



LAW·COMMISSION
TE·AKA·MATUA·O·TE·TURE

Report 34

A New Zealand Guide
to International Law
and its Sources

May 1996
Wellington, New Zealand

The Law Commission is an independent, publicly funded, central advisory body established by statute to undertake the systematic review, reform and development of the law of New Zealand. Its purpose is to help achieve law that is just, principled, and accessible, and that reflects the heritage and aspirations of the peoples of New Zealand.

The Commissioners are:

The Hon Justice Wallace—Deputy President
Professor Richard Sutton
Leslie H Atkins QC
Joanne Morris OBE
Judge Margaret Lee

The Director of the Law Commission is Robert Buchanan.
The office is at 89 The Terrace, Wellington.
Postal address: PO Box 2590, Wellington, New Zealand 6001.
Document Exchange Number SP 23534.
Telephone: (04) 473 3453. Facsimile: (04) 471 0959.
E-mail: Director@lawcom.govt.nz

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8 May 1996

Dear Minister

I am pleased to submit to you Report 34 of the Law Commission, *A New Zealand Guide to International Law and its Sources*.

The Commission has become concerned that there is a relative lack of awareness of international law in New Zealand, and in particular of New Zealand's international rights and obligations. It aims to contribute towards remedying this problem by issuing a basic guide to international law as it affects New Zealand law, and to the materials which help to find, interpret and understand international law. This publication is one of the Commission's responses to the requirement under section 5(1)(d) of the Law Commission Act 1985 that it advise on "ways in which the law of New Zealand can be made as understandable and accessible as practicable". Other responses include its work on interpretation and the format of legislation, both already the subject of reports, and on the drafting of legislation.

This report is of a somewhat different character from most earlier reports issued by the Commission. It does not contain recommendations on changing the law of New Zealand: it is more in the nature of a reference work which can be consulted both by officials in the public sector—particularly those involved with the development of policy and the drafting of legislation—and by the legal profession in general, as well as by law students.

The Commission recommends this guide to the Government as a means of promoting understanding of New Zealand's international rights and obligations and of facilitating access to the law which gives effect to them.

Yours sincerely

The Hon Justice Wallace

Hon Douglas Graham MP
Minister of Justice
Parliament House
WELLINGTON

Introduction: A Globalising World

- 1 **W**E LIVE IN AN INCREASINGLY GLOBALISED WORLD. This is a trend which has been clear for some years in travel and telecommunications. Where in 1955 only some 50,000 passengers flew into and out of New Zealand, nowadays over three million people do so each year. And where in 1950 New Zealanders made only about 20 international telephone calls a day, they now make nearly 100,000.
- 2 But there is another, perhaps more significant respect in which the world is becoming globalised, and that is in the international dissemination of information by electronic means. Consider access to library resources (of which the legal database LEXIS is just one powerful example) or the world financial markets, where the almost instantaneous foreign exchange trading now amounts to many times the value of the international trade in goods.
- 3 The consequence of these developments, as Kenichi Ohmae¹ sums it up, is that “Nothing is ‘overseas’ any longer”. The implications are wide-ranging. National power and authority are becoming less and less effective. Already the international community is showing less reluctance to intervene in conflicts which might once have been seen as purely internal—as in the former Yugoslavia or Somalia, for instance. But it is perhaps in the growing realisation that environmental problems can only be tackled by the co-ordinated action of a number of states that the concept of national sovereignty is being most severely challenged.

The implications for New Zealand law-making

- 4 Whether they relate to telecommunications or to reducing the depletion of the ozone layer, transnational activities cannot function effectively without a degree of regulation and standardisation. This means that they must be subject to international agreements or laws which bind members of the community of nations. In common with other jurisdictions, New Zealand is a party to a multitude of international agreements. In addition to formal agreements, a body of

¹ *The Borderless World* (Fontana, London, 1991), ix.

customary international law has grown up out of the practice of states in their international relations, a body of law to which New Zealand is also subject.

- 5 As a party to a treaty, New Zealand is obliged to comply with the relevant treaty provisions, and, where necessary, give full effect to them in its domestic law. Article 27 of the Vienna Convention on the Law of Treaties stipulates that states cannot excuse non-compliance by reference to inadequate national law. Governments need to have practical arrangements, therefore, to ensure that they comply. For instance, the New Zealand *Cabinet Office Manual* requires Ministers proposing new legislation to the Cabinet Legislation Committee to report on the proposal's compliance with New Zealand's international treaty obligations. The process of checking draft legislation against the provisions of the New Zealand Bill of Rights Act 1990 also often raises treaty compliance issues, since that Act closely follows the International Covenant on Civil and Political Rights (ICCPR), by which New Zealand is bound.
- 6 But New Zealand's international obligations may not only require the enacting of dedicated legislation, they may also have an effect on the development of domestic legislation in general, and even on already existing legislation. Appropriate and timely consultation during the process of developing legislation is therefore important to ensure that international obligations are not being overlooked or breached.
- 7 About a quarter of New Zealand public Acts appear to raise issues connected with international law (see appendix C). Any proposal to amend such legislation should prompt the question whether there is a treaty which must be taken into consideration. Even when there is no direct obligation, there may well be an international standard—especially in the human rights area—which is relevant to the preparation of new legislation and the replacement and amendment of the old. It may also be relevant to the interpretation of legislation.

Wider implications

- 8 New Zealand's international obligations have implications well beyond the technical law-making process. They have major consequences for approaches to law and public power, for legal education (both in the universities and in ongoing training), for law reform agencies, for legal practitioners, and for the courts. They are also reflected in the growing public debate about "sovereignty". It is worth noting here the words of Chancellor James Kent, the great American judge and teacher of the early nineteenth century:

By this law [of nations] we are to understand that code of public instruction, which defines the rights and prescribes the duties of nations, in their intercourse with each other. The faithful observance of this law is essential to the national character, and the happiness of mankind. *(Commentaries on American Law, 1826)*

- 9 The wider view is not only necessary if states are to play their full part in the world, giving effect to their international obligations and receiving proper recognition of their rights; it can also have advantages for the development of areas of national law which need not follow international standards. A good example is that of Australia borrowing its statutory statement of the law of interpretation of statutes from international law; another is the application in Scottish law of the United Nations Commission on International Trade Law (UNCITRAL) 1985 Model Law on International Commercial Arbitration to domestic arbitration.
- 10 A better understanding of our international obligations requires better education and information for the profession at large, and for the public. But it also has a profound influence on the democratic process and popular participation in national law-making. For often the international legal text will have been developed long before it becomes an issue in the domestic context. Often the only real question is whether to accept the international text or not. Increasingly, there will be little choice, particularly for a small state like New Zealand which participates as a full member of the international community.
- 11 In these circumstances, it is to New Zealand's advantage if it participates in the treaty-making process at the negotiation stage and before the international text is settled. Where possible, there should be early notification of matters subject to negotiation and extensive consultation with interested parties such as Maori, women's groups, environmental groups, and the business sector.

Purpose and structure of the guide

- 12 For all of the reasons given in the preceding paragraphs, the Law Commission considers it desirable to issue this basic guide to international law as it affects New Zealand law, and to the materials and sources within New Zealand which help to find, interpret and understand international law. In doing so, the Commission is also meeting its statutory duty under s 5(1)(d) of the Law Commission Act 1985 to advise on "ways in which the law of New Zealand can be made as understandable and accessible as practicable". It has prepared the guide with assistance and advice from many organi-

sations whose work is affected by New Zealand's international obligations (see acknowledgments).

- 13 Part I provides a context for the guide. It focuses in particular on the principal source of international law and obligations, the law of treaties. It then lists the varieties of international agreement, and briefly discusses the ways in which they are implemented. Part II provides information on the sources, including where to find them, some practical examples, and details on selected international organisations, associations, and treaties relevant to New Zealand. The three appendices feature the text of a sample treaty (the Vienna Convention on the Law of Treaties), a glossary of acronyms (of which there are many in the area), and a list of New Zealand statutes which have international legal implications. There is also a select bibliography.
- 14 The information compiled in part II is by no means comprehensive. Not only would an attempt to make it so have inflated the scope of what is intended to be a modest publication, but much of the information would soon have become outdated. The aim here is to provide enduring information which can point the user in the desired direction, by consulting the correct reference works, for instance, or approaching the agency which is most likely to hold the required material. If the guide succeeds in doing this, as well as in increasing the awareness of New Zealand's international obligations, it will have achieved its purpose.

Part I

INTERNATIONAL LAW AND THE LAW OF NEW ZEALAND

1 Treaties

THE SOURCES OF INTERNATIONAL LAW

- 15 **T**HE PRINCIPAL SOURCES OF INTERNATIONAL LAW are treaties, international custom, judicial decisions, and academic writings. These sources are reflected, for example, in article 38(1) of the Statute of the International Court of Justice (ICJ), which provides:
- (1) The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
 - (a) international conventions, whether general or particular, establishing rules expressly recognised by the contesting States;
 - (b) international custom, as evidence of a general practice accepted as law;
 - (c) the general principles of law recognized by civilized nations;
 - (d) . . . judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
- 16 International transactions are also in large measure facilitated and regulated by rules and practices which are not directly binding on states and are not issued or formulated by public authorities. The following are examples of ways in which they come about:
- the practice of an industry, a profession or a trade that might be given force, constrained or supplemented by national law;
 - standard terms and model contracts such as those of the International Chamber of Commerce (ICC), which might incorporate some of the practice into a more definite and accessible form;
 - restatements of the law by experts such as the International Institute for the Unification of Private Law (UNIDROIT) on international commercial contracts, or successive meetings of the Commonwealth on human rights;

- unilateral recognition of foreign qualifications and standards; and
- model laws and standard practices recommended, by UNCITRAL for instance, for adoption by national authorities.

These rules and practices depend for their authority on a range of matters including acceptance and contract, the authority of the body promulgating them, and appropriate references in national law—for instance, to generally accepted practices.

- 17 Chapter 4 considers in turn each of the sources listed in article 38(1) of the statute, and how to obtain access to it in New Zealand. But because treaties are of major importance, in part I they are discussed more fully, with particular attention to their nature, their function, and how they are concluded, given effect to and implemented.

WHAT IS A TREATY?

- 18 A treaty is an international agreement between two or more states or other international persons, governed by international law. (“Other international persons” include bodies such as the United Nations, the World Bank, and the South Pacific Commission.)
- 19 An international agreement can have a variety of names:
- *Treaty* is the generic term, but is generally confined to major agreements of political importance (eg, treaties of alliance, treaties of friendship and the Antarctic Treaty) but also found elsewhere (as in treaties of extradition).
 - *Agreement* is by far the most common title, as in agreements regulating trade, air transport, fisheries, and visa abolition; it features especially in *bilateral* agreements (ie, agreements between two states).
 - *Exchanges of notes (or letters) constituting an agreement* make up a large proportion of the agreement category. As the title indicates, there are two documents rather than just one; the second document responds to the agreement proposed in the first and accepts it. They are usually bilateral.
 - *Convention* is the word commonly used for *multilateral* treaties (ie, those which are open to acceptance by a large number or even all states). This usage is especially common in the United Nations and its specialised agencies. A *framework convention* is one which establishes its own institutional and decision-making framework for interpreting, developing and implementing its provisions.²

² Not to be confused with legally binding treaties are the so-called “soft law” documents such as the Rio Declaration and Agenda 21 adopted at the 1992 United Nations Conference on Environment and Development. Although these are negotiated, they are only morally binding.

- *Protocol* is commonly used for an agreement supplementary to a principal treaty. It might be drawn up at the same time as the principal instrument or later.
- 20 Other names are used from time to time, such as *charter* or *constitution* (for major international organisations such as the United Nations, the International Labour Organisation and the Organisation of African Unity); *declaration*; *covenant* (particularly for major documents such as the constitution of the League of Nations and the human rights instruments adopted by the General Assembly of the United Nations in 1966); *instrument*; and *regulations* (particularly for supplementary instruments such as those adopted by the World Health Assembly or the International Telecommunications Conference).
- 21 Adjectives are sometimes also added, such as *additional*, *special*, *supplementary* and *intergovernmental*. The name of the place where a treaty is signed might also be a part of the title (as in the Chicago Convention on International Civil Aviation).

The law of treaties

- 22 The law of treaties is to a large extent governed by the Vienna Convention on the Law of Treaties which entered into force in 1980, and by the associated Convention of 1986 on treaties between states and international organisations and treaties between international organisations.
- 23 While the Vienna Convention on the Law of Treaties may not as a whole be “declaratory of general international law”,³ its 85 articles regulate the major questions which arise in disputes concerning treaties between states parties. In addition, several of its provisions have been held by the International Court of Justice to be declaratory of international law: see also para 69. These include the conclusion of treaties, reservations, entry into force, deposit and registration, invalidity, termination and suspension, application and effects, amendment and modification, and interpretation. (The full text of the Vienna Convention on the Law of Treaties is reproduced in appendix A.)

WHAT DO TREATIES DO?

- 24 The functions and subject matter of treaties are various. They serve the functions of distinct legal instruments available in national legal

³ Brownlie, *Principles of Public International Law* (4th ed, Clarendon, Oxford, 1990), 604.

systems. Examples are

- *constitutions*, as of the international organisations;
- *legislation*, as with the many conventions which regulate much international and related activity;
- *conveyancing documents*, for land and maritime boundaries and in treaties regulating the status of a particular area (such as the Panama Canal or Antarctica); and
- *contracts*, as in the exchange of promises concerning trade, investment, air transport, taxation or loans (often made in the context of a multilateral system), or to resolve a particular controversy or establish an ongoing political relationship (where the national analogies might be to an accord among government, business and labour, or an agreement between the federal and state authorities in a federal jurisdiction).

Their subject matter is wide-ranging and includes the following:

- *war and peace*, such as the United Nations Charter, treaties of alliance, the Geneva and Hague Conventions relating to warfare and the protection of the victims of armed conflict, armistices, treaties of peace, the Statute of the International Court of Justice, the Hague Convention establishing the Permanent Court of Arbitration, regional and bilateral treaties for the resolution of disputes, the Vienna Conventions on Diplomatic and Consular Relations;
- *disarmament and arms control*, such as the Partial Nuclear Test Ban Treaty, the Non-proliferation Treaty, the Convention on the Comprehensive Prohibition of Chemical Weapons, the Statute of the International Atomic Energy Agency, and regional arms control measures, for instance in Latin America, the South Pacific and Antarctica;
- *international trade*, including the World Trade Organisation (WTO) agreements, regional economic agreements, and a great number of bilateral agreements such as the Australia New Zealand Closer Economic Relations Trade Agreement (CER);
- *international finance*, including the multilateral agreements establishing the World Bank and the related agencies, regional banks (eg, the Asian Development Bank), and numerous bilateral arrangements such as loan agreements and double taxation agreements;
- *international commercial transactions*, concerning both the relationship between states (eg, customs facilitation, common nomenclature for tariffs) and private commercial transactions (including treaties regulating carriage by sea and air, the international sale of goods and international commercial arbitration);

- *international communications*, for example by sea and by air, where many multilateral and bilateral treaties regulate traffic rights, safety and liability; international telecommunications; the recognition of qualifications, for example in respect of piloting ships and aircraft and driving motor vehicles;
- *the law of international spaces*, particularly the long-established law of the sea, the relatively new law of the air, and the much newer law of outer space; and the law relating to specific areas such as Antarctica, international canals, and areas of particular international concern;
- *the law relating to the environment*, which is a matter of relatively recent general concern and includes treaties relating to the protection of whales and other marine life, oil pollution, the ozone layer, wetlands, and methods of warfare threatening environmental destruction—some specific examples being the Framework Convention on Climate Change and the Convention on Biological Diversity (concluded at the United Nations Conference on Environment and Development (UNCED) in 1992), and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- *human rights and related matters*, including the general instruments drawn up by the United Nations (international covenants on economic, social and cultural rights and on civil and political rights), and on more particular matters (eg, genocide, refugees, prostitution, the political rights of women, discrimination on grounds of race and sex, and the regional instruments drawn up especially in Europe and the Americas);
- *labour conditions and relations*, particularly the 150 or more conventions drawn up by the International Labour Organisation since 1919; and
- *other areas of international economic and social co-operation*, such as the gathering and dissemination of information (health and other statistics, and the work of the World Meteorological Organisation), and combating crimes with international ramifications (eg, slavery, drug trafficking, international hostage-taking, and hijacking of aircraft and ships).

25 That is a only brief outline of the subject matter of international treaty-making. It is necessarily incomplete because there is no limit to the matters which states may wish to bring under an international agreement, and over recent decades there has been an explosion of areas of international concern. New Zealand of course participates fully in international treaty-making: it is or has been party to more than 1500 treaties (including some inherited from the United Kingdom).

- 26 Although many of the functions of treaties are analogous to those of domestic or municipal laws, their efficacy should not be judged in the same manner as domestic law. Because they operate between parties on an international level, they are more likely to result in difficulties of interpretation and particularly of enforcement. Nevertheless, many treaties—for example, those regulating international communications—function most successfully.

HOW ARE TREATIES NEGOTIATED AND AGREED TO?

