

# 5

## International Law and Organization

### Chapter Summary

Even though countries are the primary units in world politics, this does not mean they always do what they want without consequences, or solve every problem on their own. **International law** and institutions play an important role in governing the relationship between countries and serve as the focus of this chapter. Their ultimate goal is to order relations between nation-states through rational, predictable, and mutually beneficial rules of conduct. Different types of **international organizations (IOs)** are also examined, with emphasis placed on the **United Nations (UN)** and the **European Union (EU)**.

The origins of international law rest with the **Treaty of Westphalia** in 1648 and encompass two core principles: **political sovereignty** and **territorial integrity**. Today, there are many sources of international law, including: custom, general principles of law, international legal decisions, and international law scholarship. However, the most important is a **treaty**. Treaties are contractual agreements between countries that are self-made and self-affirmed. They represent a promise by states to behave a certain way under certain circumstances and cover a wide range of subject areas. The process of making a treaty can be long and arduous and includes the following steps: identifying a problem or opportunity affecting two or more countries; searching for possible solutions; negotiating a deal drafting a treaty, and signing it; domestic ratification of the treaty; and enforcement of the treaty. Then there are two kinds of treaties: **bilateral** (between two countries) and **multilateral** (between three or more countries). In the latter category, there is a distinction between regional multilateral treaties and **global multilateral treaties**. Each kind of treaty tackles a particular subject matter, further divided into three types: **technical treaties** (dealing with practical, non-controversial issues, like international mail), **political treaties** (dealing with most controversial issues, like human rights), and **economic treaties** (dealing with trade primarily, can be somewhat controversial). Enforcement remains a challenging problem, though most countries, most of the time, do respect treaties and observe international law.

IOs did not have the most auspicious beginning, as the **League of Nations**, formed after World War I (1920) to prevent future global conflicts, failed utterly and collapsed as World War II began in 1939. Its successor, the UN has had much more sustained success, though it is by no means a perfect institution with a flawless track record. The goals of the UN, along with its structure, are then discussed in detail, including: the **General Assembly**, the **Security Council**, the **Secretariat**, the **World Court**, the **Economic and Social Council**, the **Autonomous Agencies**, and the **Trusteeship Council**. Until recently, the very model of a successful IO has been the EU, which is sometimes described as a truly **supranational** institution, where most members share a common **monetary policy** while retaining

control over **fiscal policy**. The origins, development, and structure of the EU are examined to demonstrate how IOs can potentially succeed, with a focus on the criteria for membership and the “**five-pillars**” of Europe. Recent events, however, have shown the limitations of the EU project. The conclusion considers the future of international law and international organizations.

## Key Concepts

**Bilateral:** “two-sided,” and means a treaty between two countries. (p. 162)

**Canada–US Free Trade Agreement (FTA):** signed in 1989 between Canada and the United States, this is a good example of a bilateral treaty. (p. 162)

**Charter of the United Nations:** signed in 1945, and includes basically all countries in the world, this is an example of a global multilateral treaty. (p. 163)

**Custom:** habitual practice; if countries behave a certain way for a long time, it is reasonable to conclude that they are accepting a law-like rule to adhere to this certain behaviour. (p. 158)

**Economic treaties:** dealing primarily with issues of trade, can sometimes be controversial. (p. 164)

**European Commission:** part of the EU’s governing structure; tasked principally with governance of the EU, it proposes new laws and measures, and executes them. It also has a reputation for being remote, bureaucratic, and technocratic. (pp. 180–181)

**European Council:** part of the EU’s governing structure; another oversight body that is more directly representative of the member countries. (p. 181)

**European Court of Justice (ECJ):** part of the EU’s governing structure; the judicial arm, with real power and capable of declaring null and void national laws of member countries if they conflict with EU law. (p. 180)

**European Parliament:** part of the EU’s governing structure; democratically elected representatives, that are not representative of particular countries, but the population of Europe as a whole. It is a relatively weak body, but does act as a democratic watchdog overseeing other institutions in the EU. (p. 180)

**European Union (EU):** a regional, multilateral organization and held together with an extensive array of treaties, organizations, and increasingly, shared beliefs and practices. It is often said that even though the EU was created as an intergovernmental organization (IGO), it should now be thought of as an entirely new kind of entity. Because of the breadth and depth of the integration it has successfully brought about between the nations of Europe, the EU is sometimes described as a supranational institution. Recent financial difficulties have highlighted some weaknesses in its structure. (pp. 173–175)

**Fiscal policy:** a national government’s policies, collectively, on how it spends money, covering issues such as the official budget, the rate of taxation, new spending measures, and so on. (p. 175)

**“Five Pillars” of Europe:** (1) free trade area, that allows for the tariff-free exchange of goods and services across the national borders of all member countries in the EU; (2) customs union, where all members of the EU agree to keep identical tariffs on goods and services traded with non-member countries; (3) common market, allowing labour and capital to flow freely within the EU; (4) EU members share a single currency, the Euro; and (5) one central bank governs monetary policy across the EU. Together, these pillars mean the EU has essentially become a single market, functioning as a cohesive economic entity. (p. 178)

