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## International Legal Research: An Infinite Paper Chase

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# INTERNATIONAL LEGAL RESEARCH: AN INFINITE PAPER CHASE

*Adolf Sprudz\**

International legal research operates in the contemporary reality of an increasingly interdependent, complex world in which constant change is the order of the day. Not only are the numbers of international actors on the world stage changing (from 51 original members of the United Nations in 1945 to 157 United Nations member-states in 1982), but also changing are the concepts and methods of international law-making, as well as perceptions of the nature and sources of international law.<sup>1</sup> The tremendous growth in the number of new states and international organizations has been accompanied by a corresponding expansion in world trade, international travel, and technological development, causing an unprecedented mass of legal material to appear on national, regional, and international levels. Simultaneously, an accelerated interaction among and between national and international legal systems is occurring through the various processes of unification and harmonization of laws, bilateral and multilateral treaty-making, international organization activity, international court and arbitration decisions, and international business transactions.

The result of these developments is an avalanche of documentation that constitutes the "province" of international legal research. This "province" includes primary and secondary sources of the legislative, judicial, and executive organs of all States and their subdivisions; privately published legal literature;<sup>2</sup> the con-

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1. See, e.g., Grahl-Madsen, *International Law at the Crossroads*, 20 SCANDINAVIAN STUD. L. 176 (1980); Jennings, *What Is International Law and How Do We Tell It When We See It?*, 37 SCHWEIZERISCHES JAHRBUCH FÜR INTERNATIONALES RECHT 59 (1981); Morgenstern, *International Legislation at the Crossroads*, 49 BRIT. Y.B. INT'L L. 101 (1978).

2. Although considerably out of date, the second edition of *Register of Legal*

stantly growing world-wide web of bilateral and multilateral treaties;<sup>3</sup> and the mass of documentation produced by an ever increasing number of regional and international organizations.<sup>4</sup>

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*Documentation in the World*, a 423-page UNESCO work published in 1957, is a major source of reliable information on the basic legal sources of the older countries of the world. Ralph Lansky has prepared a handbook that provides information on more than 1400 general and specialized legal bibliographies that emphasizes, in particular, the Third World countries. See R. LANSKY, *HANDBUCH DER BIBLIOGRAPHIEN ZUM RECHT DER ENTWICKLUNGSLÄNDER (HANDBOOK OF BIBLIOGRAPHIES ON LAW IN THE DEVELOPING COUNTRIES)* (1981) (this 622-page work is published by M. Klosterman in Frankfurt). Charles Szladits has written an excellent multi-volume bibliography of legal documentation in English. This work is supplemented annually in the first quarterly issues of the *American Journal of Comparative Law*. See C. SZLADITS, *BIBLIOGRAPHY ON FOREIGN AND COMPARATIVE LAW: BOOKS AND ARTICLES IN ENGLISH (1955-date)* (published in Dobbs Ferry by Oceana Publications). The *National Reports of the International Encyclopedia of Comparative Law* contain uniform introductions to a majority of the legal systems of the world accompanied by bibliographies of major works discussing the system appended. For a description of the content and status of the Encyclopedia, see Sprudz, *The International Encyclopedia of Comparative Law: A Bibliographical Status Report*, 28 AM. J. COMP. L. 93, 97 (1980). A number of other useful introductions to individual legal systems also are available in English. See, e.g., DANISH LAW: A GENERAL SURVEY (H. Gammeltoft-Hanson & A. Philip eds. 1982) (a 395-page work published by G.E.C. Gads Publ. House in Copenhagen); N. HORN, H. KÖTZ & H. LESER, *GERMAN PRIVATE AND COMMERCIAL LAW: AN INTRODUCTION* (T. Weir trans. 1982) (a 355-page work published by Clarendon Press in Oxford); *INTRODUCTION TO SWEDISH LAW* (S. Ströholm ed. 1981) (a two-volume edition published by Kluwer in Deventer). For earlier works, see C. SZLADITS, *supra*.

3. There is no current bibliography containing current treaty collections available. The most recent work remains the U.N. OFFICE OF LEGAL AFFAIRS, *LIST OF TREATY COLLECTIONS* (1956) (available in 1981 Symposia Press reprint edition from Wm. W. Gaunt & Sons of Holmes Beach, Fla.). This book updates the classic D. MYERS, *MANUAL OF COLLECTIONS OF TREATIES AND OF COLLECTIONS RELATING TO TREATIES* (1922) (reprint edition by Burt Franklin in 1966). See also P. ROHN, *WORLD TREATY INDEX* (1974) (American Bibliographical Center-Clio Press, Santa Barbara). This five-volume index provides cumulative access to treaties published in the League of Nations Treaty Series (L.N.T.S.), the United Nations Treaty Series (U.N.T.S.), and numerous national treaty collections. An expanded second edition is forthcoming. For a synopsis of the world-wide treaty research situation, see Sprudz, *Problems with Sources of Information in International Law and Relations: The Case of the World-Wide Treaty Jungle*, 9 INT'L J.L. LIBR. 195 (1981); Tabory, *Recent Developments in United Nations Treaty Registration and Publication Practices*, 76 AM. J. INT'L L. 350 (1982).