- 27 International law and practice have established that various representatives of the state (eg, the Head of State, Head of Government, Minister of Foreign Affairs, heads of diplomatic missions, and representatives accredited to international conferences or organisations) have authority to negotiate and adopt or authenticate the text of a treaty. Other officials may also be given specific authority to negotiate or to agree to a treaty text.
- 28 These are executive functions, as the Privy Council made clear in a Canadian case (*Attorney-General for Canada v Attorney-General for Ontario* [1937] AC 326, 347–348). On the other hand, the performance of treaty obligations, if they involve changes to the existing domestic law, requires action by the legislature. In practice, the treaty might be negotiated simply between the representatives of the two states immediately concerned, or at a conference of the interested states for the purposes of negotiating that particular text (eg, in the aftermath of a war), or within an established international framework, which may be regional (eg, the South Pacific Forum) or universal (as within the United Nations and its agencies).
- 29 In some circumstances, the representatives may be not only those of governments, but also of international organisations or countries which are not yet fully independent. The International Labour Organisation is unique in providing for tripartite representation at its conferences, involving representatives of employers and unions as well as governments.
- 30 Treaties come into force and take effect at the international level according to their own terms. In some cases that may be simply on *signature*, as is common with more straightforward bilateral agreements (although sometimes the effective date is postponed to enable the appropriate administrative steps to be taken).
- 31 However, signature often represents no more than a concrete expression of an intention to *ratify* the treaty in the future (although it does imply the obligation to act in good faith). More important

or complex treaties, the final acceptance of which may require substantial changes in governmental policy or in national law, may lead to the text being established by signature but not becoming binding until the state in question takes the further action most commonly referred to as *ratification*. Ratification is sometimes known as *acceptance* or *approval* and should not be mistaken for implementation in national law.

- 32 Treaties create binding obligations only as between signatory parties.⁴ Those states which have not signed such a treaty, but which wish to become party to it, may have the right accorded under the treaty to *accede* or *adhere* to the text and thereby become bound by it. A state becoming a party to a multilateral convention may also be able to file *reservations*, indicating that it will not be bound by one or other of the provisions.
- 33 All the actions just mentioned are actions at the international level. Whether they also make any change to national law is a matter for the national constitutional system. In some countries they do. In others, including New Zealand, they do not—as the Privy Council in *Attorney-General for Canada v Attorney-General for Ontario* [1937] AC 326 made clear. How they become a part of national law is discussed in chapters 2 and 3.

HOW ARE TREATIES GIVEN EFFECT TO AT THE INTERNATIONAL LEVEL?

- 34 The international methods of implementation are various: diplomatic representation, negotiation, conciliation, mediation, good offices, fact-finding, inspection, arbitration, adjudication, recourse to a relevant regional organisation or specialised agency or universal organisation. These are all peaceful processes of dispute resolution, invoked at the international level. The processes might be bilateral; or they might involve a third party or a regional or universal body. They might lead to binding third party decisions or recommendations.
- 35 States may also be able to retaliate, claiming that the breach or an alleged breach by the other party to a treaty frees them of their obligations towards that party. In some cases, they may also be able to take action against individuals who allegedly breach a treaty. Treaties, especially labour and human rights conventions, may

⁴ Article 34 of the Vienna Convention on the Law of Treaties, for example, makes it clear that “[a] treaty does not create either obligations or rights for a third State without its consent”.

require the parties to them to report to an international body or to the other parties on the legislative and other steps they have taken to give effect to their terms. The method of implementation depends a great deal on the character of the treaty and the relationships it establishes.

THE CHARACTER OF THE RELATIONSHIPS UNDER TREATIES

- 36 A treaty might have at least four major effects. It might (*a*) create rights and obligations simply for the parties (usually states, but sometimes extending to individuals). Examples are the provisions of the Charter of the United Nations which place duties on states not to use force and oblige them to settle their disputes in a peaceful manner; or more generally much of the body of the law of friendly relations between states.
- 37 A treaty might (*b*) have consequences for others (especially individuals) in their dealings with the parties. The law regulating the public aspects of international trade and communications provides a good example: WTO, customs facilitation, the Chicago Civil Aviation Conventions and bilateral air transport agreements. Those treaties operate on a day-to-day basis between states, but individual traders and airline companies and their customers have very real interests under them, sometimes matched by rights under the relevant national law (eg, to particular tariff treatment or to operate their aircraft in and out of foreign airports).
- 38 A treaty might (*c*) create rights owed to an individual by a state. The whole body of human rights law, for instance, regulates the relationship between a state and its own nationals and residents. This body of law has developed essentially within the last 50 years, although elements of it are to be found at the very outset of the law of nations. It often attracts the most attention in discussions of the implementation of international law in national legal systems. By contrast, a treaty might create obligations and prohibitions (as opposed to rights) which affect individuals—for instance, establishing international crimes, as did the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation 1971.
- 39 Finally, a treaty might (*d*) regulate rights between individuals, with the state parties having little immediate interest. Examples are the treaties governing private law relations, arising, for instance, from international trade and communications and from family and personal matters. Complementing the public law treaties, such

as the General Agreement on Tariffs and Trade (GATT) and the Chicago Conventions (in *(b)* above), are the Vienna Convention on the International Sale of Goods and the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air. Conventions regulating the choice of law in personal matters (eg, the validity of wills) or providing a uniform law (eg, the European Convention on the Legal Status of Children Born out of Wedlock) are steadily being negotiated and accepted.

- 40 While these categories are not watertight, they help to highlight the great changes in the role of international law as well as to facilitate thinking about the means of national implementation. For instance, the rights and obligations under *(a)* are for the most part given effect to through the prerogative or other foreign affairs powers of the executive, in the day-to-day relations of states. There are exceptions: for instance, sanctions under Chapter VII of the United Nations Charter will generally require implementation through the national legal system (often including legislative action and possibly the courts), since the rights of individuals (often recognised in the law under *(b)*) will be interfered with. The law of diplomatic immunity may also involve the courts and require legislation. But those exceptions are limited and cover only a small part of the area falling within *(a)*.
- 41 By contrast, the treaties under *(d)* operate almost solely within the national legal systems (including the courts) of the states that are parties to them (and sometimes of other states as well⁵). Once the relevant legislation (if any) has been enacted and the state has accepted the treaty at the international level, the states parties generally have nothing to do with the treaty, unless there is an international dispute about the adequacy of its implementation, or there is a proposal for amendments (as with the Warsaw Convention at various times since 1929).
- 42 The treaties under *(c)* contrast with those under *(a)* since they operate within the national legal systems and generally require new legislation (if the present law does not already give effect to them). They also contrast with treaties under *(d)* since they continue to engage the state as an immediate party to the right-obligation relationship.

⁵ As expressed, for example, in Vienna Sales Convention article 1(1)(b).

2

The Implementation of Treaties through National Legislation⁶

- 43 **T**HERE IS A BASIC CONSTITUTIONAL PRINCIPLE (already mentioned in paras 28 and 33) that the executive cannot, by entering into a treaty, change the law. In addition to the prerogative steps taken by the executive to become party to the treaty, legislation is in general needed if the treaty is to change the rights and obligations of individuals or to enhance the powers of the state. This chapter considers the means of legislative implementation, while the next chapter considers the role that treaties play in courts.
- 44 Legislative practice and the relevant commentary indicate five broad approaches to the use of legislation to implement treaties. In four of them it is necessary for the treaty to be enacted somehow in domestic legislation. The reason lies in the concept of the separation of powers: if the treaty affects rights and duties under national law, then the treaty becomes the concern of the legislature and not merely of the executive (which will have negotiated the treaty).⁷
- 45 The five approaches are as follows:
- no legislation is required;
 - the Act gives direct effect to the treaty text, by using a formula to the effect that the treaty provisions “have the force of law” in New Zealand;

⁶ For other discussions, see Thornton, *Legislative Drafting* (3rd ed, Butterworths, London, 1987) 236–240; Mann, *Foreign Affairs in English Courts* (Clarendon, Oxford, 1986) 97–102; Mendis, “The Legislative Transformation of Treaties” [1992] Stat LR 216; Crawford, “International Law Standard in the Statutes of Australia and the United Kingdom” (1979) 73 AJIL 642; Bennion, *Statutory Interpretation* (2nd ed, Butterworths, London, 1992) 459–466; and Keith, “New Zealand Treaty Practice: The Executive and the Legislature” (1964) 1 NZULR 272.

⁷ There may be a case for increasing the role of the legislature in treaty-making, by means of greater notification and consultation before and during negotiation: see Keith, “The Making, Acceptance, and Implementation of Treaties: Three Issues for Consideration” (Law Commission, June 1995).

- the Act uses some of the wording of the treaty, incorporated into the body of the relevant area of law, or indicates in some other way its treaty origins;
 - the substance of the treaty is incorporated into the body of the law, without any obvious indication of the fact; and
 - the Act might authorise the making of subordinate legislation (regulations or rules) which is to give effect to identified treaties or at least take cognizance of them; that subordinate legislation might take any of the second, third and fourth approaches above.
- 46 Treaties are now discussed according to the five approaches outlined above. Their allocation turns on
- the personal scope of the rights, interests and obligations created by the treaty;
 - the nature of the rights, interests and obligations of the treaty states; and
 - the importance in terms of policy and principle of the matters involved.

The last is particularly relevant to the choice between primary and secondary legislation. Some legislation will not fall clearly within one of the approaches: much of it for instance combines elements of the second and third approaches in para 45; and Acts often directly implement major treaty provisions while delegating authority (the fifth approach) for detailed implementation.

No legislation is required

- 47 If the treaty operates essentially at the international level between states, creating rights and obligations only for them, then generally no question of national law arises. National law need not be changed; no rights and obligations under it are involved.
- 48 Examples of treaties which allow this approach are the Convention on International Liability for Damage caused by Space Objects, the Statute of the International Court of Justice, the Vienna Convention on the Law of Treaties, and the Hague Convention on the Pacific Settlement of International Disputes 1899. The second and last provide for exercises of prerogative and foreign affairs powers in the electoral and nomination processes, and in the actual operation of international dispute resolution processes. It is possible (but unlikely) that questions of immunity and privileges of those involved in the processes could arise; and if so, national legislation may be needed, as in s 10 of the Diplomatic Privileges and Immunities Act 1968, which confers, by Order in Council, diplomatic privileges and immunities on judges and registrars of the International Court of Justice (ICJ).

The statute gives direct effect to the treaty text

49 Many statutes enacted in New Zealand, as elsewhere in the Commonwealth, set out the treaty text and provide that all or part of it is to “have the force of law”. Although the legislation may provide some support (eg, in naming the courts to exercise jurisdiction under the treaty), essentially the treaty is left to speak for itself.

50 Although formulated for a different purpose, the distinction between *self-executing* and *non-self-executing* treaties is useful here. It has been explained as follows:

Only such provisions of a Convention are self-executing which may be applied by the organs of the State and which can be enforced by the Courts and which create rights for the individuals; they govern or affect directly relations of the internal life between the individual, and the individuals and the State or the public authorities. Provisions which do not create by themselves rights or obligations of persons or interests and which cannot be justiciable or do not refer to acts or omissions of State organs are not self-executing . . . (*Malachtou v Armefti* (1987) 88 ILR 199, 212–213)

If a treaty provision falls within the second, “non-self-executing” category, extensive national practice emphasises that further action must be taken by national, and especially legislative, authorities before the treaty provisions can be given effect to by national courts. Characteristics of the treaties indicating the need for that action include the following:

- The treaty might *empower* the state to take action. Consider for instance those parts of the law of the sea relating to the continental shelf and the exclusive economic zone (and probably the territorial sea as well): international law does not require states to make the claims that they are entitled to make. National action additional to the acceptance of the treaty is called for; in some cases that action will be executive but usually it is legislative. The Tokyo Convention on Crimes on Board Aircraft and the High Seas Intervention Conventions similarly authorise national action which in some cases will require a legislative basis.
- The treaty itself might create a *duty* to take national legislative action. For instance, article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination requires states parties to declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including their financing.
- The treaty might not only create a duty to take that distinct state legislative action, but it might also give that obligation a

programmatic character. For instance, the undertaking of each states party under article 2(1) of the International Covenant on Economic, Social and Cultural Rights is to “take steps . . . to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”.

- The wording of the undertaking might be *so broad as not to provide judicially manageable standards*. Pious declarations are non-self-executing. Some of the condemnatory language in the Racial Discrimination Convention has such a character.
- The obligations may be of a *procedural* rather than a substantive character. Many treaties, for instance in the trade and environment areas, require states to notify affected states and consult about certain matters. These provisions operate essentially only between the states parties (see paras 47–48). Chief Justice Marshall made an important statement in the first major United States decision on this matter:

. . . when the terms of the stipulation import a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial department; and the legislature must execute the contract before it can become a rule for the court. (*Foster v Neilson* (1828) 27 us 253, 314; (1830) 8 us 108, 121)

51 What kinds of treaties *can* be directly implemented (for instance, by scheduling their text and directly stating that they have the force of law)? Legislative and judicial practice identify several groups of treaties:

- PRIVATE LAW CONVENTIONS. Among these treaties are the Warsaw Convention on Carriage by Air, the New York Convention on the Recognition and Enforcement of Arbitral Awards, the Hague Rules on Carriage of Goods by Sea, the United Nations Convention on Contracts for the International Sale of Goods, the UNCITRAL Model Law on International Commercial Arbitration, the International Centre for the Settlement of Investment Disputes (ICSID) Convention, and the Convention on the Civil Aspects of International Child Abduction. With the exception of the last, the relevant statutes do directly implement the scheduled treaty text.
- SAFETY AND REGULATORY CONVENTIONS. The provisions of many conventions in this general category, for instance those adopted by the International Labour Organisation, are often integrated into the body of the relevant law. But at least in the

maritime and aviation areas there are instances of direct application—often by means of subordinate legislation—of the conventions and regulations relating to the safety of life at sea, collisions at sea, and the rules of the air.

- PRIVILEGES AND IMMUNITIES. The relevant provisions of the Vienna Conventions on Diplomatic and Consular Relations can similarly be scheduled to the legislation and given the force of law.
- EXTRADITION. Some states also find it convenient to implement some bilateral treaties directly. On the model of the United Kingdom extradition legislation (first enacted in 1870), New Zealand and other Commonwealth legislation provides for the direct application of extradition treaties, most but not all of which are bilateral. In this case, the principal legislation establishes the basic policy, while subordinate legislation gives effect to the treaties. That principal legislation may however place important limits on the treaty negotiators—for instance in respect of the extradition of citizens, or the requirement that the treaty be subject to termination on a year's notice or less, or the categories of offences that might be included. At least those limits exist if the treaty is to be implemented by subordinate legislation.
- DOUBLE TAXATION AGREEMENTS. These are drafted in a standard form which facilitates their direct incorporation into the law. That direct incorporation also facilitates direct reference to the Organisation for Economic Cooperation and Development (OECD) Model Convention with its commentary. Some bilateral social security and health care agreements are also given direct effect.
- INTERNATIONAL CRIME CONVENTIONS. Most of these follow the third and fourth approaches of para 45. But in the case of the Geneva Conventions of 1949 and the 1977 first Additional Protocol, New Zealand along with several other Commonwealth countries has provided directly that contravention of the grave breach provisions in the texts is an offence. The legislation deals separately with matters of procedure and appeal in conformity with national law. The texts of the Conventions and Protocol as a whole are scheduled to the Act.

52 The groups of treaties listed so far are given direct effect to by legislation which takes a *positive* form: the treaty has the force of law in the national legal system. By contrast, the legislation in many cases explicitly *limits its application* by reference to treaties or other

international obligations. For instance, a long-standing New Zealand statute authorises the making of regulations prohibiting or restricting foreign vessels from coastal trade on the basis of reciprocity, “so far as treaty obligations binding on Her Majesty’s Government of New Zealand permit” (see s 204(1) of the Customs Law Act 1908). As the next chapter shows, courts might also read legislation as limited by relevant treaty provisions even if the treaty is not mentioned, so long as the legislative language allows. Such provisions can derive both from treaties existing at the time of enactment and from subsequent treaties.

Some treaty wording is incorporated into the body of the law

- 53 As already indicated in para 50, there will often be good reason for incorporating the substance of the treaty provision into the body of the law rather than leaving the treaty to speak for itself. Sometimes this will be done relatively conspicuously; sometimes the treaty origin or connection will be obscured. One possible danger of obscurity is mentioned in para 61.
- 54 The indication of the treaty origin may appear in a number of ways—by the use of treaty wording, by express reference to the treaty, or both, as in the following instances:
- INTERNATIONAL CRIME CONVENTIONS. Legislation implementing conventions concerning crimes relating to international civil aviation and maritime navigation often uses the treaty language in stating the substantive offence. The legislation also frequently refers, in the title, preamble or a purpose provision, to the treaties which it is designed to implement. That might also be the case with the Convention on Crimes against Internationally Protected Persons, the Torture Convention and the Genocide Convention. In the last case, however, New Zealand, like other Commonwealth countries, decided that its regular criminal law deals adequately with the matter and that no further legislation is required.
 - REGULATORY MATTERS. Much of the wording included in the conventions relating to marine pollution can be carried directly over into the national legislation, as can much of the scheduled and often amended technical detail in the Ozone Layer Convention and Protocol. Again, it is possible to refer to the relevant treaties in the legislation.

