



TREATY EVENT 2012

Strengthening the Rule of Law

FACT SHEET #1

UNDERSTANDING INTERNATIONAL LAW

What is international law?

International law is the law governing relations between States.

What are the benefits of international law?

Without it, there could be chaos. International law sets up a framework based on States as the principal actors in the international legal system. It defines the States' legal responsibilities in their conduct with each other, within States' boundaries, and in their treatment of individuals. International law encompasses many areas, including human rights, disarmament, transnational organized crime, refugees, migration, statelessness, the treatment of prisoners, the use of force, the conduct of war, the environment, sustainable development, the oceans, outer space, global communications and world trade.

With so much conflict in the world, how can this really work?

International law does work, at times invisibly and yet successfully. World trade and the global economy depend on international rules, which regulate the activities required to conduct business across borders, including

financial transactions, transportation of goods, and the exploitation of natural resources. There are treaties for roads, highways, railroads, airspace and bodies of water. And as new needs arise, whether they are to prevent or punish terrorist acts or to regulate e-commerce, new treaties are being developed.

Does international treaty law impinge on a nation's sovereignty?

To become party to a treaty, a State must express, through a concrete act, its willingness to undertake the legal rights and obligations contained in the treaty – it must “*consent to be bound*” by the treaty.

How does a State express its “consent to be bound”?

A State can express its consent to be bound by a treaty in several ways, as specifically set out in the final clauses of the relevant treaty. The most common ways are: definitive signature, ratification, acceptance, approval and accession.

The terms ratification, acceptance and approval all mean the same thing in international law, particularly when



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used following “signature subject to...” – the State has agreed to become a party and is willing to undertake the legal rights and obligations contained in the treaty upon its entry into force.

Signing a treaty is one of the most common steps in the process of becoming party to a treaty. However, simply signing a treaty does not usually make a State a party, although in some cases, called “definitive signature”, it might. A State does not take on any positive legal obligations under the treaty upon signature. Signing a treaty does, however, indicate the State’s intention to take steps to express its consent to be bound by the treaty at a later date. Signature also creates an obligation on a State, in the period between signature and ratification, acceptance or approval, to refrain in good faith from acts that would defeat the object and purpose of the treaty.

Multilateral treaties contain terms that indicate where the treaty will be available physically for signing and for what period of time. Multilateral treaties often provide that they will be “*open for signature*” only until a specified date, after which signature will no longer be possible. Once a treaty is closed for signature, a State generally may become a party to it by means of *accession*. Some multilateral treaties are open for signature indefinitely. Most multilateral treaties on human rights issues fall into this category, such as the Convention on the Elimination of All Forms of Discrimination against Women, 1979; the International Covenant on Civil and Political Rights, 1966; and the International Convention on the Elimination of All Forms of Racial Discrimination, 1966.

How are treaties enforced?

There is no over-arching compulsory judicial system or coercive penal system to address breaches of the provisions set out in treaties or to settle disputes. That is not to say that there are no tribunals in the international legal system.

For example, the *Charter of the United Nations* established the International Court of Justice, the principal judicial organ of the United Nations, as a means by which Member States may settle their disputes peacefully, in accordance with international law. The Court can also give advisory opinions on legal questions referred to it by duly authorized international organs and agencies. Member States of the United Nations, in cases to which they are parties, are obliged to abide by the Court’s decisions. However, before a case can go before the Court, a State must have accepted the jurisdiction of the Court, either in general or in relation to a specific case. A State that has not accepted the Court’s jurisdiction cannot be forced to appear before the International Court of Justice.

States may also entrust the settlement of specific disagreements to other international dispute resolution mechanisms established by treaties, such as the International Tribunal for the Law of the Sea, the Permanent Court of Arbitration, the dispute settlement bodies of the World Trade Organization, among others. Different treaties may also create different treaty body regimes to encourage the parties to abide by their obligations and undertake actions required for compliance. For instance, the Human Rights Committee monitors the implementation of the International Covenant on Civil and Political Rights; the Committee on the Elimination of Racial Discrimination monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination; and the Committee against Torture monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.

The Security Council can also adopt, under Chapter VII, measures to enforce its decisions regarding threats to international peace and security, breaches of the peace or acts of aggression. Such measures may include sanctions or authorizing the use of force.

