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A Brief Guide to finding International Treaties

by Jennifer Sekula

It has been a busy week in your office: the government of Singapore has petitioned to extradite one of your clients, a Virginia businessman who is a U.S. citizen, so that he can be tried there on serious drug law violations. Another client, a musician who often sells out venues in Richmond, wants to play non-ASCAP-/BMI-/SESAC-licensed music that she brought back with her from a trip to India. A third client is in the process of a nasty divorce and plans to move home to her native France at any cost with the two young children she shares with her soon-to-be ex.

Domestic legal issues aside, all three of these clients are involved in activities covered by treaties.¹ Even if you typically handle cases involving state law matters, once in a while you may deal with a situation that includes international aspects and you will need to locate and read the text of the relevant agreement(s).²

The great thing about treaties is that many of them, especially multilaterals,³ are easy to find. A quick Google search will often either bring you directly to the

treaty has entered into force yet, or even if the United States or another country is a signatory. If you don't have a name or citation to start with, it's even harder to be sure that you found the correct document, especially since some treaties share similar names. Fortunately, there are resources that can lend some certainty to your research.

A quick glance at a trusted secondary source can save a lot of guesswork. Many treatises and practitioners' handbooks of any significant scope include chapters or passages that cover pertinent treaties and other international considerations. For example, *Nimmer on Copyright* gives an overview of international copyright agreements, and also provides reprints of several of these in its appendices.

If a secondary source doesn't help, or you need detailed or very current information about the treaty, there are indexes that you can consult. From an American lawyer's perspective, the first and most important consideration is whether the United States is a party to

freely-available index called *Treaties in Force (TIF)*. *TIF* is most easily found online by using a search engine or entering "Treaties in Force" in the search box found on <http://www.state.gov> (*TIF* is also available in print). As the title suggests, *TIF* includes all treaties that entered into or remain in force in the U.S. as of January 1 of the given year—expired treaties are removed.

Treaties in Force lists the following:

- Bilateral treaties between the United States and another country by that country's name;
- Multilateral treaties by subject (really helpful when you don't know what treaty(ies) apply);
- Citation information (although this is sometimes incomplete);
- Signing and entry into force dates; and
- The treaty's depository (more on this below) and member countries.

TIF is huge, but it has a few limitations. First, if you're looking for all of, say, the agricultural commodity treaties—bilateral and multilateral—that both the United States and Madagascar are parties to, you'll need to look in two sections of the index, which is a little unwieldy if you're using the PDF version. Secondly, citations are only given when the treaty has been officially published by the State Department or the United Nations. Unfortunately, a tremendous number of agreements do not fall into this category. There are pri-

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document or to a Wikipedia page about it (with a citation to the real thing). Lexis and Westlaw both offer databases of treaties from the 1770s to the present. The downside to treaties is that when you do find them online, especially on free sites, you cannot always be certain whether you're reading the current iteration or consolidation of the treaty, if the

an agreement; the answer determines which of these indexes will be useful. (This article assumes the answer is "yes," since you're more likely to be looking for a treaty to which the United States belongs.)

The Department of State, the major facilitator of treaty negotiations for the United States, publishes an annual and

vately-published indexes⁴ that can fill in some of the gaps, but most firms won't have access to them — consult your local law library to see if they have a copy.

Many multilateral treaties have designated secretariats or depositories, which are bodies that oversee the administration of the treaty. A secretariat's website (often located by searching for "secretariat" plus the name of the treaty) can be a superb place to find detailed information about parties, entry into force dates, reservations, and possibly even a list of each member country's domestic department that is responsible for the internal execution of the treaty. Some non-governmental organizations and United Nations bodies track treaty information as well.

If you would like further information or need to find a non-US treaty, see *An Introduction to Sources for Treaty Research (Updated)*, located on NYU's Globalex service at http://www.nyulawglobal.org/Globalex/Treaty_Research1.htm.

Glossary:

Bilateral — a treaty between two countries

Entry/Entered into force — the treaty has met the procedural requirements (a

certain date, number of signatures, etc.) to become a binding agreement. Conditions for entry into force are set within the treaty itself

Multilateral — a treaty between three or more countries

Party — a country that has signed and ratified (if necessary) a treaty and is bound by its terms

Ratification — the domestic process of confirming a treaty's adoption. In the United States, the specific type of agreement (such as an Executive Agreement) under consideration determines whether formal ratification is required

Reservation — an official statement made by a member country (usually during ratification) indicating that it will not recognize a term or portion of the treaty and thus that provision does not apply to it

Signatory — a country that has signed a treaty. That country's laws determine whether this binds it to the terms of the treaty (when/if it enters into force) or whether further domestic action is required



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Endnotes:

- 1 U.S.—*Singapore Extradition Treaty*, 20 UST 2764; the *Berne Convention for the Protection of Literary and Artistic Works*, available at http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html, and the *Universal Copyright Convention*, 25 UST 1341; *Hague Convention on the Civil Aspects of International Child Abduction*, TIAS 11670.
- 2 The terms treaty and agreement are used interchangeably in this article, though there are technical differences in the United States between the two. Other terms used roughly synonymously for "treaty" include convention, protocol, accord, and charter.
- 3 A short glossary is provided at the end of this article.
- 4 Most notably, Hein & Co.'s *Kavass's Guide to the United States Treaties in Force* and *U.S. Treaty Index*.