The substance of the treaty is incorporated into the body of the law without any obvious indication

- 55 If the judgment is made before acceptance of a treaty that national law already implements the treaty (as with the Genocide Convention, para 54), then there will be no sign on the face of the relevant legislation that for the future the legislation will also be implementing the treaty.
- 56 HUMAN RIGHTS TREATIES generally require this approach. The main human rights treaties—the 1966 International Covenants, and the Racial Discrimination, the Discrimination Against Women, and the Child Conventions—call to a large extent for legislative and other actions by the states parties. Many of their provisions are not self-executing. Further, they are relevant to a very wide range of law and are not confined within a particular topic. Acceptance calls for a broad and detailed review of that wide range of law and practice. That review might lead to particular amendments to the law, but it is unlikely that the treaties will appear in the text as the origin of the amendment. On the other hand, general bill of rights, human rights or anti-discrimination legislation might refer to the relevant treaties, although such legislation will not be comprehensive.
- 57 The New Zealand Bill of Rights Act 1990 is a major instance. According to its title, the purpose of this Act is
- (a) To affirm, protect, and promote human rights and fundamental freedoms in New Zealand;
 - (b) To affirm New Zealand's commitment to the International Covenant on Civil and Political Rights.
- 58 The Bill of Rights Act requires the Attorney-General to report to the House of Representatives any provision of a Bill which appears to be inconsistent with any of the rights and freedoms contained in the Bill of Rights Act; and an administrative procedure has been established in support of that obligation.⁸
- 59 Those within the executive and the legislature concerned with the enactment of legislation must accordingly address the question of compliance with the Bill of Rights Act, which may require reference to relevant treaty obligations and their interpretation. Such a treaty reference is also required by Cabinet Office rules. Ministers in proposing legislation are to answer the question, *Does the legislation comply with relevant international obligations and standards?* Recent

⁸ See Memorandum by the Attorney-General (1991), reproduced in Chen and Palmer, *Public Law in New Zealand Cases, Materials, Commentary and Questions* (Oxford University Press, Auckland, 1993) 556; also some examples of Attorney-General statements, 556–563, and new Standing Order 258.

concrete situations in which these questions have been considered include proposed legislation interfering with court proceedings, procedural safeguards controlling the use of public powers affecting the important rights and interests of individuals, and freedom of speech in relation to racial vilification.

- 60 INTERNATIONAL CRIME CONVENTIONS. The treaty provisions concerning some offences, including those relating to drugs, are not necessarily directly reflected in the relevant criminal law. Where they are incorporated in the criminal law, it may not use the treaty language or refer to the treaties.
- 61 One danger of not implementing the treaty language is that those concerned with reviewing and amending the legislation or with applying and interpreting it may be ignorant of the treaty relationship if the legislation is silent about its international origins or context. Treaty obligations might be breached unknowingly. Even if the treaty language is not capable of direct use and implementation, the statute might nevertheless be able to indicate its treaty origins by appropriate references in the title, for instance, or the purpose provisions, or provisions empowering the making of regulations and the exercise of public powers. Such a reference might avoid later problems.

Authority is delegated to implement the treaty

- 62 Technical and regulatory treaties can be—and are—implemented in part by the delegation of legislative and executive power: for instance, the Convention on International Civil Aviation, the International Air Services Transit Agreement, and GATT and the agreements associated with the WTO. Aspects of other conventions (eg, those relating to pollution or the ozone layer) are also implemented in this way. One justification of such delegation of power is that changes might be technical and need to be made quite frequently, and Parliament has settled the principle and policy at an earlier stage. Ordinarily, it need not be concerned with the ongoing detailed application of the policy. Indeed, some of the relevant rules (eg, some adopted under the International Civil Aviation Organisation (ICAO) Convention) might become part of national law automatically, without any national action.
- 63 That approach is supported by the general doctrine about the delegation of legislative power. In New Zealand the doctrine has been stated as follows:
- The line between the primary and the delegated lawmaker should in general be that between principle and detail, between policy and its implementation. Parliament with its representative composition and

through its public processes should address and endorse (or not) the policies presented to it by the executive, while recognising that matters of less significance or of a technical character, or requiring rapid adaptation or experimentation might be left to subordinate law-making. Another situation in which lawmaking powers might be and are delegated—and in broader terms—is to deal with emergencies. (Legislation Advisory Committee, *Legislative Change: guidelines on process and content* (2nd ed, Report No 6, 1991), para 113)

- 64 Some statutes also confer power to list the states parties to the treaties. That might occur by Order in Council or more simply and conveniently by a statement from the Secretary for Foreign Affairs and Trade.
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3

The Implementation of Treaties through the Courts

- 65 **A**LTHOUGH THE BASIC CONSTITUTIONAL PRINCIPLE is that the executive cannot, by entering into a treaty, change the law, it does not follow that courts may not have regard to treaties unless Parliament has acted to incorporate their provisions into law. There are at least five ways in which courts might take treaties into account:
- as a foundation of the constitution;
 - as relevant to the determination of the common law;
 - as a declaratory statement of customary international law which is itself part of the law of the land;
 - as evidence of public policy; and
 - as relevant to the interpretation of a statute.
- The discussion of these matters is brief. The law is evolving, and more extensive discussions are available,⁹ particularly of the third and fifth ways, which are of most significance.

A treaty as a foundation of the constitution

- 66 An example of the use of a treaty in a constitutional context is found in cases about the power of New Zealand, as well as Australia and South Africa, to legislate for mandated territories brought under their administration when the League of Nations was established. Courts in those countries in the 1920s and 1930s sought the source of that power in a range of documents, including the Treaty of Versailles, which established the mandates system, and the mandates documents themselves.¹⁰
- 67 The question of basic constitutional effect has also been raised, but not settled, in respect of the Act of Union of 1707 between England

⁹ See Pearce and Geddis, *Statutory Interpretation in Australia* (3rd ed, Butterworths, Sydney, 1988), para 5.7, and Burrows, *Statute Law in New Zealand* (Butterworths, Wellington, 1992), 233–245; also Bennion, *Statutory Interpretation*, 564–569.

¹⁰ These documents were subsequently held to be treaties by the International Court of Justice, *South West Africa Cases (preliminary objections)* 1962 ICJ Reps 319, 330–332.

and Scotland, as well as the Treaty of Waitangi. The very broad wording of principal provisions of those treaties raises in addition the issue of their self-executing or justiciable character.¹¹

A treaty as relevant to the determination of the common law

- 68 English courts have recently decided that local government institutions cannot sue for defamation.¹² The Court of Appeal reached that conclusion principally by reference to article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Court considered that it could depend on the Convention since the common law was uncertain and there was no controlling decision of the Court of Appeal or House of Lords. The House of Lords was able to reach the same conclusion without having to rely on the Convention. Lord Keith, with whom the other Law Lords concurred, agreed with the view that in the area of freedom of speech there was no difference in principle between the law of England and the Convention: “. . . I find it satisfactory to be able to conclude that the common law of England is consistent with the obligations assumed by the Crown under the Treaty in this particular field” (551).

A treaty as a declaratory statement of customary international law

- 69 Since courts accept that customary international law is part of national law and since the best evidence of customary international law may very often be the relevant codification treaty, courts do refer to such treaties. One important instance is the Vienna Convention on the Law of Treaties.¹³ This use of treaties is increasingly important as more and more treaties are concluded. The influence is especially apparent in the area of human rights. Treaties are of course one of the international sources to which a court might refer in determining the current state of customary international law and hence the common law. They might also refer to decisions of the ICJ,

¹¹ See also Keith, “The Treaty of Waitangi in the Courts” (1990) 14 NZULR 37, 44–46.

¹² *Derbyshire County Council v Times Newspapers* [1993] AC 534, affirming [1992] QB 770.

¹³ See *QANTAS Airways Ltd v SS Pharmaceutical Co Ltd* [1990] LRC (Comm) 261 (NSWCA), 277–279 citing *Fothergill v Monarch Airlines* [1981] AC 251 (eg 276, 282–283); and *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641, 682.

reports of the International Law Commission (ILC), and academic writings.¹⁴

A treaty as evidence of public policy

- 70 In *Re Drummond Wren* [1945] 4 DLR 644, an Ontario court used the United Nations Charter to strike down a racially restrictive covenant. For Mackay J, in discovering public policy, “first and of profound significance is the recent San Francisco Charter to which Canada was a signatory and which the Dominion Parliament has now ratified”. He referred to the stirring references to human rights in the preamble and articles 1 and 55, and mentioned as well the Atlantic Charter and the disapproval of racial discrimination to be found in Ontario statutes prohibiting some but not all acts of racial discrimination. The New Zealand Supreme Court in *Van Gorkom v Attorney-General* [1977] 1 NZLR 535, 542–543 likewise recognised that reference could be made to international documents (in this case, the Universal Declaration of Human Rights and the Declaration on Elimination of Discrimination Against Women) when it invalidated discriminatory conditions laid down by a Minister under subordinate legislation.

A treaty as relevant to the interpretation of a statute

- 71 Courts may be willing to have regard to a treaty in interpreting legislation, even if the treaty has not been incorporated into national law¹⁵ (or even if the treaty did not exist when the statute was enacted). A very common instance now is the interpretation of constitutional documents, including Bills of Rights, by reference to the International Covenant on Civil and Political Rights or regional human rights treaties and then by reference to decisions interpreting those texts.¹⁶ That international material, along with comparative material, may be relevant to determining whether a limit on a right is a reasonable one prescribed by law which can be demonstrably justified in a free and democratic society—the test stated in the Canadian Charter of Rights and Freedoms and the New Zealand Bill of Rights Act 1990.

¹⁴ See, eg, *Mabo v State of Queensland* (1992) 107 ALR 1 and *Governor of Pitcairn v Sutton* [1995] 1 NZLR 426 CA; also Cunningham, “The European Convention on Human Rights, Customary International Law and the Constitution” (1994) 43 ICLO 537.

¹⁵ Eg, *Simpson v Attorney-General (Baigent’s case)* [1994] 3 NZLR 667 CA.

¹⁶ Eg, *DPP v Pete* [1991] LRC (Const) 553 (Tanzania CA); *R v Keegstra* [1991] LRC (Const) 333 (SCC); and *Ministry of Transport v Noort* [1992] 3 NZLR 260 (CA).

72 The question of interpretation, like others noted in this chapter, is a complex one which produces different attitudes. Among the issues are the following:

- THE THRESHOLD. Must the legislation be ambiguous or the likely interpretation unreasonable or absurd, before having recourse to international sources?¹⁷
- THE SILENT STATUTE. If the legislation makes no reference to the treaty, can courts nevertheless have regard to it?¹⁸
- THE DIRECT RELEVANCE OF THE TREATY. Reference to the treaty may be reserved to the situation where the legislation was, apparently, designed to give effect to the treaty, or the treaty may be relevant even when there was no such connection. Courts are increasingly willing to consider the treaty in the second situation as well, because they impute to Parliament an intention to legislate consistently with its international obligations.¹⁹ They take this approach in particular when the treaty, especially a human rights treaty, is designed to control state action. By their very nature, statutes which might be read as challenging those protections are not designed to give effect to the relevant treaties.

73 It is possible to find courts in the Commonwealth taking either more restrictive or broader approaches to those questions, and to related ones such as the relevance of the treaty to an administrator's discretion or a court's discretion in granting relief. Differing attitudes on this matter are connected with larger questions of judicial method and with what appears to be a greater willingness of some courts to have regard to a broader range of material in reaching their decisions. More basic constitutional issues might also be relevant. For instance, in the United Kingdom, the European Convention on Human Rights is not only relevant to the interpretation of areas of United Kingdom legislation governed by European Community law, but the Convention might even be the basis for striking the United Kingdom law down.²⁰

¹⁷ Compare, eg, *Brind v Secretary of State* [1991] 1 AC 696; [1991] LRC (Const) 512 with *R v Keegstra* [1991] LRC (Const) 333 (SCC).

¹⁸ Compare, eg, *Ellerman Lines Ltd v Murray* [1931] AC 126 with *Ramburn v Stock Exchange Commission* [1991] LRC (Const) 272, 276–277 (Mauritius SC).

¹⁹ See, eg, *Tavita v Minister of Immigration* [1994] 2 NZLR 257, 266 (CA).

²⁰ See, eg, the invoking of the principle of non-retroactivity of penal legislation “common to all the legal orders of the member-States and . . . enshrined in Article 7 of the European Convention . . . as a fundamental right; it takes its place among the general principles of law whose observance is ensured by the Court of Justice” (*R v Kent Kirk* [1984] 3 CMLR 522, 538).

Part II SOURCES

4 Finding Treaties and Other Sources

74 **T**HIS CHAPTER IS DESIGNED to help users find their way into international legal materials. It operates on the understanding that international law

. . . is not an esoteric business with a discipline and a methodology of its own. It is part and parcel of the legal science, and it demands the same kinds of skills and techniques and intellectual approach that all branches of legal science demand. The peculiarity lies in the widely scattered source-material and in the very nature of public international law itself . . . (Rosenne, *Practice and Methods of International Law* (Oceana, Dobbs Ferry, NY, 1984), ix)

The chapter also follows the order of the list of sources established by article 38(1) of the Statute of the ICJ (see para 15), but adds two others. The sources are

- treaties
- customary international law
- judicial decisions
- resolutions of international organisations
- academic writings, and
- current information.

The chapter concludes with some practical examples of how to obtain access to specific information.

THE PHYSICAL SOURCES

Principal collections in New Zealand

75 The principal New Zealand collections for international legal documents are the **International Documents Collection, Parliamentary Library** (IDC) and the other public United Nations depository libraries: the **Victoria University of Wellington Library** and the **Auckland City Library**.

- 76 Approach these sources first if seeking an international legal document, since they are best equipped to assist general users. Note that the IDC produces a current awareness list on international relations and the law. This list is available both through e-mail (documents@ceo.poli.govt.nz) (preferred) and in hard copy form. Chapter 5 indicates certain alternative sources: *approach them only as a last resort*.

Electronic access to materials

- 77 Note that international legal materials are increasingly available through electronic databases. Two well-established legal databases which include international material are LEXIS and WESTLAW, both operating out of the United States, but accessible at a number of locations in New Zealand.
- 78 Another fast-growing means of electronic access is through the Internet, particularly its World Wide Web service (known also as "www" or "the Web"). This creates cross-references within and between bodies of text, allowing the user to move from a selected item to other linked items. The Internet is continually developing, with new sources ("servers" and "sites") being added to it all the time. However, it is still relatively unstructured, in spite of the fact that good software is available to facilitate access to it, and new users should seek advice.
- 79 Because of the Internet's dynamic nature, this guide does not attempt to make a comprehensive list of materials available, nor does it provide addresses. To date, however, the Internet gives access to, amongst other information, materials on treaties, the United Nations (eg, Security Council resolutions and press releases), international trade law, maritime and oceanic law, World Intellectual Property Organisation (WIPO), and human rights. In addition, there are public legal information servers such as the New Zealand Government Web Pages, the Australasian Legal Information Institute (AustLI), REFLAW (the Virtual Law Library Desk) and DOCLAW (United States Government documents) from the Washburn University School of Law Library, and Cornell's Legal Information Institute. Certain publications also exist which may be of assistance: for example, LAIR, a weekly newsletter of legal Internet sites from the Center for Computer-based Legal Research, Tarlton Law Library, and the *Journal of Online Law*.

Treaties: conventional international law

- 80 The texts of treaties are to be found in
- national official documents and collections,
 - international official documents and collections, and
 - unofficial collections.
- Use official sources if possible.
- 81 *International Legal Materials (ILM)* has become an indispensable contemporary collection of treaties and other relevant materials such as judicial decisions, resolutions and current information. The documents are generally reproduced from official sources. *ILM* appears bi-monthly and is published by the American Society of International Law, Washington DC. It is available in most law libraries and also through the online databases LEXIS and WESTLAW. One advantage it has over most of the other sources mentioned is that it often reproduces treaties before they are in force. Only treaties which are actually in force are subject to registration with the United Nations, and publication in national series is sometimes similarly delayed.

National sources

- 82 Among the national collections available in New Zealand are
- *New Zealand Treaty Series* (its texts also appear in the *Appendices to the Journals of the House of Representatives*, in section A),
 - *Australian Treaty Series*,
 - *United Kingdom Treaty Series* (the texts also appear in the Command papers series),
 - *Canada Treaty Series*, and
 - *United States Treaties and International Agreements Series* (and the Bevans collection covering earlier years).
- National treaty lists are also helpful.
- 83 The text of a treaty may sometimes appear as a schedule to the statute or regulations which give effect to the treaty in the national legal system; for example, in the Geneva Conventions Act 1958, Carriage by Air Act 1967, Maritime Transport Act 1994, and regulations giving effect to double taxation agreements, social security agreements and extradition treaties. Sometimes the text might be appended even when it is not given domestic effect by legislation. The list of legislation in appendix C indicates New Zealand statutes to which a treaty text is attached.

International sources

- 84 A multilateral treaty will generally be adopted at a diplomatic conference (such as those called by the Swiss Government to adopt the Geneva Conventions or by the General Assembly of the United Nations to adopt the Vienna Convention on the Law of Treaties) or within an international organisation (such as the Assembly of the International Civil Aviation Organisation).
- 85 Those processes will generally produce a record of the proceedings (the written proposals, the debates, and relevant reports) and a document which sets out the treaty text (usually a *final act* in the case of a diplomatic conference or a *resolution* in the case of a treaty adopted within an organisation).
- 86 The Covenant of the League of Nations article 18 required that states parties to treaties register them with the League of Nations, which then published them. The Charter of the United Nations article 102 makes the same requirement. The 4834 treaties registered with the League of Nations were published in 205 volumes of the *League of Nations Treaty Series* while some 30,000 treaties have been registered with the United Nations. Those registered up to 1983 have been published in 1300 volumes of the *United Nations Treaty Series (UNTS)*. Some treaties may also appear as documents of the General Assembly or Security Council.
- 87 Some of the specialised agencies, such as the International Labour Organisation and the International Civil Aviation Organisation, also publish collections of treaties prepared under their auspices. So too do regional bodies such as the Council of Europe.

Unofficial sources

- 88 There are collections from last century such as Hertslet's Commercial Treaties, de Martens, and British and Foreign State Papers. For the most part, those treaties (if concluded after the Treaty of Westphalia 1648 and before the establishment of the League of Nations in 1919) are now to be found in the 231 volumes of the *Consolidated Treaty Series (CTS)* and 12 associated index volumes edited by Clive Parry.
- 89 A more restricted collection of major multilateral treaties with related commentary is Hudson (ed), *International Legislation* (Oceana, Dobbs Ferry, NY, 1970–1972). There are also useful collections in particular areas (such as Diamond and Diamond, *International Tax Treaties of All Nations* (Oceana, Dobbs Ferry, NY, 1975–)) and in basic document collections (eg, Brownlie (ed), *Basic Documents in International Law* and Osmanczyk, *The Encyclopedia of the United*

Nations and International Relations (2nd ed, Taylor and Francis, New York/Philadelphia/London, 1990)).

