

Treaty: an agreement or arrangement made by negotiation: as a) “private treaty” or b) a contract in writing between two or more recognized political authorities (as sovereign nation-states) formally signed by representatives duly authorized and usually ratified by the lawmaking authority of the nation-state.

May also be known as agreement, protocol, convention, covenant, declaration, charter, pact, and understanding.



UNITED STATES CONSTITUTION

“[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur ...” (Article II, Section 2)

The **Treaty-Making Clause** of the U.S. Constitution grants the

President the power to make treaties with the “advice and consent” of two-thirds of the Senate. This differs from normal legislation that requires approval by majorities in both the Senate and House of Representatives.

The President also has the power to execute **sole executive agreements** (made by the President alone) or **congressional-executive agreements** (made by a majority of votes from both houses of Congress). The terms **treaty**, **sole executive agreement**, and **congressional-executive agreement** are all considered treaties under international law; however, in U.S. law, each is distinct in their method of ratification.

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” (Article XI)

The **Supremacy Clause** establishes that treaties, like federal laws, are the highest form of law in the United States and must be upheld by state and federal judges.

UNITED NATIONS

“Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.” United Nations Charter (Chapter XVI, Article 102)

The **1969 Vienna Convention on the Law of Treaties (VCLT)** further establishes international law related to treaties, such as how treaties are adopted and interpreted. Many of the treaty’s provisions are part of customary law, and, as such, the VCLT formalizes already existing ideas and laws. For this reason, though not a party to the VCLT, the United States recognizes that the treaty’s provisions constitute customary international law on the law of treaties.

LIST OF SELECTED ENVIRONMENTAL TREATIES

- 1940:** Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere
- 1946:** International Convention for the Regulation of Whaling (ICRW), Washington, DC
- 1959:** Antarctic Treaty, Washington, DC
- 1972:** Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, London
- 1972:** World Heritage Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris
- 1973:** Convention on the International Trade in Endangered Species of Wild Flora and Fauna, (CITES), Washington, DC
- 1980:** Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), Canberra
- 1987:** Vienna Convention for the Protection of the Ozone Layer
- 1989:** Montreal Protocol on Substances That Deplete the Ozone Layer
- 1992:** U.N. Framework Convention on Climate Change (UNFCCC), New York
- 1992:** Convention on the Protection and Use of Transboundary Watercourses and International Lakes, Helsinki
- 1997:** Kyoto Protocol to the United Nations Framework Convention on Climate Change
- 1998:** Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- 2001:** Stockholm Convention on Persistent Organic Pollutants
- 2009:** Draft Copenhagen Accord, UN Climate Change Conference