4. Basic directory information on more than 14,000 international entities is provided in *Yearbook of International Organizations* (Union of International

Potentially, international legal research must cover a vast and complex field of operations. As a result of the plethora of materials, researchers may be faced with numerous and varied difficulties. For those with considerable subject expertise, appropriate bibliographical know-how, and adequate language capability, research in the international field will be considerably easier than for novices accustomed only to the well-organized predictability and effectiveness of United States legal research sources. Although the importance of foreign and international legal materials has long been recognized by both the scholar and practitioner, complaints about the inadequacy of international legal documentation and its bibliographic structure are voiced repeatedly.<sup>5</sup>

Faced with a problem involving foreign and international legal materials, a researcher must deal with it as the realities of the problem and the availability of the resources permit. Because of the imperfection of international legal research tools and the incompleteness of library holdings generally, perfection in international research is seldom achievable. A complete, up-to-date answer may be elusive;<sup>6</sup> information on the most recent developments may not be available in accessible sources, or the path to some essential sources may be uncharted because of a lack of appropriate research aids. When compared with the situation in other parts of the world, however, the United States stu-

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Associations, 19th ed. 1981). Sales publications and unpriced material of numerous international organizations is presented quarterly in *International Bibliography, Information, Documentation* (UNIPUB 1973-date). See T. DIMITROV, *WORLD BIBLIOGRAPHY OF INTERNATIONAL DOCUMENTATION* (1982); *THE COMPLETE REFERENCE GUIDE TO U.N. SALES PUBLICATIONS 1945-1978* (1982) (M. Birchfield & J. Coolman comp.). Both of the two-volume works were published by UNIFO Publishers. See also P. HAJNAL, *GUIDE TO UNITED NATIONS ORGANIZATION, DOCUMENTATION, AND PUBLISHING* (1978) (Oceana Publications, publ.). For guidance in deciphering the abbreviations of international organizations, see *Acronyms and Abbreviation Covering the United Nations System and Other International Organizations*, 1978 TERM. BULL. 311 (a U.N. Series publications).

5. Szasz, *Improving the International Legislative Process*, 9 GA. J. INT'L & COMP. L. 519, 520 (1979); Williams, *Research Tips in International Law*, 15 J. INT'L L. & ECON. 1, 27 (1981); see also A. SPRUDZS, *TREATY SOURCES IN LEGAL AND POLITICAL RESEARCH* 9 n.6 (1971).

6. As stated by Eugen Dietrich Graue: "Hardly ever can you expect to grasp a foreign system in its entirety, and hardly ever can you be sure of knowing the exact state of the foreign law such as it actually is." Graue, *The Significance of Comparative Legal Research*, 94 TIDSSKRIFT FOR RETTVITENSKAP 481, 486 (1981) (an Oslo periodical).

dent, scholar, and practitioner are in a privileged position. The library resources in the United States are more abundant, widespread, and accessible than anywhere else in the world. This is also true for the existence and availability of various research tools, guides, indices, manuals, and bibliographies, all of which facilitate access to needed source material. Basic knowledge of the various categories, scope, and functions of source material and available reference tools, is a *conditio sine qua non* to approach successfully the problems in international legal research. Such knowledge enables the researcher to proceed with greater confidence and efficiency. The purpose of this Article is to help the beginner acquire an understanding of the basic tools of international legal research.

To confront a problem in international legal research adequately, the student should first attempt to identify the question and focus on its time frame, parameter of scope, and relation to specific subject matters.<sup>7</sup> After a brief initial examination, some problems may devolve into simple reference questions that can be answered by an appropriate reference book or books. Other problems may involve lengthy and complicated research into the primary sources of several legal systems and require the use of various treaty collections and documents of the United Nations and other international organizations. Still other problems may be solved through simple reference work combined with the use of secondary sources. The possible variations of problems and their potential degrees of complexity are endless.

Whatever the problem and its complexity, the researcher must first acquire a rudimentary knowledge of the subject matter confronting him. The first step is to consult an introductory treatise or article on the subject; an encyclopedia, if one exists, is another good introductory source.<sup>8</sup> Reference librarians, as well as library

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7. See Williams, *supra* note 5 (provides valuable hints for the initial steps and an elaborate bibliography of research sources).

8. In addition to *International Encyclopedia of Comparative Law*, *supra* note 2, see *Encyclopedia of European Community Law* (K. Simmonds ed. 1973-date) (published by Sweet & Maxwell, London); *Encyclopedia of Public International Law* (1981-date) (published by North-Holland Publishing Co. under the auspices of the Max-Planck-Institute for Comparative Public Law and International Law and directed by Rudolf Bernhardt). See also K. STRUPP, *WÖRTERBUCH DES VÖLKERRECHTS* (1924-1929) (revised version under same title edited by H. Schlochauer from 1960-1962).

catalogues, standard manuals on legal research,<sup>9</sup> major legal bibliographies,<sup>10</sup> and specialized textbooks<sup>11</sup> can identify helpful introductory material.