Status

- 90 The current status of treaties is sometimes difficult to determine, but it may be worth contacting the Ministry of Foreign Affairs and Trade for assistance. Information relevant to those major multilateral treaties deposited with the Secretary-General of the United Nations is published each year: *Multilateral Treaties Deposited with the Secretary-General*. The United States publishes *Treaties in Force* annually; *ILM* contains relevant information; and Rohn has published relevant volumes: *World Treaty Index* (2nd ed, American Bibliographic Center, Santa Barbara, 1983–1984) and *Treaty Profiles* (American Bibliographic Center, Santa Barbara, 1976). Specialised international organisations, such as the Hague Conference on Private International Law, also publish information on the status of the treaties which they administer.

Customary international law

- 91 This law arises from the practice of states in their international relations. The evidence of that practice is scattered and unsystematic; however, major textbooks such as Brownlie, *Principles of Public International Law* provide a useful starting-point. State practice can also be found in national sources, such as legislation and government statements. It is sometimes reproduced in national collections:
- UNITED STATES; the *Digests* of Wharton and Moore (8 vols, 1906), Hackworth (8 vols, 1940–1944), Whiteman (14 vols, 1963–1973), and later annual volumes; also *Foreign Relations of the United States*;
 - UNITED KINGDOM; Parry and Fitzmaurice, *A British Digest of International Law* (Stevens, London, 1965–);
 - FRANCE; Kiss, *Répertoire de la pratique française en matière de droit international public* (CNRS, Paris, 1962–1972).
- 92 Some periodicals contain practice sections (some on a model proposed by the Council of Europe: see Rosenne (para 74), 159–169); for example, *British Yearbook of International Law* (BYIL), *Canadian Yearbook of International Law*, *Australian Yearbook of International Law*, *Japanese Annual of International Law*, *Netherlands Yearbook*, *Annuaire suisse de droit international*. The *New Zealand Foreign Affairs Record* and an occasional publication series by the Ministry of Foreign Relations and Trade provide relevant New Zealand material.

- 93 The *United Nations Legislative Series* gathers information provided by states which is relevant to areas under study, usually by the ILC; for instance, on the law of the sea, nationality, state succession and immunities.
- 94 The documents, debates, reports, and yearbooks of the ILC, and the studies done for it, will often also gather state practice. The ILC provides a principal means by which the General Assembly carries out its function of progressively developing and codifying international law (Charter article 13(1)(a)).
- 95 That process of treaty-making means that the scattered, unsystematic character of state practice is now less significant. The unwritten, customary law may be replaced or codified by a treaty which binds the parties and clearly addresses the issue; or if there is an authoritative, systematic consideration of the matter. This has occurred, for instance, in respect of
- privileges and immunities of diplomats, consuls, special missions and international organisations,
 - law of treaties, including the treaties of international organisations and succession to treaties,
 - law of the sea,
 - nationality, statelessness and refugees,
 - state responsibility, and
 - human rights.
- 96 Note also the work of the specialised agencies, other universal bodies, such as UNCITRAL, and regional bodies such as the Council of Europe and the Asian-African Legal Consultative Committee. There are in addition important private codification efforts, such as the work done by the *Harvard Research in International Law* between 1927 and 1940 and published in the *American Journal of International Law*.
- 97 The practice of international organisations is increasingly significant. Some of it is recorded in the *Repertory of Practice of the United Nations Organs* (United Nations, New York, 1955–), the *United Nations Juridical Yearbook*, the *United Nations Yearbook* and the *Yearbook of Human Rights*. There is also the massive documentation of the major organisations, which in New Zealand is held principally in the United Nations depositary libraries: see para 75.

Judicial decisions

- 98 The International Court of Justice is the principal judicial organ of the United Nations (Charter article 92 and Statute). It is the

successor of the Permanent Court of International Justice which existed from 1919 to 1946 (see, eg, Statute articles 36(5) and 37).

- 99 The publications of the PCIJ were divided into five series:
- | | |
|---------------------|---------------------------|
| A judgments |] in 1931 combined into a |
| B advisory opinions | |
- C pleadings (oral, written, correspondence)
D rules
E annual reports.
- The principal ICJ publications are similar:
- ICJ Reports (judgments, opinions, orders—published separately and later bound into annual volumes);
 - pleadings (bound for each case);
 - yearbooks, bibliographies.
- 100 Other permanent international courts (such as the European Court of Justice and the European Court of Human Rights) also have their own sets of reports. Judgments and awards of courts or tribunals set up to deal with a particular matter might be separately published; for instance, the Mixed Arbitral tribunals set up after the First World War and the Iran–United States Claims Tribunal set up as part of the hostages settlement in 1981. They are sometimes included (edited or in full) in periodical journals and reviews.
- 101 *International Law Reports (ILR)* is the major collection of judgments and awards of a wide range of international courts (including the ICJ) and tribunals and national courts concerning international law. It includes relevant decisions of human rights bodies. (It was originally entitled the *Annual Digest and Reports of International Law Cases* and now extends beyond 100 volumes.)
- 102 The contents of *United Nations Reports of International Arbitral Awards (RIAA)* are indicated by its title. It has in part replaced some of the earlier collections (eg, those of Moore and Scott). Stuyt also provides a comprehensive catalogue, *Survey of International Arbitrations 1794–1989* (3rd ed, Nijhoff, Dordrecht/Boston, 1990).
- 103 Decisions of national courts can of course be found in the national law reports, but the United Kingdom, the Commonwealth and United States also have collections of international law cases: Parry, *British International Law Cases: a collection of decisions of courts in the British Isles on points of international law* (British Institute of International and Comparative Law, Stevens, London, 1964–1973); Parry and Hopkins, *Commonwealth International Law Cases* (Oceana, Dobbs Ferry, NY, 1974–1995); *American International Law Cases* (Oceana, Dobbs Ferry, NY, 1971–). As indicated, many national court decisions also appear in the *ILR*. It

is in court decisions (national and international) as well as in the other sources that the content of the general principles of law referred to in article 38(1)(c) of the Statute of the ICJ (see para 15) is to be found.

Resolutions of international organisations

- 104 The significance of resolutions of international organisations depends on the constitution of the organisation, the process of the preparation of the resolution, the content of the resolution (eg, does it purport to declare a legal position?), the voting on the resolution, the citations and re-citations of the resolution in subsequent resolutions, and subsequent practice. The texts are to be found in the records of the organisation in question. Significant resolutions may also appear in periodicals and *ILM*.

Academic writings

- 105 Academic writings, referred to in article 38 of the Statute of the ICJ as “teachings of publicists” (see para 15), are to be found in textbooks, journal articles, the publications of professional organisations (especially the Institut de Droit International and the International Law Association) and international organisations, and in professional work (eg, opinions and pleadings).
- 106 One major international journal is the *Recueil des cours de l’Académie de droit international (RCADI)* at The Hague. The volumes contain lectures in English and French given by leading international lawyers. There are also many specialist international law journals, of which the most important include the *American Journal of International Law*, the *British Yearbook of International Law*, and the *International and Comparative Law Quarterly*. Related literature in other areas—international relations, politics, economics, strategy—may be helpful as well. The major public international law bibliographies such as Beyerly, *Public International Law. A Guide to Information Sources* (Mansell, London/New York, 1991) will provide further guidance.

Current information

- 107 Unfortunately, there is no international equivalent of *The Capital Letter*, but the daily press can be of some help. The *Bulletin of Legal Developments*, a fortnightly survey of legal events world-wide and internationally published by the British Institute of International and Comparative Law, is very useful. So is the *Commonwealth Legal*

Bulletin (quarterly) published by the Commonwealth Secretariat, although it has a longer lead time. The *Financial Times Business Law Brief* (monthly) is also valuable within its narrower context. The Ministry of Foreign Affairs and Trade lists all of New Zealand's treaty actions in an appendix to its annual report, and it is also intending to use its *Business Calendar* for publicising relevant treaties. Finally, the Internet is becoming increasingly important as a direct means of access to current information such as drafts of treaties.

SOME PRACTICAL EXAMPLES

International Child Abduction and the ICCPR

- 108 A person interested in the gestation, birth and life (and possible death) of a major multilateral convention will wish to consider its preparation, acceptance, implementation and operation. Two major conventions usefully illustrate the sources for each of these stages: the Convention on the Civil Aspects of International Child Abduction 1980 and the International Covenant on Civil and Political Rights 1966. New Zealand has accepted both.
- 109 Both were some years in the making. The *records of their preparation* (sometimes referred to as the *travaux préparatoires*) are available. New Zealand participated in the preparation of the Covenant but not of the Convention. The relevant documents (the proposals and debates by government representatives) were available as the texts were being elaborated and are now available in more accessible form. Those documents were of course critical for those involved in the process of preparation. They may continue to be significant to the interpretation of the texts. The documents are published by the relevant governments or secretariats, specifically the Permanent Bureau of the Hague Conference on Private International Law and the United Nations Secretariat.
- 110 The *treaty texts* themselves are to be found in various official and unofficial sources:
- the official records of the diplomatic conference which adopted the 1980 Convention and the United Nations General Assembly resolution which adopted the ICCPR;
 - publications of the relevant body (eg, the *Collection of Conventions* published by the Permanent Bureau of the Hague Conference; *Human Rights: a compilation of international instruments*, published by the United Nations); and the *UNTS* (once the treaty has come into force, been registered under article 102 of the Charter, and actually published);

- national treaty series (eg, the *New Zealand Treaty Series*) and other parliamentary papers (for the ICCPR, see 1979 *AJHR* A 69 and the Bill of Rights white paper, 1984–1985 *AJHR* A 6);
 - scheduled in some cases to relevant legislation (as the 1980 Convention is to the Guardianship Amendment Act 1991); and
 - many unofficial sources, such as *ILM*, the collections of international law documents such as that edited by Brownlie, *Basic Documents in International Law* (for the ICCPR but not the 1980 Convention), and more specialised publications such as those on family law or human rights.
- 111 For the *status* of the treaties, the Permanent Bureau of the Hague Conference and the *Netherlands International Law Review* (annually) issue schedules of the parties to the Hague Conference conventions, while the United Nations Secretariat annually issues *Multilateral Treaties Deposited with the Secretary-General*. Up-to-date information can be provided by the depositaries (the Dutch Foreign Ministry and the United Nations Secretariat) and the Ministry of Foreign Affairs and Trade in Wellington.
- 112 Information about the *treaties in operation* is much more diverse. Multilateral treaties often have a reporting system, in law or in practice. States are to or do participate in a process of reporting to the relevant international body on their implementation of the treaty. This obligation or practice varies greatly.
- 113 The 1980 Convention includes no relevant obligation, but the Permanent Bureau of the Hague Conference has instituted a series of periodic meetings to which states parties are invited. It is gathering relevant national decisions and practice.
- 114 By contrast, the ICCPR does oblige parties to report periodically on the steps they have taken to implement its provisions. The parties appear before a committee established under the ICCPR and respond to questions from it. There are also provisions for complaints against a state party by another party or an aggrieved individual about alleged breaches of the obligations. All that activity is recorded in publications of the relevant organisations. In addition, the Ministry of Foreign Affairs and Trade publishes information bulletins on these reporting processes.
- 115 Relevant national court decisions may be available in national law reports. They may also appear in the *ILR*, the *Uniform Law Review* or specialised law reports (eg, those concerned with family law or human rights).
- 116 In the human rights area there is a further element: decisions of regional bodies (especially in Europe) interpreting the regional

human rights treaty may be relevant because of identical or similar wording to the ICCPR (and indeed to the New Zealand Bill of Rights Act 1990). The New Zealand courts (like the Canadian courts in relation to the Charter of Rights) certainly refer to that source.

The impact of international agreements on domestic tax

- 117 International agreements which impact on domestic tax fall into two categories:
- double taxation agreements (DTAs); and
 - international financial and diplomatic agreements.
- 118 New Zealand, like many other countries, taxes the world-wide income of its residents and also taxes any income of a non-resident which is sourced in New Zealand. The result of these policies is that sometimes two countries tax the same item of income.
- 119 The imposition of double taxation can have a detrimental effect on the exchange of goods and services, and on the movement of capital and human resources between nations. The primary role of DTAs is to remove double taxation and provide certainty of tax treatment. In addition, DTAs combat international tax avoidance through exchange of information and provide a mechanism for settling tax disputes and agreeing on issues of interpretation.
- 120 New Zealand has 24 DTAs with other countries. When New Zealand officials negotiate such agreements, they use a model agreement which is based on the OECD Model Taxation Convention on Income and on Capital. The resulting DTAs are given effect by Orders in Council made under s BB 11 of the Income Tax Act 1994.
- 121 Section CB 9(e) of the Income Tax Act 1994 provides that income will be exempt from New Zealand income tax if it is exempted by another Act. Such exemptions apply to diplomatic and consular representatives and certain international organisations. There is no equivalent provision in the Goods and Services Tax Act 1985. It is important to note that exemptions from income tax apply only if the international agreement is incorporated into New Zealand's domestic law.
- 122 A number of enactments either incorporate into domestic law international agreements which provide exemptions from income tax or themselves provide for exemptions. The relevant international agreements are scheduled to the statute.
- 123 The International Finance Agreements Act 1961 makes provision for New Zealand to become a member of the International Monetary Fund (IMF), the International Bank for Reconstruction and

Development (IBRD), and the International Finance Corporation (IFC). Section 8(2) enacts sections of the articles of agreement relating to each of the three organisations which extend immunity from taxation to the respective organisation and its officers. The International Finance Agreements Amendment Act 1966 extended that immunity to the Asian Development Bank (ADB) and the International Development Association (IDA), while the International Finance Agreements Amendment Act 1975 extended the immunity to the Financial Support Fund of the OECD.

- 124 The Diplomatic Privileges and Immunities Act 1968 gives effect to the Vienna Convention on Diplomatic Relations 1961. Sections 19–21 exempt diplomatic agents from many kinds of taxes. The Consular Privileges and Immunities Act 1971 gives effect to the Vienna Convention on Consular Relations 1963, and s 4 enacts article 49 of the Convention, for example, which similarly exempts consular officers, employees and their families.
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5 Organisations, Associations and Treaties: A Quick Reference

THIS CHAPTER PROVIDES A LIST of selected organisations, associations and treaties which are or may be of particular importance to New Zealand lawyers. It summarises briefly the functions of each and gives information (where relevant) on its short title or acronym, its year of establishment, how it was established, its membership, its relationship to the United Nations, the instruments it administers, its associated or subsidiary bodies, its principal publications, and the New Zealand contact body which might grant access to such publications. Much of this information derives from the *United Nations Handbook* which is produced annually by the Ministry of Foreign Affairs and Trade in Wellington; and the Law Commission acknowledges the invaluable assistance provided by this source.

In seeking further information, approach first the specialist libraries—the International Documents Collection of the Parliamentary Library, the Victoria University of Wellington Library, and the Auckland City Library; see para 75. *Approach the alternative contact bodies listed in this chapter only as a last resort.*

Note the abbreviations:



New Zealand contact body

IDC
International Documents Collection,
Parliamentary Library

MFAT
Ministry of Foreign Affairs and Trade

For ease of reference the list is arranged according to the following scheme (and alphabetically within each category):

- governmental organisations
 - universal: United Nations and related; treaty bodies; other
 - regional
 - bilateral
- non-governmental organisations
 - universal
 - regional

GOVERNMENTAL ORGANISATIONS: UNIVERSAL

United Nations and related

UNITED NATIONS

☛ IDC; MFAT

<i>Short title:</i>	UN
<i>Year established:</i>	1945
<i>Established by:</i>	San Francisco Conference of 25 April to 26 June 1945
<i>Membership:</i>	184 countries (as at May 1994)
<i>Functions:</i>	To maintain international peace and security; to develop friendly relations among nations; to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character; to be a centre for harmonising the action of nations
<i>Instruments:</i>	UN Charter of 26 June 1945
<i>Principal publications:</i>	<i>UN Yearbook</i> ; <i>UN Juridical Yearbook</i> ; <i>UN Treaty Series</i> (1946–); <i>Official Records of the General Assembly</i> (1946–); <i>Official Records of the Security Council</i> (1946–); <i>Resolutions and Decisions of the Security Council</i> (1946–); <i>UN Reports of International Arbitral Awards</i> (1948–); <i>UN Chronicle</i> (1964–)
Principal organs:	(1) General Assembly
<i>Membership:</i>	All members of UN
<i>Functions:</i>	The plenary organ of the UN, whose resolutions are in general only recommendatory. It elects the 10 non-permanent members of the Security Council, and the 54 members of ECOSOC; appoints the Secretary-General upon the recommendation of the Security Council; elects, concurrently with the Security Council, the judges of the ICJ; and approves the regular budget of the UN

(2) Economic and Social Council

<i>Short title:</i>	ECOSOC
<i>Year established:</i>	1945
<i>Established by:</i>	UN Charter
<i>Membership:</i>	54 countries
<i>Functions:</i>	Responsible for promoting economic and social progress and development, international cultural and educational co-operation, and human rights and fundamental freedoms
<i>Subsidiary bodies:</i>	Statistical Commission; Population Commission; Commission for Social Development (CSD); Commission on Human Rights (CHR); Commission on the Status of Women (CSW); Commission on Narcotic Drugs (CND); Commission on Science and Technology; Commission on Sustainable Development; Commission on Crime Prevention and Criminal Justice; Commission on Transnational Corporations (TNC); Commission on Human Settlements (Habitat); regional economic commissions (see, eg, ESCAP)
	(3) Security Council
<i>Membership:</i>	5 permanent members (China, France, the Russian Federation, UK, USA) and 10 non-permanent members, 5 of which are elected annually for a term of 2 years
<i>Functions:</i>	To maintain international peace and security