**Global multilateral treaty:** negotiated by all, or almost all, countries in the world. (p. 162)

**Intergovernmental organizations (IGOs):** IOs that are the creations of national governments, where membership is based on statehood. Their purpose is to help co-ordinate behaviour and solve common problems facing modern governments (from trade disputes to cross-border organized crime). The United Nations is an example of an IGO. (p. 156)

**International law:** all the agreements and undertakings that different nations or countries make among themselves, presumably for mutual benefit. International law embodies a set of rules that serve as a code of conduct for countries. Though there are other sources, treaties are considered the gold standard of international law. (p. 158)

**International organizations (IOs):** institutions created to uphold international law. Usually distinguished between intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs). (p. 156)

**Law of the Sea:** body of international law that helps regulate shipping across oceans as well as guide countries’ behaviour when it comes to bodies of water; strongly influenced by custom. (p. 158)

**League of Nations:** an international intergovernmental organization (IGO) that was created after World War I and represents one of the first attempts at global governance. It functioned from 1920–1939, but effectively fell apart with the outbreak of World War II in 1939. (p. 165)

**Monetary policy:** policies designed to control a country’s supply of money, set out and overseen by a semi-autonomous central bank, aloof from party politics in democratic countries. (p. 175)

**Multilateral:** “many-sided,” and refers to any agreement between three or more countries. (p. 162)

**Nongovernmental organizations (NGOs):** international NGOs try to improve international life in some specific, usually idealistic, way. Unlike IGOs, however, they are not created by countries and membership is centred around private individuals or interest groups. Examples include the International Red Cross and Red Crescent, Amnesty International, Greenpeace, and Doctors without Borders. (p. 156)

**North American Free Trade Agreement (NAFTA):** signed in 1994 between Canada, the United States, and Mexico, this is a good example of a regional multilateral treaty. (p. 162)

**Political sovereignty:** the right of a group of people to rule themselves. The most basic right of a country in the modern international system and international law, to make its own laws and govern itself, provided that it respects the rights of all other countries to do the same. (p. 157)

**Political treaties:** dealing with the most controversial issues, like human rights. (p. 163)

**Ratification:** the process of turning an international treaty into domestic law for signatory countries. (p. 160)

**Regional multilateral treaty:** negotiated by at least three countries, in a close, coherent, geographical region. (p. 162)

**Signatory:** countries that have signed a particular treaty. (p. 160)

**Supranational:** literally “above the national,” usually referring to some kind of international institution or practice that is above the national level of government and that includes many countries but is more regional rather than truly global. The EU serves as an example of a supranational institution or form of governance. (p. 174)

**Technical treaties:** dealing with practical, non-controversial issues, like how mail is delivered across borders. (p. 163)

**Territorial integrity:** a community or country has a right to some livable territory and is considered the “owner” of all the natural resources within its lands. The community also has the right not to have other countries invade its territory and take its resources. (p. 157)

**Treaty:** a contract between countries, spelled out in a formal, legal document. It is a promise to do something, typically with the expectation of some benefit. Bilateral treaties are between two countries while multilateral treaties are made among three or more countries. There are also regional multilateral treaties, operating within one region of the world, and global multilateral treaties, which encompass most or all countries in the world. (p. 158)

**Treaty of Westphalia:** peace treaty in 1648 that ended the Thirty Years’ War. It marks the birth of the modern nation-state system (sometimes called the Westphalian system), centred around the ideas of territorial integrity and political sovereignty for every country. Many also claim it marks the beginning of modern international law. (p. 157)

**United Nations (UN):** an international intergovernmental organization (IGO), created after World War II in 1945. It was a renewed attempt at global governance after the failures of the League of Nations. The Charter of the United Nations is one of the most successful global multilateral treaties, and almost every country in the world is a UN member. The UN headquarters are in New York City, with other important offices located in Paris, Geneva, and The Hague. (pp. 166–167)

**UN Autonomous Agencies:** these are generally expert organizations with highly specific mandates, but they report to the GA through ECOSOC. They tend to focus on highly technical and practical matters, with little political controversy. Examples include the International Labour Organization (ILO), the Universal Postal Union (UPU), and the World Health Organization (WHO). (p. 173)

**UN Economic and Social Council (ECOSOC):** a branch of the UN in charge of helping to coordinate economic and social policies among member countries, to the benefit of everyone. There are a total of 54 members, who are elected for three-year terms and come from the GA. Deals pri-

marily with technical subject matters, so it has generate some of the UN's greatest successes. (pp. 172–173)

**UN General Assembly (GA):** heart of the UN where every member has a single vote and operates like a legislative branch. It is very inclusive, but its decisions are non-binding (not mandatory) on members, though there is a certain degree of moral authority behind GA decisions. (pp. 167,169)

**UN Secretariat:** part of the UN's executive branch (along with the UNSC), comprises all employees and civil servants in the UN system, totalling over 40,000 worldwide and led by the Secretary-General. (p. 171)

**UN Secretary-General (SG):** chief executive of the UN, responsible for running the UN on a daily basis and for personnel and bureaucratic decisions. (p. 171)