When an initial investigation is completed, the researcher must learn "how and where to find what." This process is facilitated by acquiring a general awareness of the main categories of legal publications and their functions.<sup>12</sup> Generally, a researcher deals with legislation, court decisions, and legal literature. The legal systems of most states of the world regularly publish or have available these categories of materials. Digests, indices, guides, and other types of finding tools which facilitate research are often provided as well. A number of legal research guides and bibliographies are

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9. Two of the most popular manuals, M. COHEN & R. BERRING, *HOW TO FIND THE LAW* (1983), and J. JACOBSTEIN & R. MERSKY, *FUNDAMENTALS OF LEGAL RESEARCH* (1977), contain special chapters dealing with international legal research materials. See also *MANUAL OF LAW LIBRARIANSHIP: THE USE AND ORGANIZATION OF LEGAL LITERATURE* (E. Moys ed. 1976) (published by Deutsch of London).

10. See AMERICAN ASS'N OF LAW SCHOOLS, *LAW BOOKS RECOMMENDED IN LIBRARIES* (1967 to date) (a looseleaf edition); see also J. MERRILL, *A CURRENT BIBLIOGRAPHY OF INTERNATIONAL LAW* (1978) (this 277-page work was published by Butterworths of London); D. RAISTRICK, *LAWYER'S LAW BOOKS* (1977-date) (Professional Books, Abingdon); J. ROBINSON, *INTERNATIONAL LAW AND ORGANIZATION* (1967) (a Sijthoff publication); Green, *The Raw Materials of International Law*, 29 INT'L & COMP. L. Q. 187 (1980); PUBLIC INTERNATIONAL LAW (1975-date) (a semi-annual bibliography of articles prepared by the Max-Planck-Institute for Comparative Public and International Law and published by Springer in Berlin). An entire issue of the *Journal of International Law and Economics* was devoted to a comprehensive bibliographical discussion of major international legal research works. 15 J. INT'L L. & ECON. 1 (1981). Familiarity with standard legal bibliographies and indexes, such as the INDEX TO FOREIGN LEGAL PERIODICALS, is assumed.

11. See R. DAVID & J. BRIERLY, *MAJOR LEGAL SYSTEMS IN THE WORLD TODAY*, app. (2d ed. 1978). This book has a most useful appendix that provides access to the introductory study of individual legal systems and the use of the comparative method in English, French, German, Spanish, and Italian. See also R. DAVID, *LES GRANDS SYSTÈMES DE DROIT CONTEMPORAINS* (8th ed. 1982) (original 655-page version of R. DAVID & J. BRIERLY, *supra*, published by Dalloz of Paris). See also *BILATERAL STUDIES IN PRIVATE INTERNATIONAL LAW* (published under the auspices of the Parker School of Foreign and Comparative Law, Columbia University).

12. See generally Steiner, *Documentation and Research in Law*, in *GENERAL REPORTS TO THE 10TH INTERNATIONAL CONGRESS OF COMPARATIVE LAW* 999 (1981) (provides numerous examples of the major categories of legal publications and refers to their specific functions).

very helpful in obtaining this basic knowledge.<sup>13</sup> If such a guide or bibliography can be identified and located for the legal system or systems being investigated, the researcher should consult it before proceeding further.

The next research step is to identify and locate the needed sources of information: statutes, codes, court decisions, books, articles, and documents. While searching for these "raw materials," it is important to maintain a personal bibliography on index cards for all publications consulted and to make brief notes describing the scope and functions of each publication. One never knows how often it will be necessary to return to the same publication; this index card device saves time and accumulates needed information for future reference. Likewise, when excerpts or copies of published texts are made, the researcher should adopt a system that permits flexibility in arranging these materials; for example, by filing under subject headings or by placement in chronological order. An organizational scheme facilitates the use of published texts when writing. Each excerpt and copy should include complete bibliographic data indentifying its source. This work is essential to avoid a loss of time when precise information is needed for the preparation of footnotes and the bibliography. Recording the various steps already taken in manual research helps avoid duplication of effort. When automated databases are used, their scope and current status should be noted so that essential documents not yet included in the databases are not missed.

Imagination and originality in applying various research approaches play an important role in furthering the process of gathering data, analyzing problems, and writing the final product.

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13. See C. SZLADITS, *GUIDE TO FOREIGN LEGAL MATERIALS: FRENCH-GERMAN-SWISS* (1959) (AN OCEANA PUBLICATION); A. GRISOLI, *GUIDE TO FOREIGN LEGAL MATERIALS: ITALIAN* (1965) (an Oceana publication); P. GRAULICH, *GUIDE TO LEGAL MATERIALS: BELGUIM-LUXEMBOURG-NETHERLANDS* (1968) (an Oceana publication). See, e.g., A. DUNES, *DOCUMENTATION JURIDIQUE* (1977) (a Dalloz publication); G. LEISTNER, *ARBEITSHILFEN ZUM FRANZÖSISCHEN RECHT* (1974) (published by Kohlhammer in Stuttgart); RAIMUND-EKKEHARD WALTER & F. HEITMAN, *WIE FINDE ICH JURISTISCHE LITERATUR* (1980) (published by Berlin Verlag); F. LEURQUIN DE VISSCHER & H. SIMONART, *DOCUMENTATION ET METHODOLOGIE JURIDIQUES* (1980) (a Bruylant Publication). The legal bibliographical works of the International Association of Legal Science and the Library of Congress and Dr. Lansky's *Handbuch*, see *supra* note 2, are extremely helpful. The Pergamon Press series of Guides to Official Publications also offers useful information on important legal sources for various countries. See, e.g., G. WESTFALL, *FRENCH OFFICIAL PUBLICATIONS* (1980).



