The database comprises the full text of all



UN parliamentary documents, including resolutions and decisions. Search options include: by document symbol, publication or released date, words from the title, subject, agenda item number, session number and full text. The most useful option is the keyword search.

## 8.2. Other guides

ASIL Insights<sup>84</sup>, ASIL Guides<sup>85</sup>, LLRX,<sup>86</sup> Globalex<sup>87</sup>, Academic Library Guides<sup>88</sup>, The Bluebook<sup>89</sup>, OSCOLA<sup>90</sup>.

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## Footnotes

<sup>1</sup>BIALL Foreign and International Law Seminar, Tuesday 3<sup>rd</sup> March 2009.

<sup>2</sup>*Sources of Foreign Law*.

<sup>3</sup>*Sources of US Law*.

<sup>4</sup>*Something old, something new, something borrowed, something blue*.

<sup>5</sup>*Sources of Public International Law*.

<sup>6</sup>Eminent Scholars Archive, Squire Law Library: <http://www.squire.law.cam.ac.uk/Media/Eminent%20Scholars%20Archive%20Transcripts/koskenniemi%20transcript%202%20december%202008.pdf>  
[http://www.squire.law.cam.ac.uk/Media/Eminent%20Scholars%20Archive%20Transcripts/koskenniemi\\_transcript\\_2\\_august\\_2009.pdf](http://www.squire.law.cam.ac.uk/Media/Eminent%20Scholars%20Archive%20Transcripts/koskenniemi_transcript_2_august_2009.pdf)

<sup>7</sup>United Nations Treaty Collection [UNTC] database. <http://treaties.un.org/Pages/Home.aspx?lang=en>

<sup>8</sup>Dobbs Ferry, N.Y, Oceana Publications.

<sup>9</sup><http://conventions.coe.int/>. See [http://ials.sas.ac.uk/library/guides/research/res\\_council\\_of\\_europe.htm](http://ials.sas.ac.uk/library/guides/research/res_council_of_europe.htm)

<sup>10</sup>[http://europa.eu/index\\_en.htm](http://europa.eu/index_en.htm). Within Documents, click EurLex.

<sup>11</sup><http://www.fco.gov.uk/en/about-the-fco/publications/treaty-command-papers-ems/> Treaty Command Papers with Explanatory Memoranda as pdf from 1997 – <http://www.fco.gov.uk/en/about-the-fco/publications/treaties/> 36 Multilateral Treaties for which it acts as a depositary.

<sup>12</sup><http://www.state.gov/s/l/treaty/> Reporting International Agreements to Congress under Case Act (Text of Agreements). At the Case Act page, find a sidebar with links from 2006 onwards.

<sup>13</sup>Contains full text US treaties from 1776, including treaties no longer in force.

<sup>14</sup>Database identifier is “USTREATIES”. Lexis, Westlaw & HeinOnline provide access to *International Legal Materials* [ILM].

<sup>15</sup>Treaties & Agreements Library contains, inter alia, *Treaties in Force*, *International Legal Materials* [ILM] and *Hertslet's Commercial Treaties*.

<sup>16</sup>[http://www.law.harvard.edu/library/research/guides/int\\_foreign/web-resources/treaties.html](http://www.law.harvard.edu/library/research/guides/int_foreign/web-resources/treaties.html). Scroll down to Foreign Treaties.

<sup>17</sup><http://avalon.law.yale.edu/>

<sup>18</sup><http://www.asil.org/ilm.cfm>

<sup>19</sup>*Flare Index to Treaties* <http://ials.sas.ac.uk/library/flag/introtreaties.htm>.

<sup>20</sup>*Multilateral Treaties: Index and Current Status*. Compiled by M. Bowman & D. Harris. London: Butterworths, 1984. Excellent paper index, but only updated to 1995.

<sup>21</sup>*Multilateral Treaty Calendar 1648 – 1995* by Christian L. Wiktor. Boston: M. Nijhoff Publishers, 1998. Useful paper index for locating text of multilateral treaties. Also includes information on amendments, modifications and terminations. See also *Status of Multilateral Treaties Deposited with the Secretary General* [UNTS database] as well as the *Council of Europe Treaty Series* [Council of Europe website].

<sup>22</sup>See Aust (2007 p. 348) for a more detailed account.

<sup>23</sup>London: Butterworths, 1984, ninth supplement, 1992.

<sup>24</sup>Washington, D.C., American Society of International Law, 1962.