FOOD AND AGRICULTURE ORGANISATION

	☛ IDC; Auckland City Library; MFAT
<i>Short title:</i>	FAO
<i>Year established:</i>	1945
<i>Established by:</i>	Constitution
<i>Membership:</i>	168 countries, including NZ; elected Council of 49 members
<i>Relationship to UN:</i>	Specialised agency
<i>Functions:</i>	To raise levels of nutrition and standards of living; to secure improvements in the efficiency of the production and distribution of all food and agricultural products;

to better the condition of rural populations;
and to contribute towards an expanding
world economy and ensure freedom from
hunger

Principal publications: *Basic Texts of the FAO (1960–); Food and
Agricultural Legislation; Guide to UN
Information Sources on Food and
Agriculture*

GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

see World Trade Organisation (WTO)

INTERGOVERNMENTAL OCEANOGRAPHIC COMMISSION

☛ MFAT; NZ National Commission for
UNESCO

Short title: IOC
Year established: 1960
Established by: UNESCO General Conference 1960
Membership: 125 member states
Relationship to UN: Associated body of UNESCO
Functions: To develop, recommend, and co-ordinate
international programmes for scientific
investigation of the oceans and to provide
related ocean services to member states

Principal publications: Technical series; manuals and guides;
annual reports

INTERNATIONAL ATOMIC ENERGY AGENCY

☛ IDC; MFAT

Short title: IAEA
Year established: 1956
Established by: Statute
Membership: 122 countries, including NZ; elected Board
of 35 members
Relationship to UN: Independent intergovernmental organi-
sation under UN aegis
Functions: To seek to accelerate and enlarge the
contribution of atomic energy to peace,
health and prosperity throughout the
world. It has a particular responsibility in
the area of safety

Instruments: Nuclear Non-proliferation Treaty; Convention on Early Notification of a Nuclear Accident; Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency

INTERNATIONAL CIVIL AVIATION ORGANISATION

☛ IDC; Ministry of Transport
Short title: ICAO
Year established: 1947 (superseding earlier organisations)
Established by: Chicago Convention 1944 (with annexes)
Membership: 183 contracting states, including NZ; elected Council of 33 members
Relationship to UN: Specialised agency
Functions: To establish standards, recommended practices and procedures relating to international air navigation; foster the planning and development of international air transport; assist developing nations; development of conventions; resolve disputes between members; and develop co-operation between nations

Instruments: Chicago Convention 1944 (Membership in ICAO); Warsaw Convention 1929 (Rules for international carriage by air); Tokyo Convention 1963 (Offences and other acts committed on board aircraft); Montreal Convention 1971 (Unlawful acts against the safety of civil aviation); annexes; protocols; agreements and arrangements

Principal publications: Standards; technical manuals; circulars; statistics digests; reports; *ICAO Journal*

INTERNATIONAL COURT OF JUSTICE

☛ IDC; MFAT
Short title: ICJ
Year established: 1946
Established by: Articles 7 and 92 of UN Charter
Membership: 15 individuals

Relationship to UN: Principal judicial organ
Functions: To decide cases submitted to it by states in accordance with international law, and to give advisory opinions to the UN and its agencies
Principal publications: *ICJ Reports* (1947–); *ICJ Pleadings* (1948–); *ICJ Yearbook* (1946–)

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

☛ MFAT

Short title: IFAD
Year established: 1976
Established by: Agreement
Membership: 158 countries, including NZ; elected Board of 18 members
Relationship to UN: Specialised agency
Functions: To mobilise additional funds from donor nations to be made available on concessionary terms for agricultural development in developing member countries, the primary aim being to increase food production

INTERNATIONAL LABOUR ORGANISATION

☛ IDC; MFAT; Department of Labour

Short title: ILO
Year established: 1919
Established by: Treaty of Versailles and related peace treaties
Membership: 172 nations; Governing Body of 56 members, including NZ; composed of government, worker and employer representatives
Relationship to UN: Specialised agency since 1946
Functions: To improve working and living conditions through the adoption of international labour conventions and recommendations setting minimum standards for wages, hours of work, conditions of employment, and social security
Principal publications: Texts of conventions, recommendations, protocols (1919–); legislative series and labour law documents (1919–); judgments

of the Administrative Tribunal (1919–); *International Labour Review* (1919–); *Bulletin of Labour Statistics*; *Yearbook of Labour Statistics*; *Labour Education*; *Conditions of Work Digest*; *Labour Management Relations Series*; *Management Development Series*; *Occupational Safety and Health Series*; *World Labour Report*; *The World of Work* (1992–); *International Labour Conventions Ratified by New Zealand* (Department of Labour, 1993); annual report to Parliament of NZ Government delegates to International Labour Conference, Geneva

INTERNATIONAL LAW COMMISSION

☛ IDC; MFAT

Short title: ILC
Year established: 1947
Established by: UN resolution
Relationship to UN: Subsidiary body of General Assembly
Membership: 34 persons of recognised competence in international law
Functions: To encourage the progressive development of international law and its codification
Principal publications: *Yearbook of the International Law Commission* (1957–)

INTERNATIONAL MARITIME ORGANISATION

(formerly the Inter-governmental Maritime Consultative Organisation)

☛ IDC; MFAT

Short title: IMO
Year established: 1958
Established by: Convention of the UN Maritime Conference 1948
Membership: 151 countries, including NZ; Council of 32 members
Relationship to UN: Specialised agency
Functions: To establish and review international standards relating to, among other matters,

marine safety, carriage of dangerous goods, ship design, marine equipment, cargoes and containers, and telecommunications

Instruments: International Regulations for Preventing Collisions at Sea 1960; Convention on Facilitation of Maritime Traffic 1965; International Convention on Load Lines 1966; Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972; Convention on Limitation for Liability for Maritime Claims 1976; International Convention on Salvage 1989

Principal publications: *Status of Multilateral Conventions and Instruments* (1991–); *IMO News*

INTERNATIONAL MARITIME SATELLITE ORGANISATION

☛ Ministry of Commerce

Short title: INMARSAT

Year established: 1979

Established by: Inter-governmental conferences under the auspices of IMO

Membership: 83, including NZ

Relationship to UN: Co-operates with the UN and its specialised agencies

Functions: To provide the space satellites necessary for improving maritime, aeronautical and land mobile communications

Instruments: The Convention on the International Maritime Satellite Organisation 1976 and the Operating Agreement

Principal publications: Various publications on maritime, aeronautical and land mobile communication matters

INTERNATIONAL MONETARY FUND

☛ IDC; MFAT

Short title: IMF

Year established: 1945

Established by: Bretton Woods Conference

Membership: 179, including NZ; Executive Board of 24 executive directors

Relationship to UN: Specialised agency
Functions: To promote international monetary co-operation, the expansion and balanced growth of international trade, exchange stability, the establishment of a multilateral system of payments, and the elimination of foreign exchange restrictions
Principal publications: *Annual Report on Exchange Arrangements and Exchange Restriction; International Financial Statistics; Balance of Payments Manual; IMF Yearbook; IMF Survey; World Economic Outlook*

INTERNATIONAL TELECOMMUNICATION UNION

☛ Ministry of Commerce
Short title: ITU
Year established: 1865 (NZ became a member in 1867)
Membership: 184 countries, including NZ
Relationship to UN: Specialised agency
Functions: To maintain and extend international co-operation for the improvement and rational use of telecommunications of all kinds
Instruments: Constitution and Convention (Geneva, 1992); International Telecommunication Regulations and International Radio Regulations
Principal publications: A number of newsletters (*INTELSAT News*), reports, yearbooks and service documents

INTERNATIONAL TROPICAL TIMBER ORGANISATION

☛
Short title: ITTO
Year established: 1983
Established by: United Nations Conference on Trade and Development
Membership: 64 countries
Relationship to UN: Autonomous organisation within UNCTAD
Functions: To recognise the sovereignty of members over their natural resources, as defined in Principle 1(a) of the Non-Legally Binding

Instruments: Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests
 International Tropical Timber Agreement 1994
Principal publications: Annual review and assessment of the world tropical timber situation; reports of the sessions of the International Tropical Timber Council and the Permanent Committees; reports including a technical series and a policy development series, as well as various project reports

INTERNATIONAL UNION FOR THE PROTECTION OF NEW PLANT SPECIES

Short title: UPOV
Year established: 1961
Established by: International Convention for the Protection of New Varieties of Plants 1961
Membership: 27 countries, including NZ
Relationship to UN: Specialised agency
Function: To establish a system of international protection for breeders of new plant varieties

UNITED NATIONS CHILDREN'S FUND

🖱 IDC
Short title: UNICEF
Year established: 1946
Established by: UN resolution
Membership: Executive Board of 36 countries
Relationship to UN: Permanent organ of the General Assembly, reporting to ECOSOC
Functions: To assist in the development of permanent child health and welfare services, particularly in developing countries

UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW

- ☛ IDC; Auckland City Library; MFAT
- Short title:* UNCITRAL
- Year established:* 1966
- Established by:* Resolution of General Assembly
- Membership:* 36 states
- Relationship to UN:* Commission of the General Assembly
- Functions:* To reduce obstacles to the flow of international trade through progressive harmonisation and unification of private international law; preparation, and promotion of the adoption of, new international conventions; promotion of participation in existing conventions; liaison with UNCTAD and other UN agencies; and provision of training and assistance
- Instruments:* Convention on the Limitation Period in the International Sale of Goods 1974; UN Convention on the Carriage of Goods by Sea 1978; UN Convention on Contracts for the International Sale of Goods 1980; UN Convention on International Bills of Exchange and International Promissory Notes 1988; UN Convention on the Liability of Operators of Transport Terminals in International Trade 1991; UNCITRAL Model Law on International Commercial Arbitration; UNCITRAL Conciliation Rules; UNCITRAL Model Law on International Credit Transfers; UNCITRAL Model Law on Procurement of Goods, Construction and Services
- Principal publications:* *UNCITRAL Yearbook* (1968–); *Case Law on UNCITRAL Texts (CLOUT)* (1994–); *Legal Guide on International Countertrade Transactions*

**UNITED NATIONS CONFERENCE
ON TRADE AND DEVELOPMENT**

- ☛ IDC; Auckland City Library; MFAT
- Short title:* UNCTAD
- Year established:* 1964
- Established by:* UN General Assembly
- Membership:* 188 countries, including NZ; the executive body, the Trade and Development Board (TDB), has 39 members, including NZ
- Relationship to UN:* Permanent organ of the General Assembly
- Functions:* To promote international trade; formulate and implement principles and policies on international trade; review and facilitate other UN agencies' activities in the field of international trade and related economic development; initiate action for negotiation and adoption of multilateral legal agreement in the field of trade; and act as a centre for harmonisation of trade and development policies of governments
- Instruments:* Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices 1980; UN Convention on International Multimodal Transport
- Principal publications:* *Commodity Yearbook; Commodity Price Bulletin; Handbook of International Trade and Development Statistics; Trade and Development Report (1981–)*

**UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL
ORGANISATION**

- ☛ IDC; NZ National Commission for UNESCO
- Short title:* UNESCO
- Year established:* 1945
- Established by:* Constitution
- Relationship to UN:* Specialised agency

<i>Membership:</i>	Membership of the UN carries an automatic qualification for membership of UNESCO; elected Executive Board of 51 members
<i>Functions:</i>	To contribute to peace and security by promoting collaboration among nations through education, science and culture in order to further universal respect for justice, the rule of law, human rights and fundamental freedoms
<i>Principal publications:</i>	Records of the General Conference (1947–); copies of agreements, conventions, resolutions, recommendations, statements and declarations; decisions of the Executive Board
<i>Associated organisations:</i>	Intergovernmental Committee for the Intergovernmental Informatics Programme; Intergovernmental Committee for Physical Education and Sport; Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in the Case of Illicit Appropriation; Intergovernmental Committee of the World Decade for Cultural Development (WDCD); Intergovernmental Council of the International Programme for the Social Sciences (MOST); Intergovernmental Council for the General Information Programme; Intergovernmental Council of the International Hydrological Programme (IHP); Intergovernmental Oceanographic Commission (IOC); International Co-ordinating Council of the Programme on Man and the Biosphere (MAB); International Geological Correlation Programme (IGCP); International Programme for the Development of Communication (IPDC); World Heritage Committee; UNESCO Regional Science and Technology Advisory Committee for South East Asia

**UNITED NATIONS
ENVIRONMENT PROGRAMME**

☛ IDC; Auckland City Library; Ministry for the Environment

Short title: UNEP
Year established: 1972
Established by: UN resolution
Membership: 58 nations elected to the Governing Council by the General Assembly on a geographical basis
Relationship to UN: Permanent programme under the umbrella of the General Assembly
Functions: To promote international co-operation in environmental matters and recommend appropriate policies

**UNITED NATIONS HIGH
COMMISSIONER FOR REFUGEES**

☛ IDC

Short title: UNHCR
Year established: 1951
Established by: UN resolution
Relationship to UN: Permanent organ of the General Assembly
Membership: Executive Committee of 47 members
Functions: To develop solutions for international refugee problems, including the provision of international protection and material assistance

**UNITED NATIONS INDUSTRIAL
DEVELOPMENT ORGANISATION**

☛ IDC; MFAT

Short title: UNIDO
Year established: 1966
Established by: UN resolution
Membership: 167 countries, including NZ; elected Board of 53 members
Relationship to UN: Specialised agency since 1986
Functions: To promote and accelerate industrial development in developing countries

UNIVERSAL POSTAL UNION

	☛ Ministry of Commerce
<i>Short title:</i>	UPU
<i>Year established:</i>	1874
<i>Established by:</i>	Berne Treaty
<i>Membership:</i>	189, including NZ; elected Council of Administration consisting of 40 members, plus one for the representative of the host country of the quinquennial Universal Postal Congress
<i>Relationship to UN:</i>	Specialised agency since 1948
<i>Functions:</i>	An intergovernmental organisation which regulates the provision of international mail services
<i>Instruments:</i>	UPU Constitution and Convention; UPU Postal Parcels Agreement
<i>Principal publications:</i>	Executive Council and Committee papers; Congress documents; Convention Annotated Code; and <i>Union Postale Review</i>

WORLD BANK GROUP

Comprising:	(1) International Bank for Reconstruction and Development
	☛ IDC; MFAT
<i>Short title:</i>	IBRD
<i>Year established:</i>	1946
<i>Established by:</i>	Bretton Woods Conference
<i>Membership:</i>	178, including NZ
<i>Functions:</i>	To promote the international flow of capital for productive purposes, particularly those which will lead to economic growth in less developed countries
	(2) International Development Association
<i>Short title:</i>	IDA
<i>Year established:</i>	1959
<i>Established by:</i>	IMF and IBRD
<i>Membership:</i>	158 countries, including NZ
<i>Functions:</i>	To provide loans for less developed countries on more favourable terms than those offered by the IBRD

(3) International Finance Corporation

<i>Short title:</i>	IFC
<i>Year established:</i>	1956 (specialised agency of the UN since 1957)
<i>Membership:</i>	163 countries, including NZ
<i>Functions:</i>	To supplement the activities of the IBRD by encouraging the growth of productive private enterprise in member countries, particularly in less developed areas
<i>Associated organisations of World Bank Group:</i>	International Centre for the Settlement of Investment Disputes (ICSID); Multilateral Investment Guarantee Agency (MIGA); regional development banks (eg, Asian Development Bank (ADB))

WORLD FOOD COUNCIL

	☛ MFAT
<i>Short title:</i>	WFC
<i>Year established:</i>	1974
<i>Established by:</i>	UN resolution
<i>Membership:</i>	36 members nominated by ECOSOC and elected by the General Assembly
<i>Relationship to UN:</i>	UN organ reporting to General Assembly through ECOSOC
<i>Functions:</i>	To review major problems affecting the world food situation, and the steps for resolving them; and to recommend remedial action

WORLD FOOD PROGRAMME

	☛ IDC; MFAT
<i>Short title:</i>	WFP
<i>Year established:</i>	1961
<i>Established by:</i>	Parallel resolutions of UN General Assembly and FAO Conference
<i>Membership:</i>	Supervising committee representing 42 countries (Committee on Food Aid Policies (CFA))
<i>Relationship to UN:</i>	UN programme
<i>Functions:</i>	The UN food aid organisation, which assists poorer countries and provides disaster relief

WORLD HEALTH ORGANIZATION

	☛ IDC; MFAT; Ministry of Health
<i>Short title:</i>	WHO
<i>Year established:</i>	1948
<i>Established by:</i>	UN resolution
<i>Membership:</i>	190, including NZ; Executive Board of 32 individuals
<i>Relationship to UN:</i>	Specialised agency since 1948
<i>Functions:</i>	To direct and co-ordinate international health work and generally promote activities in health and hygiene
<i>Principal publications:</i>	<i>Basic Documents (1956–); Handbook of Resolutions and Decisions of the World Health Assembly and the Executive Board; International Digest of Health Legislation</i>

WORLD INTELLECTUAL PROPERTY ORGANISATION

	☛ MFAT; Ministry of Commerce; IDC
<i>Short title:</i>	WIPO
<i>Year established:</i>	1970
<i>Established by:</i>	Stockholm Convention 1967
<i>Membership:</i>	154 governments, including NZ; Co-ordination Committee of 52 members
<i>Relationship to UN:</i>	Specialised agency since 1974
<i>Functions:</i>	To promote the protection of intellectual property worldwide and administer the relevant treaties
<i>Instruments:</i>	The Paris Convention 1883 (protection of industrial property); Berne Convention 1886 (protection of literary and artistic works); the Madrid Agreement 1891 (international registration of marks); Patent Cooperation Treaty 1970
<i>Principal publications:</i>	<i>Industrial Property and Copyright; International Designs Bulletin; Industrial Property Laws and Treaties; Copyright Laws and Treaties of the World; Intellectual Property in Asia and the Pacific; Industrial Property Statistics; PCT Gazette; Introduction to Patent Law and Practice</i>