Equally important is perseverance. The old saying: "If at first you don't succeed—try, try, try again!" certainly applies to the task of researching in this initially bewildering area of unfamiliar publications.

Most texts of codified laws—constitutions, codes, and statutes—of foreign states may be available only in the original language from official or commercial publications of the particular state. The *Register of Legal Documentation in the World*<sup>14</sup> and appropriate legal research manuals and bibliographies will lead the researcher quickly to these sources. In many instances, however, English translations of foreign codes and statutes are needed. Generally, these translations are now available in greater numbers than they were ten or fifteen years ago. Charles Szladits' remarkable *Bibliography of Foreign and Comparative Law* can be used to identify foreign code and statutes which have been translated.<sup>15</sup> In the basic volume and in each supplement, this Bibliography lists "Translations of codes and commentaries, laws and decrees."<sup>16</sup> Szladits' geographical index provides quick access to the items needed.

There are topical looseleaf services for select legal areas, including taxation, commercial law, copyright, and patent law, that provide access to the texts of foreign laws translated into English.<sup>17</sup>

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14. UNESCO, A REGISTER OF LEGAL DOCUMENTATION IN THE WORLD (rev. 2d ed. 1957).

15. See *supra* note 2. Szladits' bibliography is the indispensable standard work for any researcher working in areas of foreign, comparative, and international law, and should be the first source consulted regarding the availability of English language materials for these fields. For European countries, see COUNCIL OF EUROPE, BIBLIOGRAPHY OF TRANSLATIONS OF CODES AND OTHER LAWS OF PRIVATE LAW (1975); INTERNATIONAL LABOUR OFFICE, LEGISLATIVE SERIES (provides texts of English translations of foreign labor and social security legislation). For texts in English of constitutions, see CONSTITUTION OF THE COUNTRIES OF THE WORLD, A SERIES OF UPDATED TEXTS, CONSTITUTION CHRONOLOGIES AND ANNOTATED BIBLIOGRAPHIES (OCEANA PUBLICATIONS) (1971-date) (a looseleaf prepared by A. Blaustein and G. Flanz) and its companion pieces.

16. C. SZLADITS, *supra* note 2, pt. 2, § 6; see also AM. J. COMP. L. (the first quarterly issue annually updates Szladits' bibliography).

17. The Foreign Tax Law Association prepares two looseleaf services, INCOME TAX AND COMMERCIAL LAWS OF THE WORLD, that are helpful. For further references to other sources of texts in English on commercial matters, see Reynolds, *Foreign Commercial Legislation in English*, 69 L. LIBR. J. 41 (1976); 1-3 COPYRIGHT LAWS AND TREATIES OF THE WORLD (BNA) (1956-date) (a three-volume looseleaf service by UNESCO); 1-12 PAT. L. & PRAC. SERIES (MATTHEW BENDER) (a twelve-volume service edited by J. Baxter and J. Sinnott). See also Green,

These translations, however, must be used with caution because most of them are unofficial texts and occasionally contain errors. For example, terminology may be misused. Thus, comparison with the original version is advisable.

Court decisions constitute the second important category of primary source materials in international legal research. International, regional, and municipal courts interpret laws and decide cases brought before them. The courts play an important role in shaping legal development on national, regional, and international levels. Their decisions, usually published on a selective basis, are available in official and unofficial publications. The *Register of Legal Documentation in the World*<sup>18</sup> and the research manuals and bibliographies mentioned above<sup>19</sup> quickly identify the court reports available for specific states, regions, or subjects. Access to these materials at the nearest law library facility may be difficult. The automated legal research systems which are now extending their coverage beyond national borders may ameliorate this problem.

Court decisions are often reported first in various legal periodicals, bulletins, and newsletters. Serial publications devoted to particular subjects provide early access to the important recent court decisions on the national, regional, and international levels.

In addition to municipal court reports, a few international and regional court reports should be mentioned. The International Court of Justice at The Hague, an organization of the United Nations, decides disputes between those states that have agreed to accept its jurisdiction.<sup>20</sup> The Court's decisions are regularly published<sup>21</sup> and a yearbook which contains basic texts and reports is provided.<sup>22</sup>

Some important decisions of municipal and international courts

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*supra* note 10.