<sup>25</sup>*Nouveau recueil general de traites...* By Karl von Martens et al. Series 1, Leipzig: Dietrich, 1902; Series 2, Leipzig: Dietrich, 1910; Series 3, Leipzig: T. Weicher, 1922–75. This unique series covers treaties, agreements, and other public international law instruments from 1840 to 1969. Original text of treaties published in English, German, Italian, French and Spanish. Indexes for each series.

<sup>26</sup>British and Foreign State Papers. London: James Ridgway and Sons, 1841–1977. Set includes not only treaties, but a lot of additional international legal material, such as diplomatic correspondence and exchanges of official notes between sovereign powers, from 1373 through 1974. Published by the FCO.

- <sup>27</sup>[http://www.nyulawglobal.org/globalex/Travaux\\_Preparatoires1.htm](http://www.nyulawglobal.org/globalex/Travaux_Preparatoires1.htm)
- <sup>28</sup><http://www.un.org/law/ilc/> Click on Analytical Guide to the Work of the International Law Commission
- <sup>29</sup><http://www.ilo.org/global/lang-en/index.htm> Click on Publications & Research, Official Reports
- <sup>30</sup>United Nations Optical Disk System [ODS – non-fee based ] <http://www.ods.un.org/>
- <sup>31</sup>[http://www.fco.gov.uk/resources/en/pdf/pdf14/fco\\_trv\\_consularguidefull](http://www.fco.gov.uk/resources/en/pdf/pdf14/fco_trv_consularguidefull). To find this guide, start from the FCO <http://www.fco.gov.uk/en/>, Click Travelling & Living Overseas, Our Publications or When things go wrong
- <sup>32</sup>Law and Policy – [http://travel.state.gov/law/law\\_1734.html](http://travel.state.gov/law/law_1734.html) Digest of International Law – <http://www.state.gov/s/l/c8183.htm>
- <sup>33</sup><http://www.whitehouse.gov/>. click Search <http://www.whitehouse.gov/query.html?col=colpics&qt=&submit.x=23&submit.y=16>
- <sup>34</sup><http://193.62.18.232/dbtw-wpd/textbase/collsearch.htm>.
- <sup>35</sup><http://www.foreignlawguide.com/>
- <sup>36</sup><http://www.lexisnexis.co.uk/>
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- <sup>38</sup><http://www.nyulawglobal.org/Globalex/>
- <sup>39</sup><http://www.llrx.com/>
- <sup>40</sup><http://www.worldlii.org/>
- <sup>41</sup>FLAG: the new Internet gateway to foreign law holdings in UK national and university libraries. *L.I.M.* 2002, 2(4), 37–39.
- <sup>42</sup><http://www.un.org/law/avl/> click on Research Library – Scholarly Writing & Research
- <sup>43</sup><http://www.icc-cpi.int/>
- <sup>44</sup>International Criminal Tribunal for the Former Yugoslavia <http://www.icty.org/> International Criminal Tribunal for Rwanda <http://www.ict.rw/> Special Court for Sierra Leone <http://www.sc-sl.org/>.
- <sup>45</sup>International Tribunal for the Law of the Sea <http://www.itlos.org>
- <sup>46</sup><http://www.pict-pcti.org/>
- <sup>47</sup>Australasian Legal Information Institute – <http://www.austlii.edu.au/>
- <sup>48</sup>Supreme Court of the United States – <http://www.supremecourtus.gov/>
- <sup>49</sup>FindLaw for state courts – <http://www.findlaw.com/11stategov/>  
US Supreme Court opinions, oral arguments, briefs <http://www.supremecourtus.gov/>
- <sup>50</sup>Subscription database from OUP. Quite useful source for state practice.
- <sup>51</sup><http://www.icj-cij.org> Search Contentious Cases, by State Party to a Case.
- <sup>52</sup>See Notes on General Treaty Series.
- <sup>53</sup>Contains the full text of ICJ judgments from 1947. Contains WTO Decisions (1995–) and Gatt Panel Decisions (1948–1994).
- <sup>54</sup><http://untreaty.un.org/cod/riaa/index.html> Available from Vol I 1948. through to Vol XXVIII published in 2007.
- <sup>55</sup>1919 – CUP. Edited by Elihu Lauterpacht, Christopher Greenwood & Karen Lee
- <sup>56</sup><http://www.wto.org/> See ASIL Research Guides <http://www.asil.org/iel1.cfm>.
- <sup>57</sup><http://www.investmentclaims.com/index.html> Quasi-commercial service from OUP
- <sup>58</sup><http://ita.law.uvic.ca/> Valuable new facility sponsored by University of Victoria (Canada) Law Faculty