WORLD METEOROLOGICAL ORGANISATION

	☛ MFAT; Meteorological Service of NZ
<i>Short title:</i>	WMO
<i>Year established:</i>	1950
<i>Established by:</i>	WMO Convention 1947
<i>Membership:</i>	177 states and territories, including NZ; Executive Council of 36 members
<i>Relationship to UN:</i>	Specialised agency since 1951
<i>Functions:</i>	To promote world-wide co-operation in the collection, distribution, and processing of meteorological and hydrological data
<i>Principal publications:</i>	Basic documents; operational publications; official records; guides; <i>WMO Bulletin</i>

WORLD TRADE ORGANISATION

	☛ Auckland City Library; IDC; MFAT; Ministry of Commerce
<i>Short title:</i>	WTO
<i>Year established:</i>	1995 (as successor to 1947 General Agreement on Tariffs and Trade (GATT))
<i>Established by:</i>	Final Act of the GATT Uruguay Round, 1994
<i>Membership:</i>	86 countries, including New Zealand (as at May 1995)
<i>Functions:</i>	A definitive agreement of much broader scope than GATT, which provides the legal and institutional foundation of the multi-lateral trading system and aims to liberalise world trade. The WTO administers and implements the multilateral and plurilateral trade agreements which together make up the WTO; it acts as a forum for multilateral trade negotiations; it seeks to resolve trade disputes; and it examines national trade policies. It extends beyond trade in merchandise goods to trade in agricultural products, textiles and clothing, as well as services and trade-related aspects of intellectual property
<i>Associated instruments:</i>	GATS (General Agreement on Trade in Services); TRIPS (Trade-Related Aspects of Intellectual Property Rights)

Treaty bodies

COMMITTEE AGAINST TORTURE

- ☛ IDC; MFAT; Human Rights Commission
- Year established:* 1987
- Established by:* Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984
- Relationship to UN:* Committee of the General Assembly
- Membership:* 10 experts serving in their personal capacity
- Functions:* To comment on reports of states parties and inquire into allegations of the systematic practice of torture

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- ☛ MFAT
- Year established:* 1985
- Established by:* International Covenant on Economic, Social and Cultural Rights 1976
- Relationship to UN:* Committee of the General Assembly
- Membership:* 18 members serving in their personal capacity, elected by ECOSOC
- Functions:* To monitor the implementation of the Covenant on the basis of reports received from states parties

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

- ☛ IDC; MFAT
- Short title:* CEDAW
- Year established:* 1981
- Established by:* Convention on the Elimination of All Forms of Discrimination Against Women 1979
- Relationship to UN:* Committee of the General Assembly
- Membership:* 23 members serving in their personal capacity, elected by states parties (including one from NZ)
- Functions:* To monitor the implementation of the Convention on the basis of reports received from states parties
- Principal publications:* NZ's first report: MFAT *Information Bulletin* no 23 (1988)

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

	☛ IDC; MFAT; Human Rights Commission
<i>Short title:</i>	CERD
<i>Year established:</i>	1969
<i>Established by:</i>	Convention on the Elimination of All Forms of Racial Discrimination 1965
<i>Relationship to UN:</i>	Committee of the General Assembly
<i>Membership:</i>	18 experts serving in their personal capacity, elected by states parties
<i>Functions:</i>	To monitor the implementation of the Convention on the basis of reports received from states parties

COMMITTEE ON THE RIGHTS OF THE CHILD

	☛ IDC; Ministry of Youth Affairs; MFAT; Human Rights Commission
<i>Year established:</i>	1990
<i>Established by:</i>	Convention on the Rights of the Child 1989
<i>Membership:</i>	10 elected experts of recognised competence serving in their personal capacity
<i>Relationship to UN:</i>	Committee of the General Assembly
<i>Functions:</i>	To examine the progress made by states parties in realising the obligations undertaken in the Convention
<i>Principal publications:</i>	NZ's initial report (Ministry of Youth Affairs, 1995)

HUMAN RIGHTS COMMITTEE

	☛ IDC; MFAT; Human Rights Commission
<i>Short title:</i>	HRC
<i>Year established:</i>	1976
<i>Established by:</i>	International Covenant on Civil and Political Rights 1966
<i>Relationship to UN:</i>	Committee of the General Assembly
<i>Membership:</i>	18 elected members of recognised competence, serving in their personal capacity

Functions: To monitor the implementation of the Covenant on the basis of reports received from states parties

Principal publications: NZ's reports: MFAT *Information Bulletins* nos 30 (1990), 36 (1991), and 49 (1994); *Core Document on New Zealand* (1993)

Other

COMMONWEALTH SECRETARIAT

☛ IDC

Year established: 1965

Established by: Commonwealth Heads of Government

Functions: To collect and disseminate information; give effect to collective decisions; and generally facilitate the discussion of problems common to Commonwealth countries. The Legal and Constitutional Affairs Division arranges a biennial Commonwealth Law Ministers Meeting and provides legislative drafting assistance and courses for government lawyers

Instruments: Commonwealth declarations

Principal publications: *Commonwealth Law Bulletin*

FINANCIAL ACTION TASK FORCE

☛ Serious Fraud Office

Short title: FATF

Year established: 1988

Established by: OECD

Functions: To apprehend money launderers

Principal publications: Reports, evaluations and resolutions etc

THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

☛ MFAT

Short title: The Hague Conference/HCOFIL

Year established: First meeting 1893 but permanently established 1955

Established by: Statute of 1951

Membership: 38 governments (including Australia)

Relationship to UN: Agreement for co-operation with UNCTAD and links with UNCITRAL

Functions: To achieve progressive unification of rules of private international law by conclusion of treaties

Instruments: Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions 1961; Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters 1965; Convention on the Law Applicable to Trusts and their Recognition 1985; Convention on the Law Applicable to the International Sale of Goods 1985

Principal publications: *Recueil des Conventions—Collection of Conventions* (1951–1988)

INTERNATIONAL ASSOCIATION OF INDUSTRIAL ACCIDENT BOARDS AND COMMISSIONS

☛ ACC

Short title: IAIABC

Year established: 1914

Functions: To strengthen and improve the administration of workers' compensation programmes

Principal publications: *The Journal*

INTERNATIONAL BAR ASSOCIATION

☛ New Zealand Law Society

Short title: IBA

Year established: 1947

Membership: Individual lawyer members in 173 countries, and 156 law societies and bar associations

Functions: To encourage the discussion of problems relating to professional organisation and status; promote an exchange of information between legal associations world-wide; support the independence of the judiciary and the right of lawyers to practise their profession without interference; keep abreast of developments in the law; and help in improving and making new laws

Principal publications: *Directory* (annual); *International Business Lawyer* (monthly); *International Code of Professional Ethics*

INTERNATIONAL ENERGY AGENCY

☛ Ministry of Commerce

Short title: IEA
Year established: 1974
Established by: Decision of OECD Council and the Agreement on an International Energy Program

Membership: 23 countries, including NZ
Functions: An autonomous body within the OECD framework whose aim is to promote co-operation between energy-producing and consuming countries. It includes energy-related environmental issues in its overall programme of energy co-ordination.

Instruments: Agreement on an International Energy Program; Charter of the International Energy Agency Dispute Settlement Centre; Implementing Agreement for a Cooperative Programme to Establish and Operate IEA Information Centres for the Analysis and Dissemination of Demonstrated Energy Technologies

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

☛ MFAT

Short title: UNIDROIT
Year established: 1926
Established by: Originally, an agreement between the Italian Government and the League of Nations but, since 1940, by multilateral agreement, the UNIDROIT Statute

Membership: 56 governments (including Australia)
Relationship to UN: Agreements with UNCTAD and IMO (among others) and observer status at annual sessions of UNCITRAL

Functions: To examine ways of harmonising and

co-ordinating the private law of states, and to prepare gradually for the adoption by various states of uniform rules of private law

- Instruments:* Uniform Law on the International Sale of Goods 1964 (ULIS); Uniform Law on the Formation of Contracts for the International Sale of Goods 1964 (ULF); International Convention on the Travel Contract 1970; Uniform Law on the Form of an International Will 1973; Convention on Agency in the International Sale of Goods 1983; UNIDROIT Convention on International Finance Leasing 1988; UNIDROIT Convention on International Factoring 1988
- Principal publications:* *Bulletin d'informations UNIDROIT; Uniform Law Review; Digest of Legal Activities of International Organizations and other Institutions*

INTERNATIONAL ORGANISATION OF LEGAL METROLOGY

☛ Ministry of Commerce

- Short title:* OIML
Year established: 1955
Established by: Convention
Membership: 52 full members and 42 corresponding members
- Functions:* To promote uniform rules for legal metrology world-wide
- Principal publications:* International recommendations on weighing and measuring equipment, and legal metrology; international documents on legal metrology

INTERNATIONAL ORGANISATION FOR MIGRATION

☛ IDC; MFAT

- Short title:* IOM
Year established: 1951 (as Intergovernmental Committee for European Migration)
Established by: Constitution

Membership: 55 member countries and 42 observers (as at 1993)

Functions: To ensure the orderly flow of migration throughout the world through the organised transfer of qualified human resources and of refugees and displaced persons, and to provide a forum for countries to discuss and promote co-operation on migration issues

Associated organisations: Refugee and Migrant Service is the NZ agent of IOM

INTERNATIONAL SOCIAL SECURITY ASSOCIATION

☛ IDC; ACC

Short title: ISSA

Year established: 1927

Membership: 238 affiliate members and 83 associate members

Relationship to UN: Consultative status to ECOSOC

Functions: To protect, promote, and develop social security throughout the world

Principal publications: *World Bibliography of Social Security; Current Research in Social Security; Trends in Social Security; International Social Security Review*

INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANISATION

☛ Ministry of Commerce

Short title: INTELSAT

Year established: 1967 (interim agreements operated until 1971)

Established by: INTELSAT Agreement, 1971

Membership: 131 governments are parties to the INTELSAT Agreement

Functions: To establish a single global commercial telecommunications satellite system and expanded telecommunications worldwide

Instruments: INTELSAT Agreement and INTELSAT Operating Agreement

Principal publications: *INTELSAT News*

INTERNATIONAL WHALING COMMISSION

☛ MFAT; Department of Conservation
Short title: IWC
Year established: 1946
Established by: International Convention for the Regulation of Whaling 1931
Membership: 40 contracting states, including NZ
Functions: To initiate and conduct research, and disseminate research findings on whales and whaling; and to regulate whaling as to protected species, seasons, waters, size limits, methods etc

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

☛ IDC; National Library of NZ; MFAT; Ministry of Commerce; Ministry for the Environment
Short title: OECD
Year established: 1960
Established by: Convention
Membership: 25 members, including NZ
Functions: To promote sustainable economic growth and the expansion of world trade; and to assist less developed countries
Principal publications: Various reports
Associated organisations: International Energy Agency (IEA); OECD on Science and Technology Policy; Directorate for Science, Technology and Industry

WORLD CONSERVATION UNION

Short title: IUCN
Year established: 1948
Membership: States and non-governmental organisations
Relationship to UN: Contributed to UN Conference on Environment and Development
Functions: To provide leadership and promote a common approach for the world conservation movement in order to safeguard

the integrity and diversity of the natural world and to ensure that human use of natural resources is appropriate, sustainable and equitable

Publications: *IUCN Newsletter*

WORLD CUSTOMS ORGANISATION

✉ NZ Customs Dept

Short title: WCO

Year established: 1950 (as Customs Cooperation Council)

Established by: A convention signed in Brussels

Membership: 130 countries

Functions: To promote co-operation amongst members on all customs matters; to examine technical aspects of customs systems and procedures with a view to promoting the highest degree of harmonisation and uniformity amongst members; to promote the uniform application and interpretation of conventions and other instruments; and to promote the exchange of information amongst members

GOVERNMENTAL ORGANISATIONS: REGIONAL

ASIA-PACIFIC ECONOMIC COOPERATION forum

✉ IDC; MFAT; Ministry of Commerce

Short title: APEC

Year established: 1989 (on Australian initiative)

Membership: 18 Pacific Rim nations, including NZ

Functions: An annual forum for the discussion of political and economic issues, particularly the growing interdependence of trade and commerce in the Asia-Pacific region

Subsidiary bodies: APEC Eminent Persons Group (APEC-EPG); APEC Human Resources Development (APEC-HRD); APEC Industrial Science and Technology Working Group; APEC Telecommunications Working Group

ASIA-PACIFIC TELECOMMUNITY

- ☛ Ministry of Commerce
- Short title:* APT
- Year established:* 1979
- Membership:* 28 members, 3 associate members and 30 affiliate members
- Relationship to UN:* Through ESCAP and ITU
- Functions:* An intergovernmental organisation under the auspices of ESCAP, which fosters international co-operation in telecommunications, technology transfer and human resource development and provides a forum for the governments of the Asia-Pacific region to co-operate on technical compatibility and the efficiency of telecommunications operations
- Instruments:* Constitution of the Asia-Pacific Telecommunity, Bangkok, 1992
- Principal publications:* *APT Year Book*; *APT Telecom Journal*

ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

- Year established:* 1956
- Membership:* Includes governments of India, Japan, Indonesia, Iraq, Sri Lanka, Burma and Syria
- Functions:* To elaborate on international legal questions common to its members
- Principal publications:* *Quarterly Bulletin* (1975–); reports and papers

ASIAN DEVELOPMENT BANK (ADB)

see World Bank Group (Government organisations: universal)

ASSOCIATION OF SOUTH EAST ASIAN NATIONS

- ☛ IDC
- Short title:* ASEAN
- Year established:* 1967 (Bangkok Declaration)
- Membership:* Brunei, Indonesia, Malaysia, Singapore, Thailand, the Philippines, and Vietnam
- Functions:* To accelerate economic growth, social

progress and cultural development in the region; to promote regional peace and stability; and more generally to promote collaboration in the economic, social, cultural, technical, scientific and administrative fields

Instruments: Declaration of ASEAN Concord and Treaty of Amity and Cooperation in South-East Asia 1976

COUNCIL OF EUROPE

☛ IDC

Year established: 1949
Established by: Statute
Membership: 32 countries
Functions: To achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress; and to maintain and further realise human rights and fundamental freedoms

Instruments: Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data 1981

Publications: *European Yearbook* (1954–); *European Conventions and Agreements*; *European Treaty Series*

Associated organisations: Consultative Committee on Data Protection

ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

☛ IDC; MFAT

Short title: ESCAP
Year established: 1947 (as Economic Commission for Asia and the Far East—ECAFE); 1974 (as ESCAP)

Established by: UN resolutions
Relationship to UN: Regional economic commission of ECOSOC

Membership: 45 countries within the geographical scope of the Commission, including NZ, 4 non-regional members, and 10 associate members

Functions: To achieve regional economic co-operation; and promote sustainable development and alleviate poverty

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

☛ MFAT

Short title: EBRD

Year established: 1991

Established by: Agreement of 29 May 1990

Membership: European countries, non-European countries which are members of the IMF, European Community, and European Investment Bank

Relationship to UN: Co-operates with IMF, IBRD, IFC, MIGA

Functions: To foster the transition of Central and Eastern European countries towards open, market-oriented economies; and to promote private and entrepreneurial initiative by assisting recipient member countries to implement structural and sectoral economic reforms, including demonopolisation, decentralisation and privatisation

Principal publications: Annual report

EUROPEAN COMMISSION OF HUMAN RIGHTS

☛ IDC; Ministry of Justice

Year established: 1954

Established by: Council of Europe under the terms of the European Convention on Human Rights

Membership: 28 contracting states

Functions: To receive complaints alleging breaches of the Convention from any party and to attempt to reach friendly settlements; to report to the Committee of Ministers of the Council of Europe if no friendly settlement can be reached, and within 3 months of its report to refer the case to the European

Court of Human Rights; and to ensure, along with the European Court of Justice, that there is observance of the engagements undertaken by the contracting parties to the Convention

Principal publications: *Yearbook of the European Convention on Human Rights; Decisions and Reports series; Annual Survey of Activities and Statistics*

EUROPEAN COURT OF HUMAN RIGHTS

☛ IDC; Ministry of Justice; Human Rights Commission

Year established: 1950

Established by: European Convention on Human Rights

Membership: One judge for each member of the Council of Europe

Functions: To hear cases concerning the interpretation or application of the Convention referred to it by parties or by the European Commission of Human Rights; and to give advisory opinions on the same at the request of the Committee of Ministers of the Council of Europe

Principal publications: *Judgments and Decisions (1992–); Pleadings, Oral Arguments and Documents*

EUROPEAN UNION

☛ Auckland City Library; IDC

Short title: EU

Year established: 1993

Established by: Treaty on European Union (Maastricht Treaty)

Membership: 15 European countries

Functions: EU is a collective term for a number of European supra-national organisations, the most important of which is the European Economic Community (EEC), instituted by the Treaty of Rome 1957 and now known as the European Community (EC). This is a customs union or common market, in which duties between member states are abolished and external tariffs are erected against third countries. The EC is based on

the principles of free movement of goods, persons, services and capital. It has a common agricultural policy and also aims to harmonise the respective national economic policies, particularly external trade, social policy and transport

Subordinate institutions:

Council of Ministers, the Commission, the Parliament, European Court of Justice (ECJ)

Principal publications:

Europe Today; Official Journal of the European Communities; Bulletin of the European Union

SOUTH PACIFIC COMMISSION

Short title:

☛ MFAT; Alexander Turnbull Library; IDC
SPC

Year established:

1947

Established by:

Canberra Agreement

Membership:

27 South Pacific independent and self-governing nations and territories, including NZ

Functions:

Advisory and consultative activities aimed at encouraging the economic and social development of the region, with particular emphasis on agriculture, marine resources, health, socio-economic and statistical services and community education

Associated organisations:

South Pacific Organisations Coordinating Committee (SPOCC); South Pacific Regional Environment Programme (SPREP)

SOUTH PACIFIC FORUM

Year established:

☛ MFAT; IDC
1971

Membership:

15 South Pacific nations, including NZ and Australia

Functions:

An annual gathering of Heads of Government of the independent and self-governing countries of the South Pacific, with the purpose of tackling common issues from a regional perspective, enhancing a

regional collective voice, and addressing shared problems of economic development

Associated organisations: Forum Secretariat; South Pacific Organisations Coordinating Committee (SPOCC); Forum Fisheries Agency (FFA)

SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

☛ MFAT

Short title: SPREP

Year established: 1980; fully autonomous since 1992

Established by: Port Moresby Forum Declaration on Environment Management

Membership: 27 nations, including New Zealand and Australia

Functions: To assist South Pacific countries and territories to protect and improve their shared environment and manage their resources to enhance the quality of life

Principal publications: *SPREP Newsletter; SPREP Reports and Studies; Environmental Case Studies*

GOVERNMENTAL ORGANISATIONS: BILATERAL

AUSTRALIA NEW ZEALAND CLOSER ECONOMIC RELATIONS TRADE AGREEMENT

☛ MFAT; Ministry of Commerce

Short title: ANZCERTA (CER)

Year established: 1983

Functions: To strengthen the broader relationship between Australia and NZ; and to develop closer economic relations through the gradual expansion of free trade under conditions of fair competition

**AUSTRALIAN AND NEW ZEALAND
ENVIRONMENT AND
CONSERVATION COUNCIL**

<i>Short title:</i>	☛ MFAT ANZECC
<i>Year established:</i>	1991
<i>Membership:</i>	Australian Commonwealth, State and Territory, and NZ Ministers responsible for the environment and conservation; Papua New Guinea has observer status
<i>Functions:</i>	To provide a forum for member governments to exchange information and experience; and develop co-ordinated policies for national and international environment and conservation issues
<i>Principal publications:</i>	Reports, discussion papers, technical bases
<i>Comparable bodies:</i>	Agriculture and Resources Management Council of Australia and New Zealand; Ministerial Council on the Administration of Justice; Australian and New Zealand Minerals and Energy Council; Industry, Technology and Regional Development Council; Ministerial Council on Forestry, Fisheries and Aquaculture

**SCIENTIFIC AND TECHNOLOGICAL
CO-OPERATION**

	☛ Ministry of Research, Science and Technology
<i>Short title:</i>	STC
<i>Functions:</i>	Bilateral agreements (with and without grant programmes) between NZ and other countries for the purpose of encouraging technical and scientific cooperation. Examples: United States (1974/1991); Germany (1977); China (1987); European Community (1991)

NON-GOVERNMENTAL ORGANISATIONS: UNIVERSAL

INTERNATIONAL CHAMBER OF COMMERCE

<i>Short title:</i>	ICC
<i>Year established:</i>	1920
<i>Established by:</i>	International Trade Conference 1919
<i>Membership:</i>	National committees of 59 countries, including NZ
<i>Relationship to UN:</i>	Observer status at UNCITRAL and links with other UN agencies which deal with economic matters
<i>Functions:</i>	To search for practical solutions to obstacles that hamper the mechanism of world trade; speak for the business community in the international arena; provide a forum at which business leaders and intergovernmental organisations can make contact; publish/produce practical works of business relevance; and support the Court of International Commercial Arbitration
<i>Principal publications:</i>	<i>ICC Handbook</i> and various other handbooks and guides

INTERNATIONAL COMMITTEE OF THE RED CROSS

	☛ NZ Red Cross
<i>Short title:</i>	ICRC
<i>Year established:</i>	1863
<i>Established by:</i>	Henri Dunant
<i>Membership:</i>	21 Swiss nationals
<i>Functions:</i>	To provide humanitarian assistance
<i>Instruments:</i>	Geneva Conventions 1949 and 1977 protocols
<i>Principal publications:</i>	<i>International Review of the Red Cross</i>

**INTERNATIONAL
FEDERATION OF RED CROSS
AND RED CRESCENT**

Year established: 1919
Membership: 165 national societies
Functions: To provide humanitarian assistance

**INTERNATIONAL
ORGANISATION OF
SECURITIES COMMISSIONS**

Short title: IOSCO
Year established: 1974
Established by: Securities commissions in countries in North and South America
Membership: 55 countries, including NZ
Functions: To co-operate to ensure a better regulation of the markets, domestically as well as internationally; to promote the development of domestic markets; to exchange information on the respective experiences of member countries; to unite efforts to establish standards and an effective surveillance of international securities transactions; and to provide mutual assistance to ensure the integrity of the markets by rigorous application of the standards and enforcement
Principal publications: Annual reports; conference papers and committee reports

NON-GOVERNMENTAL ORGANISATIONS: REGIONAL

PACIFIC BASIN ECONOMIC COUNCIL

Short title: PBEC
Year established: 1967
Membership: 14 countries, including Australia and NZ
Functions: A purely business group with similar aims to PECC (see below)

PACIFIC ECONOMIC COOPERATION COUNCIL

Short title: NZPECC; Law Commission
PECC
Year established: 1980
Membership: 22 national committees, including NZPECC and AUSPECC
Functions: A tripartite organisation of business leaders, academics and government officials which provides a forum for discussing and analysing economic policy issues and for promoting cooperation based on free and open economic exchanges
Subordinate bodies: Trade Policy Forum (TPF); Minerals and Energy Forum; Pacific Economic Outlook Project

APPENDIX A

Vienna Convention on
the Law of Treaties

VIENNA CONVENTION ON THE LAW OF TREATIES

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Annex

The States Parties to the present Convention,

Considering the fundamental role of treaties in the history of international relations,

Recognising the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations, whatever their constitutional and social systems,

Noting that the principles of free consent and of good faith and the *pacta sunt servanda* rule are universally recognised,

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all,

Believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote the purposes of the United Nations set forth in the Charter, namely, the maintenance of international peace and security, the development of friendly relations and the achievement of co-operation among nations,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

PART I INTRODUCTION

Article 1 Scope of the present Convention

The present Convention applies to treaties between States.

Article 2 Use of terms

(1) For the purposes of the present Convention:

- (a) **treaty** means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

- (b) **ratification, acceptance, approval and accession** mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;
 - (c) **full powers** means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;
 - (d) **reservation** means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;
 - (e) **negotiating State** means a State which took part in the drawing up and adoption of the text of the treaty;
 - (f) **contracting State** means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;
 - (g) **party** means a State which has consented to be bound by the treaty and for which the treaty is in force;
 - (h) **third state** means a State not a party to the treaty;
 - (i) **international organisation** means an intergovernmental organisation.
- (2) The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

Article 3 International agreements not within the scope of the present Convention

The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

- (a) the legal force of such agreements;
- (b) the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;

- (c) the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

Article 4 Non-retroactivity of the present Convention
Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

Article 5 Treaties constituting international organisations and treaties adopted within an international organisation
The present Convention applies to any treaty which is the constituent instrument of an international organisation and to any treaty adopted within an international organisation without prejudice to any relevant rules of the organisation.

PART II
CONCLUSION AND ENTRY INTO FORCE
OF TREATIES

Section 1—Conclusion of Treaties

Article 6 Capacity of States to conclude treaties
Every State possesses capacity to conclude treaties.

Article 7 Full powers

- (1) A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:
 - (a) he produces appropriate full powers; or
 - (b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.
- (2) In virtue of their functions and without having to produce full powers, the following are considered as representing their State:
 - (a) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;

- (b) heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited;
- (c) representatives accredited by States to an international conference or to an international organisation or one of its organs, for the purpose of adopting the text of a treaty in that conference, organisation or organ.

Article 8 Subsequent confirmation of an act performed without authorisation

An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorised to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

Article 9 Adoption of the text

- (1) The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph (2).
- (2) The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

Article 10 Authentication of the text

The text of a treaty is established as authentic and definitive:

- (a) by such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or
- (b) failing such procedure, by the signature, signature *ad referendum* or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

Article 11 Means of expressing consent to be bound by a treaty

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

Article 12 Consent to be bound by a treaty expressed by signature

- (1) The consent of a State to be bound by a treaty is expressed by the signature of its representative when:
 - (a) the treaty provides that signature shall have that effect;
 - (b) it is otherwise established that the negotiating States were agreed that signature should have that effect; or

- (c) the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.
- (2) For the purposes of paragraph (1):
 - (a) the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;
 - (b) the signature *ad referendum* of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13 Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:

- (a) the instruments provide that their exchange shall have that effect; or
- (b) it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

Article 14 Consent to be bound by a treaty expressed by ratification, acceptance or approval

(1) The consent of a State to be bound by a treaty is expressed by ratification when:

- (a) the treaty provides for such consent to be expressed by means of ratification;
- (b) it is otherwise established that the negotiating States were agreed that ratification should be required;
- (c) the representative of the State has signed the treaty subject to ratification; or
- (d) the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.

(2) The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15 Consent to be bound by a treaty expressed by accession

The consent of a State to be bound by a treaty is expressed by accession when:

- (a) the treaty provides that such consent may be expressed by that State by means of accession;

- (b) it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or
- (c) all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

Article 16 Exchange or deposit of instruments of ratification, acceptance, approval or accession

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

- (a) their exchange between the contracting States;
- (b) their deposit with the depositary; or
- (c) their notification to the contracting States or to the depositary, if so agreed.

Article 17 Consent to be bound by part of a treaty and choice of differing provisions

- (1) Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.
- (2) The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made clear to which of the provisions the consent relates.

Article 18 Obligation not to defeat the object and purpose of a treaty prior to its entry into force

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

- (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or
- (b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

Section 2—Reservations

Article 19 Formulation of reservations

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

- (a) the reservation is prohibited by the treaty;
- (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or

- (c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20 Acceptance of and objection to reservations

- (1) A reservation expressly authorised by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.
- (2) When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.
- (3) When a treaty is a constituent instrument of an international organisation and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organisation.
- (4) In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:
 - (a) acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;
 - (b) an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;
 - (c) an act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.
- (5) For the purposes of paragraphs (2) and (4) and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

Article 21 Legal effects of reservations and of objections to reservations

- (1) A reservation established with regard to another party in accordance with articles 19, 20 and 23:
 - (a) modifies for the reserving State in its relations with that other party the provisions of the treaty to which

- the reservation relates to the extent of the reservation;
and
 - (b) modifies those provisions to the same extent for that other party in its relations with the reserving State.
- (2) The reservation does not modify the provisions of the treaty for the other parties to the treaty *inter se*.
 - (3) When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

Article 22 Withdrawal of reservations and of objections to reservations

- (1) Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.
- (2) Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.
- (3) Unless the treaty otherwise provides, or it is otherwise agreed:
 - (a) the withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;
 - (b) the withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article 23 Procedure regarding reservations

- (1) A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.
- (2) If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.
- (3) An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.

- (4) The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

*Section 3—Entry into Force and
Provisional Application of Treaties*

Article 24 Entry into force

- (1) A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.
- (2) Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.
- (3) When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.
- (4) The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25 Provisional application

- (1) A treaty or a part of a treaty is applied provisionally pending its entry into force if:
 - (a) the treaty itself so provides; or
 - (b) the negotiating States have in some other manner so agreed.
- (2) Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

PART III
OBSERVANCE, APPLICATION AND
INTERPRETATION OF TREATIES

Section 1—Observance of Treaties

Article 26 Pacta sunt servanda

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27 Internal law and observance of treaties

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

Section 2—Application of Treaties

Article 28 Non-retroactivity of treaties

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29 Territorial scope of treaties

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30 Application of successive treaties relating to the same subject-matter

- (1) Subject to article 103 of the Charter of the United Nations, the rights and obligations of States Parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.
- (2) When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.
- (3) When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.
- (4) When the parties to the later treaty do not include all the parties to the earlier one:
 - (a) as between States Parties to both treaties the same rule applies as in paragraph (3);
 - (b) as between a State Party to both treaties and a State Party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.
- (5) Paragraph (4) is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty, the provisions of which are incompatible with its obligations towards another State under another treaty.

Section 3—Interpretation of Treaties

Article 31 General rule of interpretation

- (1) A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
- (2) The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;
 - (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
- (3) There shall be taken into account, together with the context:
 - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
 - (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
 - (c) any relevant rules of international law applicable in the relations between the parties.
- (4) A special meaning shall be given to a term if it is established that the parties so intended.

Article 32 Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) leaves the meaning ambiguous or obscure; or
- (b) leads to a result which is manifestly absurd or unreasonable.

Article 33 Interpretation of treaties authenticated in two or more languages

- (1) When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

- (2) A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.
- (3) The terms of the treaty are presumed to have the same meaning in each authentic text.
- (4) Except where a particular text prevails in accordance with paragraph (1), when a comparison of the authentic text discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

Section 4—Treaties and Third States

Article 34 General rule regarding third States

A treaty does not create either obligations or rights for a third State without its consent.

Article 35 Treaties providing for obligations for third States

An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing.

Article 36 Treaties providing for rights for third States

- (1) A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.
- (2) A State exercising a right in accordance with paragraph (1) shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

Article 37 Revocation or modification of obligations or rights of third States

- (1) When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.
- (2) When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modi-

fied by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.

Article 38 Rules in a treaty becoming binding on third States through international custom

Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognised as such.

PART IV
AMENDMENT AND MODIFICATION OF TREATIES

Article 39 General rules regarding the amendment of treaties

A treaty may be amended by agreement between the parties. The rules laid down in Part II apply to such an agreement except in so far as the treaty may otherwise provide.

Article 40 Amendment of multilateral treaties

- (1) Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.
- (2) Any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, each one of which shall have the right to take part in:
 - (a) the decision as to the action to be taken in regard to such proposal;
 - (b) the negotiation and conclusion of any agreement for the amendment of the treaty.
- (3) Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.
- (4) The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; article 30, paragraph (4)(b), applies in relation to such State.
- (5) Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State:
 - (a) be considered as a party to the treaty as amended; and
 - (b) be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.

Article 41 Agreements to modify multilateral treaties between certain of the parties only

- (1) Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:
 - (a) the possibility of such a modification is provided for by the treaty; or
 - (b) the modification in question is not prohibited by the treaty and:
 - (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
 - (ii) does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.
- (2) Unless in a case falling under paragraph (1)(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

PART V
INVALIDITY, TERMINATION AND SUSPENSION OF
THE OPERATION OF TREATIES

Section 1—General Provisions

Article 42 Validity and continuance in force of treaties

- (1) The validity of a treaty or of the consent of a State to be bound by a treaty may be impeached only through the application of the present Convention.
- (2) The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

Article 43 Obligations imposed by international law independently of a treaty

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

Article 44 Separability of treaty provisions

- (1) A right of a party, provided for in a treaty or arising under article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.
- (2) A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognised in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60.
- (3) If the ground relates solely to particular clauses, it may be invoked only with respect to those clauses where:
 - (a) the said clauses are separable from the remainder of the treaty with regard to their application;
 - (b) it appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and
 - (c) continued performance of the remainder of the treaty would not be unjust.
- (4) In cases falling under articles 49 and 50 the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to paragraph (3), to the particular clauses alone.
- (5) In cases falling under articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

Article 45 Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty

A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

- (a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or
- (b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

Section 2—Invalidity of Treaties

Article 46 Provisions of internal law regarding competence to conclude treaties

- (1) A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.
- (2) A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

Article 47 Specific restrictions on authority to express the consent of a State

If the authority of a representative to express the consent of a State to be bound by a particular treaty has been made subject to a specific restriction, his omission to observe that restriction may not be invoked as invalidating the consent expressed by him unless the restriction was notified to the other negotiating States prior to his expressing such consent.

Article 48 Error

- (1) A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that State to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.
- (2) Paragraph (1) shall not apply if the State in question contributed by its own conduct to the error or if the circumstances were such as to put that State on notice of a possible error.
- (3) An error relating only to the wording of the text of a treaty does not affect its validity; article 79 then applies.

Article 49 Fraud

If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

Article 50 Corruption of a representative of a State

If the expression of a State's consent to be bound by a treaty has been procured through the corruption of its representative directly or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

- Article 51 Coercion of a representative of a State**
The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.
- Article 52 Coercion of a State by the threat or use of force**
A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.
- Article 53 Treaties conflicting with a peremptory norm of general international law (jus cogens)**
A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognised by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

*Section 3—Termination and Suspension
of the Operation of Treaties*

- Article 54 Termination of or withdrawal from a treaty under its provisions or by consent of the parties**
The termination of a treaty or the withdrawal of a party may take place:
(a) in conformity with the provisions of the treaty; or
(b) at any time by consent of all the parties after consultation with the other contracting States.
- Article 55 Reduction of the parties to a multilateral treaty below the number necessary for its entry into force**
Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.
- Article 56 Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal**
(1) A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:
(a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or

(b) a right of denunciation or withdrawal may be implied by the nature of the treaty.

(2) A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph (1).

Article 57 Suspension of the operation of a treaty under its provisions or by consent of the parties

The operation of a treaty in regard to all the parties or to a particular party may be suspended:

- (a) in conformity with the provisions of the treaty; or
- (b) at any time by consent of all the parties after consultation with the other contracting States.