18. See UNESCO, *supra* note 14.

19. See *supra* notes 13-15.

20. See Statute of the International Court of Justice, June 26, 1945, 59 Stat. 1055, T.S. No. 993, 3 Bevans 1179.

21. See *Reports of Judgments, Advisory Opinions and Orders (I.C.J.) (1947-date); Pleadings, Oral Arguments, Documents (I.C.J. Pleadings) (1947-date)*. The Permanent Court of International Justice was the predecessor at the Hague and its official reports (P.I.C.J.) also are available.

22. INTERNATIONAL COURT OF JUSTICE YEARBOOK (I.C.J.Y.B.) (1947-date). This yearbook annually provides basic texts and information on the work of the Court.

in English text are available in the well-known series *International Law Reports*.<sup>23</sup> It offers a very good selection of landmark cases from various jurisdictions and provides excellent headnotes and indices. Because the preparation and publication of these volumes takes time, this series does not offer assistance on the most recent cases. For recent cases, one must turn to specialized looseleaf services, newsletters, and periodicals, as well as to *International Legal Materials*,<sup>24</sup> which is published by the American Society of International Law. This bimonthly collection of current documents includes texts of recent treaties, agreements, and declarations usually unavailable from any other source at the time of publication, and a number of selected recent court decisions<sup>25</sup> from municipal or international tribunals. The importance of *International Legal Materials* for current research in international law cannot be overstated. If this publication did not exist, it would have to be invented.

One of the more important regional courts is the Court of Justice of the European Communities. Its decisions have direct application in the jurisdictions of its ten member-States and are closely watched elsewhere. The Court's role, functions, and decision-making are the subject of world-wide comment and analysis,<sup>26</sup> and its judiciary eloquence may affect many decisions of municipal courts in the member countries. Decisions of this Court are available in all the official languages of the European Communities, including English.<sup>27</sup>

The European Court of Human Rights in Strasbourg is another

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23. This digest, edited by Elihu Lauterpacht and published by Butterworths of London, covers cases from 1919 to date. It was formerly titled *Annual Digest of Public International Law Cases*.

24. See I.L.M. (M. Reghini ed. 1962-date).

25. The decisions which appear in I.L.M. are selected for their contemporary significance by international law specialists.

26. For a fundamental bibliography on this Court, see Kavass, *The Court of Justice of the European Communities: An Annotated Bibliography, 1951-1973*, 8 VAND. J. TRANSNAT'L L. 523 (1975).

27. The English edition is entitled *Reports of Cases before the Court* (E. COMM. CT. J. REP.) (1945-date). Well-established private reports in English also are available. See COMMON MKT. L.R. (1962-date); COMMON MKT. REP. (CCH) (1978-date). For legal materials on the European Communities, see generally Germain, *European Community Law—A Selective Bibliography of Publications in English, French and German with Annotations*, 8 INT'L J.L. LIBR. (1980); Kearley, *An American Researcher's Guide to European Communities Law and Legal Literature*, 75 L. LIBR. J. 52 (1982).

European court worthy of mention because of the recent worldwide preoccupation with human rights. This Court adjudicates within the framework of the European Convention on Human Rights. The recent proliferation of literature in the field of human rights justly has been called an "explosion."<sup>28</sup> It is sometimes overlooked, however, that this Court began operating long before the Helsinki Agreement and has produced a series of important decisions that are well worth consulting.<sup>29</sup>

The search for the applicable legislation and court decisions should not be limited to the so-called "official sources." These sources are the preferred primary sources and should be cited, but the path to them are charted frequently by consulting other publications such as digests.

Digests of State practice are especially important in the field of international legal research. These digests have originated from the United States since the late nineteenth century.<sup>30</sup> The present *Digest of United States Practice in International Law*,<sup>31</sup> prepared annually by the Department of State, usually is published with more than two years delay. It offers a wealth of information and is regularly updated by a special section in each issue of the *American Journal of International Law*, entitled "Contemporary Practice of the United States Relating to International Law."<sup>32</sup>

Surveys of State practice in one form or another are published for a number of other States.<sup>33</sup> International law yearbooks are an

28. See Reynolds, *Highest Aspirations or Barbarous Acts . . . The Explosion in Human Rights Documentation: A Bibliographical Survey*, 71 L. LIBR. J. 1 (1978); see also Kavass, Hood & Granier, *Human Rights Bibliography*, 15 VAND. J. TRANSNAT'L L. 513 (1980); Vincent-Daviss, *Human Rights Law: A Research Guide to the Literature*, (pts. 1 & 2), 14 N.Y.U.J. INT'L L. & POL'Y 209 (1981), 14 N.Y.U.J. INT'L L. & POL'Y 487 (1982).

29. See ARRÊTS ET DÉCISIONS/JUDGMENTS AND DECISIONS (1960-date); MEMOIRES, PLAIDOIRIES ET DOCUMENTS/PLEADINGS, ORAL ARGUMENTS AND DOCUMENTS (1960-date). These works constitute Series A and B, respectively of the European Court of Human Rights publications. See also Y.B. EUR. CONV. ON HUMAN RIGHTS (Eur. Comm'n on Human Rights) (1955-date).