**UN Security Council (UNSC):** part of the UN's executive branch (along with the Secretariat), the Security Council is responsible for maintaining international peace and security. It is the most powerful organ of the UN, and its decisions are legally binding (mandatory) on all member states. It is comprised of 15 members, five of whom are permanent (Britain, China, France, Russia, and the United States) and wield veto powers (can individually stop any decisions from being made). A highly controversial body today, with many proposals for reforming it. (pp. 169–171)

**UN Trusteeship Council:** a branch of the UN set up in 1946 to aid in European decolonization throughout Africa, Asia, and Latin America. It became defunct in 1994, after Namibia became independent. Namibia was labelled “the world's last colony.” (p. 173)

**World Court:** the UN's judicial branch, formally called the International Court of Justice (ICJ). Only countries have standing before the court and it lacks any real enforcement power, as jurisdiction is voluntary and member states can withdraw from the court's jurisdiction at any time with advance notice. Rulings do, however, have some moral authority. (pp. 171–172)

## Study Questions

Scroll to the end for answers.

1. What are the five general sources of international law?
2. What are the different kinds of treaties? Give examples of each.
3. What are the three subject matters that treaties typically deal with? Give examples of each.
4. What are the six branches of the United Nations still in operation today?
5. What are the “five pillars” of Europe?

## Weblinks

Case study: South China Sea Dispute (articles and videos)

<https://www.bbc.com/news/world-asia-pacific-13748349> (BBC article)

<https://www.vox.com/videos/2017/2/17/14642818/china-south-china-sea-us-islands> (Vox video)

<https://www.nytimes.com/2016/07/15/world/asia/south-china-sea-dispute-arbitration-explained.html> (New York Times article)

- The current South China Sea dispute is an excellent case study to examine issues of international law in practice; the two articles by the BBC and *New York Times*, as well as the short Vox video provide solid background on the dispute and offer interesting points of discussion

Government of Canada (Global Affairs): Canada Treaty Series

<http://www.treaty-accord.gc.ca/cts-rtc.aspx?lang=eng>

- Complete listing of all the international treaties that Canada is a part of, categorized by type (bilateral or multilateral) and year the treaty entered into force

Canada and the UN: Conventions and Treaties (Canadian Civil Liberties Association)

<https://ccla.org/canada-the-un/>

- Canada's history of engagement with the United Nations: a list of all the Conventions and Treaties that Canada is part of (along with links to the conventions/treaties in question), produced by the Canadian Civil Liberties Association, a national organization dedicated to advancing civil liberties in Canada

## Further Readings

Keohane, Robert O. 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, NJ: Princeton University Press.

- A classic work on the study of cooperation among advanced capitalist countries. Keohane, one of the leading thinkers in the liberal institutionalist tradition (one branch of idealism that is highly influential today), analyzes international institutions and the role they play in furthering global cooperation.

Krasner, Stephen D., eds. 1983. *International Regimes*. Ithaca, NY: Cornell University Press.

- A collection of articles by distinguished scholars on the concept of international regimes—the implicit and explicit principles, norms, rules, and procedures that guide and shape international behaviour. A solid companion piece to the Keohane book.

Kent, Ann E. 1999. *China, the United Nations, and Human Rights: The Limits of Compliance*. Philadelphia, PA: University of Pennsylvania Press.

Kent, Ann E. 2007. *Beyond Compliance: China, International Organizations, and Global Security*. Stanford, CA: Stanford University Press.

- Two excellent books by a well-known and well-respected China specialist, Ann Kent, about the implications of international law to constrain and shape the behaviour of a (powerful) country that used to be outside of global norms and institutions (“rogue state”), and has only recently “joined” the international community (late 1970s).

North, Douglass C. 1990. *Institutions, Institutional Change and Economic Performance*. New York, NY: Cambridge University Press.

- A classic in the study of institutions, this book is a bit more theoretical that lays out a conceptual framework for explaining how institutions actually work in shaping outcomes (e.g., the performance of economies). Applicable to a wide variety of circumstances, including international politics and the role played by international law.

## Answers to Study Questions

1. The five sources of international law are treaties, custom, general principles of law, international legal decisions, international law scholarship. (p. 158)
2. Bilateral treaties are those between two countries while multilateral treaties are between three or more countries. Furthermore, there are also regional multilateral treaties (includes three or more countries in a geographical region) and global multilateral treaties (includes all or almost all countries in the world). The Canada–US Free Trade Agreement is an example of a bilateral treaty, the North American Free Trade Agreement is an example of a regional multilateral treaty, and the Charter of the United Nations is an example of a global multilateral treaty. (pp. 162–163)
3. Technical treaties deal with practical issues, like international mail. Political treaties handle controversial topics like human rights. Economic treaties tackle issues of trade, like international intellectual property rights. (p. 164)
4. The six branches of the UN are the General Assembly, the Security Council, the World Court, the Economic and Social Council, the Secretariat, and Autonomous Agencies. (p. 167)
5. The “five pillars of Europe” are free trade area, customs union, common market, one currency, and one central bank. (p. 178)