- <sup>59</sup><http://icsid.worldbank.org/ICSID/Index.jsp> Click “Cases,” then “Search Online Decisions and Awards”.
- <sup>60</sup><http://www.unctad.org/iiia%2Ddbcases/> UN Conference on Trade & Development offers a service called Database of Treaty-Based Investor-State Dispute settlement Cases.
- <sup>61</sup><http://www.transnational-dispute-management.com/> Subscription Database with a focus on international commercial arbitration. Provides analysis, commentary, national legislation and case law.
- <sup>62</sup><http://www.kluwerarbitration.com/arbitration/> Searching is free and provides citations, but a subscription is required for full text documents.
- <sup>63</sup>For coverage by *Westlaw*, See item C of Asil Guide <http://www.asil.org/arb1.cfm#westlaw>
- <sup>64</sup><http://www.worldtradelaw.net/dsc/main.htm>
- <sup>65</sup>Library catalogues, e.g. WorldCat, Harvard Law School Library
- <sup>66</sup><http://www.un.org/law/avl/> Scholarly Writings & Research – Access Scholarly Writings Database
- <sup>67</sup><http://www.un.org/law/avl/> Lecture Series
- <sup>68</sup>Non-fee based since its inception 1990
- <sup>69</sup><http://www.hjil.de/> Non-fee based digitized content from Vol I 1929 – Vol 67 – 2008. In later volumes, many articles in English.
- <sup>70</sup>See Taggart, M. 2002. Gardens or graveyards of scholarship? *Festschriften in the literature of the common law*, *OJLS* 22 (2), 227–252
- <sup>71</sup>*United Nations Info Quest (UN-I-QUE)*<http://lib-unique.un.org/lib/unique.nsf>  
The Dag Hammarskjöld Library may be used as a research tool to identify UN documents in order to search the ODS (Online Optical Disc System).
- <sup>72</sup>*Encyclopaedic Dictionary of International Law*, Clive Parry et al., New York: Oceana Publications 1986. Combines features of dictionary and encyclopaedia with scholarly analysis and source references  
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- <sup>73</sup> *Keesing's Record of World Events* 1961 – present. (Formerly *Keesing's Contemporary Archives*) Based in Cambridge UK. <http://www.keesings.com/> Provides a unique contemporary record of modern history and is a factual objective reference of current affairs.
- <sup>74</sup> Constitution Find from University of Richmond <http://confinder.richmond.edu/>  
International Constitutional Law <http://www.servat.unibe.ch/law/icl/>
- <sup>75</sup> Nexis UK for quality broadsheets world wide.
- <sup>76</sup> Blogs <http://www.opiniojuris.org>, <http://ilreports.blogspot.com>, [http://lawprofessors.typepad.com/international\\_law](http://lawprofessors.typepad.com/international_law), <http://blogs.law.harvard.edu/internationallaw>
- <sup>77</sup> [http://treaties.un.org/Pages/Overview.aspx?path=overview/treatyRef/page1\\_en.xml](http://treaties.un.org/Pages/Overview.aspx?path=overview/treatyRef/page1_en.xml)
- <sup>78</sup> <http://www.un.org/Depts/dhl/resguide/>
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- <sup>81</sup> <http://lib-unique.un.org/lib/unique.nsf>
- <sup>82</sup> <http://documents.un.org/welcome.asp?language=E>
- <sup>83</sup> <http://untreaty.un.org/cod/avl/faculty-alpha.html>
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- <sup>85</sup> <http://www.asil.org/erghome.cfm>
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- <sup>87</sup> <http://www.nyulawglobal.org/globalex/index.html>
- <sup>88</sup> [http://ials.sas.ac.uk/library/guides/research\\_guides.htm](http://ials.sas.ac.uk/library/guides/research_guides.htm) <http://www.ouls.ox.ac.uk/law/guides> <http://www.law.berkeley.edu/library/classes/iflr/customary.html>
- <sup>89</sup> The Bluebook: a uniform system of citation/compiled by the editors of the *Columbia Law Review*, the *Harvard Law Review*, the *University of Pennsylvania Law Review*, and *The Yale Law Journal*. Cambridge, Mass: Harvard Law Review Association, 2005, 18<sup>th</sup> Edition.
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