30. For a description of these digests, see 15 J. INT'L L. & ECON. 159 (1981). Elements of current United States practice are recorded partially in the *Department of State Bulletin* and *International Legal Materials*.

31. DIG. U.S. PRAC. INT'L L. (Dep't of State comp. 1973-date).

32. The update is edited by Marian Nash Leich of the Office of the Legal Advisor—Department of State.

33. See, e.g., BRIT. DIG. INT'L L. (C. Parry ed. 1967); RÉPERTOIRE DE LA PRATIQUE FRANÇAISE EN MATIÈRE DE DROIT INTERNATIONAL PUBLIC (A. Kiss ed. 1972).

important category of State practice surveys. A few yearbooks to consider when researching are: the *British Yearbook of International Law*,<sup>34</sup> the *Canadian Yearbook of International Law*,<sup>35</sup> the *Annuaire français de droit international*,<sup>36</sup> the *Italian Yearbook of International Law*,<sup>37</sup> and the *Schweizerisches Jahrbuch für internationales Recht*.<sup>38</sup> Major periodicals in the field,<sup>39</sup> such as issues of *International Legal Materials* and United States international law reviews,<sup>40</sup> also contribute substantially to the current pool of knowledge concerning State practice in international public and private law.

This State practice must also deal with the many thousands of treaties and agreements in force in the world community today. They constitute one of the basic sources for research in international law. Treaties and agreements not only determine relations between states in various matters, but also increasingly regulate human activities and thus penetrate many aspects of everyday life. Consequently, these international instruments are of interest and importance not only to governments and ministries of foreign affairs, but also to private commercial enterprises, the legal profession in its wide spectrum of specialization, and the ordinary citizen in his blissful ignorance.

Information on existing treaties and their status eventually be-

Many other states publish yearbooks and periodicals which contain selected materials on state practice. For a useful listing and analysis of the contents of such yearbooks, see Stepan & Chapman, *National and Regional Yearbooks on International Law and Relations: A Brief Survey*, 8 INT'L J.L. LIBR. 19 (1980).

34. BRIT. Y.B. INT'L L. (1920-date).

35. CAN. Y.B. INT'L L. (1963-date).

36. ANNUAIRE FRANÇAIS DE DROIT INTERNATIONAL (1955-date).

37. ITALIAN Y.B. INT'L L. (1975-date).

38. SCHWEIZERISCHES JAHRBUCH FÜR INTERNATIONALES RECHT (1944-date).

39. Among the more important foreign periodicals in the field of international public and private law are: the *British INT'L & COMP. L.Q.* (1952-date); the *French JOURNAL DU DROIT INTERNATIONAL (CLUNET)* (1874-date), the *REVUE GÉNÉRALE DE DROIT INTERNATIONAL PUBLIC* (1894-date), and the *REVUE CRITIQUE DE DROIT INTERNATIONAL PRIVÉ* (1871-date); and the German *ZEITSCHRIFT FÜR AUSLÄNDISCHES ÖFFENTLICHES RECHT UND VÖLKERRECHT* (1929-date), *RABELS ZEITSCHRIFT FÜR AUSLÄNDISCHES UND INTERNATIONALES PRIVATRECHT* (1927-date).

40. During the last two decades the number of United States law reviews in the international field has increased dramatically. The *McGeorge Magazine* reports: "[c]urrently 32 law schools publish journals or annuals devoted to the legal aspects of international matters." *Around the Law Schools: International Courses and Activities*, 1982 MCGEO. MAG. 19. This magazine contains a list of journals arranged by the year in which the first issue appeared.

comes an element of a student's research endeavor. The student may, for example, need the text of a particular bilateral or multilateral treaty, an unidentified agreement on a certain subject, or the latest status information on a multilateral convention conducted under the auspices of the United Nations. The ease or difficulty in finding information of this nature depends on the existence and state of the appropriate documentation and research tools.<sup>41</sup>

The conditions for researching treaties in the United States, while not really satisfactory, are at least manageable and considerably better than in most other countries. Texts of United States treaties<sup>42</sup> and other international agreements first appear in slip form and later are published in the bound volumes of the Department of State series, *United States Treaties and Other International Agreements*.<sup>43</sup> Privately published indices to the complete series of published treaties of the United States from 1776 to date also exist to aid treaty research;<sup>44</sup> access to the treaties may be obtained by document number, date, country, or subject. The Department of State also publishes an annual register, *Treaties in Force*,<sup>45</sup> that lists all the treaties and agreements that are considered to be in force for the United States at the beginning of the year. Specific references to collections containing their texts are provided in the register. The latest developments concerning United States treaties are recorded in the *Department of State Bulletin*,<sup>46</sup> the *CCH Congressional Index*,<sup>47</sup> and occasionally in

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41. See Sprudz, *supra* note 3.

42. See Sprudz, *Basic U.S. Sources for Current Research in International Law: An Elementary Vade-Mecum*, 5 INT'L J.L. LIBR. 347 (1977); see also A. SPRUDZ, *TREATY SOURCES IN LEGAL AND POLITICAL RESEARCH: TOOLS, TECHNIQUES AND PROBLEMS—THE CONVENTIONAL AND THE NEW* (1971) (a 63-page study published by University of Arizona Press).

43. U.S.T. (1950-date).

44. See UNITED STATES TREATIES AND OTHER INTERNATIONAL AGREEMENTS CUMULATIVE INDEX, 1776-1949, (I. Kavass & M. Michael comp. 1975); U.S.T. CUMULATIVE INDEX, 1950-1970 (I. Kavass & A. Sprudz comp. 1973); U.S.T. CUMULATIVE INDEX, 1971-1975, (I. Kavass & A. Sprudz comp. 1977); U.S.T. CUMULATIVE INDEXING SERVICE, (I. Kavass & A. Sprudz comp. 1978-date) (a looseleaf published by Hein & Co.). The authors, Kavass and Sprudz, have compiled a new treaty index, published in slip form, which covers T.I.A.S. Nos. 9605-10000. See CURRENT TREATY INDEX 1982, (I. Kavass & A. Sprudz comp. 1982).

45. See TREATIES IN FORCE: A LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES (1929-date).

46. DEP'T ST. BULL. (1939-date).

Department of State press releases. The treaty section of the Department of State may be consulted as a source of information when all other avenues are exhausted. If there is a need to check historical sources for United States treaties, guidance can be obtained through a special bibliography.<sup>48</sup> To identify and locate United States legislation on foreign relations and international commerce, the excellent award-winning index *United States Legislation on Foreign Relations and International Commerce*<sup>49</sup> can be consulted. The index covers United States legislation for 180 years and is organized both chronologically and by subject.

Treaties involving other countries can be found in the particular national treaty collections<sup>50</sup> and in three major international collections. The texts of most treaties published between 1648, starting with the Peace of Westphalia, and 1920, the beginning of the *League of Nations Treaty Series*,<sup>51</sup> are now available in Clive Parry's *Consolidated Treaty Series*,<sup>52</sup> which was recently completed and now awaits the publication of the planned indices. The period between the two World Wars is covered by the 205-volume *League of Nations Treaty Series*.<sup>53</sup> The *United Nations Treaty Series (UNTS)*<sup>54</sup> begins at the date of the demise of the League. The *UNTS* is an ambitious enterprise not altogether free of

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47. CONG. INDEX (CCH) (1937-date).

48. See *Bibliography of United States Treaty and Executive Agreement Publications, Collections and Indices*, printed in U.S.T. CUMULATIVE INDEX, 1776-1949, *supra* note 44, at 337; see also Morehead, *Treaty and Agreement Serials*, 2 THE SERIALS LIBR. 225 (1978).

49. See UNITED STATES LEGISLATION ON FOREIGN RELATIONS AND INTERNATIONAL COMMERCE: A CHRONOLOGICAL AND SUBJECT INDEX OF PUBLIC LAWS AND JOINT RESOLUTIONS OF THE CONGRESS OF THE UNITED STATES (I. Kavass & M. Blake comp. & ed. 1977) (Hein & Co. publ.). This four volume work received the 1979 Certificate of Merit from the American Society of International Law.

50. See LIST OF TREATY COLLECTIONS, *supra* note 3. This U.N. listing can identify collections of approximately 70 of the older states of the world. Finding other states collections may necessitate some bibliographical research.

51. L.N.T.S. (1920-1944).

52. Parry's CONSOLIDATED TREATY SERIES (C. Parry ed. 1969-1981). This series reproduces original texts and English or French translations which are then chronologically arranged. Summaries of treaties are provided if translations are not available. The first volume of an INDEX-GUIDE TO TREATIES, CHRONOLOGICAL LIST 1648-1809 (P. Irwing ed. 1979), projected at four to six volumes, was published by Oceana.

53. L.N.T.S. (1920-1944).

54. U.N.T.S. (1944-date).

problems. The tremendous increase in the number of subjects of international law during the last two decades and the accelerated processes of world-wide treaty-making have caused the *UNTS* to fall behind in both its registration and publication functions. At the time of writing, the *UNTS* is approximately eight years behind in its publication schedule.<sup>55</sup> Certain changes have been made by the United Nations in recent years to remedy the situation. The present plan calls for the elimination of the existing backlog by 1988.<sup>56</sup> Because of this delay, many treaties entered into force and registered with the United Nations will not be available in the *UNTS* in published form for a number of years. Texts of these treaties will have to be found in other sources, such as official gazettes, national treaty collections, periodicals, and looseleaf services. Some treaties will be very difficult to find. The delayed publication of the *UNTS* is not the only problem with the treaty collection. Cumulative indices to the *UNTS* are available only up to volume 750, and the last cumulative index, Number 11 for volumes 701 to 750, was published in 1977. Although the process of United Nations treaty registration was to have been brought under control by the initiation of a new computerized system, SIONUT, ("*Système informatisé de l'Organisation des Nations Unies pour les traités*"),<sup>57</sup> the delay in the publication of the *Monthly Statement of Treaties* registered with the Secretariat has yet to be eliminated. Computer system access to treaty texts is not being considered as a realistic possibility for the *UNTS* at the present time. Thus, it appears that *UNTS* users will have to live with its problems for some years to come.

Information on the status of and the parties to the multilateral treaties for which the United Nations Secretary General acts as a depository<sup>58</sup> is available in a special annual United Nations publication.<sup>59</sup> Latest developments are reported in the monthly *U.N. Chronicle*.<sup>60</sup>

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55. See 970 U.N.T.S. The most current volume includes only treaties deposited with the Secretary-General during 1975.

56. See Tabory, *supra* note 3, at 358.

57. *Id.* at 354.

58. There were 288 such treaties at the end of 1978. See 1978 U.N.Y.B. 963.

59. See MULTILATERAL TREATIES IN RESPECT OF WHICH THE SECRETARY-GENERAL PERFORMS DEPOSITORY FUNCTIONS (1967-date).

60. STATEMENT OF TREATIES AND INTERNATIONAL AGREEMENTS REGISTERED OR FILED AND RECORDED WITH THE SECRETARIAT OF THE UNITED NATIONS (1947-date) (monthly publication which updates the annual report).



When the United States is a party to a treaty, status information is available from the latest *Treaties in Force*,<sup>61</sup> updates are printed in the *Department of State Bulletin*<sup>62</sup> and reprinted in *International Legal Materials*.<sup>63</sup> Because the United States is the world's largest treaty-maker, *Treaties in Force* provides status information for a large number of multilateral treaties that are difficult to obtain from other sources. Some international organizations, such as the Council of Europe, the International Labor Organization, and the Organization of American States, regularly publish status charts on their depository treaties. Information on other treaties may appear in specialized periodicals, yearbooks, and topical looseleaf services. In general, data on the status of multilateral treaties to which the United States is not a party is difficult to obtain.<sup>64</sup> As Robert Y. Jennings states: "[T]he task of finding out which States are parties to a particular treaty . . . is now often a matter of quite esoteric research in the case of multilateral treaties. Moreover, the answer may be dubious and even disputed."<sup>65</sup>

A number of privately produced indices<sup>66</sup> and treaty calendars for some States<sup>67</sup> attempt to improve the availability of information retrospectively, but the acquisition of the most current and complete information on recent multilateral treaties, unless obtained directly from depository states or international organizations, poses difficult problems. The ideal solution is to create an international multilateral treaty information bank, a fully computerized facility that would regularly collect, store, and distribute information on existing multilateral treaties in force and their status. The required computer capability is presently availa-

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61. See *supra* note 45.

62. See *supra* note 46.

63. See *supra* notes 24-25 and accompanying text.

64. Not much has changed since this writer examined the situation ten years ago in *Status of Multilateral Treaties—Researcher's Mystery, Mess or Mud-dle?*, 66 AM. J. INT'L L. 365 (1972).

65. See Jennings, *supra* note 1, at 61.

66. See, e.g., WORLD TREATY INDEX (P. Rohn comp. 1974). This index is computer based. See also V. MOSTECKY & F. DOYLE, INDEX TO MULTILATERAL TREATIES (1965).

67. See, e.g., G. GINSBURGS & R. SLUSSER, A CALENDAR OF SOVIET TREATIES 1958-1973 (1981) (Sitjhoff & Noordhoff, publishers); G. MEUNIER, LISTE DES TRAITÉS ET ACCORDS DE LA FRANCE EN VIGUER AU 1ER JANVIER 1980 (1980) (published in Paris by Direction des journaux); see also C. Wiktor, CANADIAN TREATY CALENDAR, 1928-1978 (to be published by Oceana).

ble. The question is whether the capital necessary for a project of such proportions exists given the costs of straightening out the present *UNTS* system. Another problem is the need for a guarantee of the necessary will, commitment, and cooperation from all depositories of multilateral treaties. It is possible that until the political and trade relations between and among States begin to suffer from the confusion and uncertainty precipitated and perpetuated by incomplete information on the existing rights and duties emanating from "known" and "unknown" multilateral treaties, no remedial action will be taken. Thus, it will have to get worse before it can get better.

Meanwhile, workers in international legal research must survive with that they have. Modern technology is advancing at an increasingly rapid pace and finding solutions to problems which seemed unsolvable only a short time ago. There is hope that some of these technological advances can benefit the international legal documentation system,<sup>68</sup> which sometimes seems to involve an infinite paper chase. Once the economic incentive reaches the appropriate level, the needed modern international system of documentation and retrieval will be created. Between now and then—everybody must swim as he or she can.

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68. For the potentialities in this area, see Fabry, *Computerized Transfer of Legal Information Between Nations—Possibilities and Necessities*, 10 *L. & COMPUTER TECH.* 56 (1977); *Applications of Computer Technology to Law (1969-1978): A Select Bibliography*, 13 *L. & COMPUTER TECH.* 1 (1980) (E. Kozak comp., M. Foster & S. Louder eds.); see also Gotlieb, *Impact of Technology on the Development of International Law*, 170 *ACADEMIE DE DROIT INTERNATIONAL: RECUEIL DES COURS* 115 (1981).