Article 58 Suspension of the operation of a multilateral treaty by agreement between certain of the parties only

(1) Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

- (a) the possibility of such a suspension is provided for by the treaty; or
- (b) the suspension in question is not prohibited by the treaty and:
 - (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
 - (ii) is not compatible with the object and purpose of the treaty.

(2) Unless in a case falling under paragraph (1)(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59 Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

(1) A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:

- (a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or
- (b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.

- (2) The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60 Termination or suspension of the operation of a treaty as a consequence of its breach

- (1) A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.
- (2) A material breach of a multilateral treaty by one of the parties entitles:
 - (a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
 - (i) in the relations between themselves and the defaulting State, or
 - (ii) as between all the parties;
 - (b) a party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
 - (c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.
- (3) A material breach of a treaty, for the purposes of this article, consists in:
 - (a) a repudiation of the treaty not sanctioned by the present Convention; or
 - (b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.
- (4) The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.
- (5) Paragraphs (1) to (3) do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61 Supervening impossibility of performance

- (1) A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.
- (2) Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

Article 62 Fundamental change of circumstances

- (1) A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:
 - (a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and
 - (b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.
- (2) A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:
 - (a) if the treaty establishes a boundary; or
 - (b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.
- (3) If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

Article 63 Severance of diplomatic or consular relations

The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except in so far as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

Article 64 Emergence of a new peremptory norm of general international law (jus cogens)

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

Section 4—Procedure

Article 65 Procedure to be followed with respect to invalidity, termination, withdrawal from or suspension of the operation of a treaty

- (1) A party which, under the provisions of the present Convention, invokes either a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of its claim. The notification shall indicate the measure proposed to be taken with respect to the treaty and the reasons therefor.
- (2) If, after the expiry of a period which, except in cases of special urgency, shall not be less than three months after the receipt of the notification, no party has raised any objection, the party making the notification may carry out in the manner provided in article 67 the measure which it has proposed.
- (3) If, however, objection has been raised by any other party, the parties shall seek a solution through the means indicated in article 33 of the Charter of the United Nations.
- (4) Nothing in the foregoing paragraphs shall affect the rights or obligations of the parties under any provisions in force binding the parties with regard to the settlement of disputes.
- (5) Without prejudice to article 45, the fact that a State has not previously made the notification prescribed in paragraph (1) shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

Article 66 Procedures for judicial settlement, arbitration and conciliation

If, under paragraph (3) of article 65, no solution has been reached within a period of 12 months following the date on which the objection was raised, the following procedures shall be followed:

- (a) any one of the parties to a dispute concerning the application or the interpretation of articles 53 or 64 may, by a written application, submit it to the International Court of Justice for a decision unless the parties by common consent agree to submit the dispute to arbitration;
- (b) any one of the parties to a dispute concerning the application or the interpretation of any of the other articles in Part V of the present Convention may set in motion the procedure specified in the Annex to the Convention by submitting a request to that effect to the Secretary-General of the United Nations.

Article 67 Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty

- (1) The notification provided for under article 65 paragraph (1) must be made in writing.
- (2) Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs (2) or (3) of article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68 Revocation of notifications and instruments provided for in articles 65 and 67

A notification or instrument provided for in articles 65 or 67 may be revoked at any time before it takes effect.

Section 5—Consequences of the Invalidity, Termination or Suspension of the Operation of a Treaty

Article 69 Consequences of the invalidity of a treaty

- (1) A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.
- (2) If acts have nevertheless been performed in reliance on such a treaty:
 - (a) each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed;

- (b) acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.
- (3) In cases falling under articles 49, 50, 51 or 52, paragraph (2) does not apply with respect to the party to which the fraud, the act of corruption or the coercion is imputable.
- (4) In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70 Consequences of the termination of a treaty

- (1) Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:
 - (a) releases the parties from any obligation further to perform the treaty;
 - (b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.
- (2) If a State denounces or withdraws from a multilateral treaty, paragraph (1) applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71 Consequences of the invalidity of a treaty which conflicts with a peremptory norm of general international law

- (1) In the case of a treaty which is void under article 53 the parties shall:
 - (a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and
 - (b) bring their mutual relations into conformity with the peremptory norm of general international law.
- (2) In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:
 - (a) releases the parties from any obligation further to perform the treaty;

- (b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

Article 72 Consequences of the suspension of the operation of a treaty

- (1) Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:
 - (a) releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;
 - (b) does not otherwise affect the legal relations between the parties established by the treaty.
- (2) During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

PART VI
MISCELLANEOUS PROVISIONS

Article 73 Cases of State succession, State responsibility and outbreak of hostilities

The provisions of the present Convention shall not prejudice any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

Article 74 Diplomatic and consular relations and the conclusion of treaties

The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States. The conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

Article 75 Case of an aggressor State

The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

PART VII
DEPOSITARIES, NOTIFICATIONS, CORRECTIONS
AND REGISTRATION

Article 76 Depositaries of treaties

- (1) The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organisation or the chief administrative officer of the organisation.
- (2) The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

Article 77 Functions of depositaries

- (1) The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:
 - (a) keeping custody of the original text of the treaty and of any full powers delivered to the depositary;
 - (b) preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty;
 - (c) receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;
 - (d) examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question;
 - (e) informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;
 - (f) informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;
 - (g) registering the treaty with the Secretariat of the United Nations;

- (h) performing the functions specified in other provisions of the present Convention.
- (2) In the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organisation concerned.

Article 78 Notifications and communications

Except as the treaty or the present Convention otherwise provide, any notification or communication to be made by any State under the present Convention shall:

- (a) if there is no depositary, be transmitted direct to the States for which it is intended, or if there is a depositary, to the latter;
- (b) be considered as having been made by the State in question only upon its receipt by the State to which it was transmitted or, as the case may be, upon its receipt by the depositary;
- (c) if transmitted to a depositary, be considered as received by the State for which it was intended only when the latter State has been informed by the depositary in accordance with article 77, paragraph (1)(e).

Article 79 Correction of errors in texts or in certified copies of treaties

- (1) Where, after the authentication of the text of a treaty, the signatory States and the contracting States are agreed that it contains an error, the error shall, unless they decide upon some other means of correction, be corrected:
 - (a) by having the appropriate correction made in the text and causing the correction to be initialled by duly authorised representatives;
 - (b) by executing or exchanging an instrument or instruments setting out the correction which it has been agreed to make; or
 - (c) by executing a corrected text of the whole treaty by the same procedure as in the case of the original text.
- (2) Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and the contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection to the proposed correction may be raised. If, on the expiry of the time-limit:

- (a) no objection has been raised, the depositary shall make and initial the correction in the text and shall execute a *procès-verbal* of the rectification of the text and communicate a copy of it to the parties and to the States entitled to become parties to the treaty;
 - (b) an objection has been raised, the depositary shall communicate the objection to the signatory States and to the contacting States.
- (3) The rules in paragraphs (1) and (2) apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory states and the contracting States agree should be corrected.
 - (4) The corrected text replaces the defective text *ab initio*, unless the signatory States and the contracting States otherwise decide.
 - (5) The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.
 - (6) Where an error is discovered in a certified copy of a treaty, the depositary shall execute a *procès-verbal* specifying the rectification and communicate a copy of it to the signatory States and to the contracting States.

Article 80 Registration and publication of treaties

- (1) Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.
- (2) The designation of a depositary shall constitute authorisation for it to perform the acts specified in the preceding paragraph.

PART VIII
FINAL PROVISIONS

Article 81 Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialised agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and

subsequently, until 30 April 1970, at the United Nations Headquarters, New York.

Article 82 Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 83 Accession

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 81. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 84 Entry into force

- (1) The following Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.
- (2) For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 85 Authentic texts

The original of the present convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness whereof the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Convention.

Done at Vienna, this twenty-third day of May, one thousand nine hundred and sixty nine.

ANNEX

- (1) A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

- (2) When a request has been made to the Secretary-General under article 66, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint:

- (a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph (1); and
- (b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within sixty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

- (3) The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any party to the treaty to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.
- (4) The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.
- (5) The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a

view to reaching an amicable settlement of the dispute.

- (6) The Commission shall report within twelve months of its constitution. Its reports shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.
 - (7) The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.
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APPENDIX B

Glossary of Acronyms and Abbreviations

<i>ADB</i>	Asian Development Bank
<i>AJHR</i>	<i>Appendices to the Journals of the House of Representatives</i>
<i>ANZCERTA (CER)</i>	Australia New Zealand Closer Economic Relations Trade Agreement
<i>ANZECC</i>	Australian and New Zealand Environment and Conservation Council
<i>APEC</i>	Asia-Pacific Economic Co-operation (forum)
<i>APT</i>	Asia-Pacific Telecommunity
<i>ASEAN</i>	Association of South East Asian Nations
<i>CEDAW</i>	Committee on the Elimination of Discrimination Against Women
<i>CER</i>	see ANZCERTA
<i>CERD</i>	Committee on the Elimination of Racial Discrimination
<i>CTS</i>	<i>Consolidated Treaty Series</i>
<i>EBRD</i>	European Bank for Reconstruction and Development
<i>EC</i>	European Community
<i>ECJ</i>	European Court of Justice
<i>ECOSOC</i>	Economic and Social Council
<i>EEC</i>	European Economic Community
<i>ESCAP</i>	Economic and Social Commission for Asia and the Pacific
<i>EU</i>	European Union
<i>FAO</i>	Food and Agriculture Organisation
<i>FATF</i>	Financial Action Task Force
<i>FFA</i>	Forum Fisheries Agency
<i>GATS</i>	General Agreement on Trade in Services
<i>GATT</i>	General Agreement on Tariffs and Trade
<i>HCOFIL</i>	The Hague Conference on Private International Law
<i>HRC</i>	Human Rights Committee

<i>IAEA</i>	International Atomic Energy Agency
<i>IAIABC</i>	International Association of Industrial Accident Boards and Commissions
<i>IBA</i>	International Bar Association
<i>IBRD</i>	International Bank for Reconstruction and Development
<i>ICAO</i>	International Civil Aviation Organisation
<i>ICC</i>	International Chamber of Commerce
<i>ICJ</i>	International Court of Justice
<i>ICCPR</i>	International Covenant on Civil and Political Rights
<i>ICRC</i>	International Committee of the Red Cross
<i>ICSID</i>	International Centre for the Settlement of Investment Disputes
<i>IDA</i>	International Development Association
<i>IEA</i>	International Energy Agency
<i>IFAD</i>	International Fund for Agricultural Development
<i>IFC</i>	International Finance Corporation
<i>ILC</i>	International Law Commission
<i>ILM</i>	<i>International Legal Materials</i>
<i>ILO</i>	International Labour Organisation
<i>ILR</i>	<i>International Law Reports</i>
<i>IMF</i>	International Monetary Fund
<i>IMO</i>	International Maritime Organisation
<i>INMARSAT</i>	International Maritime Satellite Organisation
<i>INTELSAT</i>	International Telecommunication Satellite Organisation
<i>IOC</i>	Intergovernmental Oceanographic Commission
<i>IOM</i>	International Organisation for Migration
<i>IOSCO</i>	International Organisation of Securities Commissions
<i>ISSA</i>	International Social Security Association
<i>ITTO</i>	International Tropical Timber Organisation
<i>ITU</i>	International Telecommunication Union
<i>IUCN</i>	World Conservation Union
<i>IWC</i>	International Whaling Commission
<i>MIGA</i>	Multilateral Investment Guarantee Agency
<i>NGO</i>	Non-governmental organisation
<i>OECD</i>	Organisation for Economic Co-operation and Development
<i>OIML</i>	International Organisation of Legal Metrology

<i>PBEC</i>	Pacific Basin Economic Council
<i>PCT</i>	Patent Co-operation Treaty
<i>PECC</i>	Pacific Economic Cooperation Council
<i>RCADI</i>	<i>Recueil des cours de L'Académie de droit international</i>
<i>RIAA</i>	<i>United Nations Reports of International Arbitral Awards</i>
<i>SPC</i>	South Pacific Commission
<i>SPOCC</i>	South Pacific Organisations Co-ordination Committee
<i>SPREP</i>	South Pacific Regional Environment Programme
<i>STC</i>	Scientific and Technological Cooperation
<i>TRIPS</i>	Trade-Related Aspects of Intellectual Property Rights
<i>UN</i>	United Nations
<i>UNCED</i>	United Nations Conference on Environment and Development
<i>UNCITRAL</i>	United Nations Commission on International Trade Law
<i>UNCTAD</i>	United Nations Conference on Trade and Development
<i>UNEP</i>	United Nations Environment Programme
<i>UNESCO</i>	United Nations Educational, Scientific and Cultural Organisation
<i>UNHCR</i>	United Nations High Commissioner for Refugees
<i>UNICEF</i>	United Nations Children's Fund
<i>UNIDO</i>	United Nations Industrial Development Organisation
<i>UNIDROIT</i>	International Institute for the Unification of Private Law
<i>UNTS</i>	<i>United Nations Treaty Series</i>
<i>UPOV</i>	International Union for the Protection of New Plant Species
<i>UPU</i>	Universal Postal Union
<i>WCO</i>	World Customs Organisation
<i>WFC</i>	World Food Council
<i>WFP</i>	World Food Programme
<i>WHO</i>	World Health Organization
<i>WIPO</i>	World Intellectual Property Organisation
<i>WMO</i>	World Meteorological Organisation
<i>WTO</i>	World Trade Organisation

APPENDIX C

Statutes with Possible Implications for New Zealand Treaty Obligations

This is a list of public Acts (as at 1 February 1996) which appear to raise issues concerning New Zealand's international rights and obligations. Many of these statutes give effect to treaty provisions or empower the government to give effect to them. The list does not include the many regulations which have the same effect.¹ Statutes to which the text of a treaty or convention is attached appear in **bold type**.

Abolition of the Death Penalty Act 1989	Antarctic Marine Living Resources Act 1981
Accident Rehabilitation and Compensation Insurance Act 1992	Antarctica Act 1960
Acts Interpretation Act 1924	Antarctica (Environmental Protection) Act 1994
Admiralty Act 1973	Antiquities Act 1975
Adoption Act 1955	Arbitration Act 1908
Agriculture (Emergency Powers) Act 1934	Arbitration (Foreign Agreements and Awards) Act 1982
Air Facilitation Act 1993	Arbitration (International Investment Disputes) Act 1979
Air Facilitation (Domestic Passengers and Cargo) Act 1994	Arbitration Clauses (Protocol and Arbitration (Foreign Awards) Act 1933
Airport Authorities Act 1966	
Animal Remedies Act 1967	
Animals Act 1967	

¹ Examples of such regulations include the Double Taxation Relief Orders (eg, Australia, SR 1972/244; Federal Republic of Germany, SR 1980/112; Republic of Korea, SR 1983/5), the Social Welfare (Reciprocity) Orders (eg, the Netherlands, SR 1990/359; United Kingdom, SR 1990/85), and certain shipping and civil aviation regulations.

Armed Forces Discipline Act 1971
 Atomic Energy Act 1945
 Aviation Crimes Act 1972
 Bills of Exchange Act 1908
 Biosecurity Act 1993
 Births, Deaths, and Marriages Registration Act 1995
 Boilers, Lifts, and Cranes Act 1950
 Broadcasting Act 1989
Carriage by Air Act 1967
 Cheques Act 1960
 Child Support Act 1991
 Children, Young Persons, and Their Families Act 1989
 Christmas Island—see Finance Act (No 2) 1981 No 110 s 2
 Citizenship Act 1977
 Citizenship (Western Samoa) Act 1982
 Civil Aviation Act 1990
 Commerce Act 1986
 Commodity Levies Act 1990
 Commonwealth Countries Act 1977
 Conservation Act 1987
 Construction Act 1959
Consular Privileges and Immunities Act 1971
 Continental Shelf Act 1964
 Cook Islands Act 1915
 Cook Islands Constitution Act 1964
 Copyright Act 1994
 Crimes Act 1961
 Crimes (Internationally Protected Persons and Hostages) Act 1980
 Crimes of Torture Act 1989
 Criminal Justice Act 1985
 Crown Proceedings Act 1950
 Crown Research Institutes Act 1992
 Customs Act 1966
 Customs Law Act 1908
 Dangerous Goods Act 1974
 Defence Act 1990
 Designs Act 1953
Diplomatic Privileges and Immunities Act 1968
 Disabled Persons Community Welfare Act 1975
 Disabled Persons Employment Promotion Act 1960
 Domicile Act 1976
 Domestic Violence Act 1995
 Driftnet Prohibition Act 1991
 Dumping and Countervailing Duties Act 1991
 Education Act 1964
 Education Act 1989
 Employment Contracts Act 1991
 Enemy Property Act 1951
 Environment Act 1986
 Equal Pay Act 1972
 Evidence Act 1908
 Extradition Act 1965
 Fair Trading Act 1986
 Family Proceedings Act 1980
 Films, Videos, and Publications Classification Act 1993
 Finance Act 1950 s 41 (duration of state of war)
 Financial Reporting Act 1993
 Fisheries Act 1983
 Flags, Emblems, and Names Protection Act 1981
 Food Act 1981
 Foreign Affairs Act 1988
 Fugitive Offenders Act 1881 (UK)
Geneva Conventions Act 1958
 Geographical Indications Act 1994
 Goods and Services Tax Act 1985
 Government Service Equal Pay

Act 1960
Guardianship Act 1968
 Harbours Act 1950
 Health Act 1956
 Health and Disability
 Commissioner Act 1994
**Health Benefits (Reciprocity
 with Australia) Act 1986**
**Health Benefits (Reciprocity
 with the United Kingdom)
 Act 1982**
 Health and Safety in
 Employment Act 1992
 Historic Places Act 1993
 Holidays Act 1981
 Human Rights Act 1993
 Immigration Act 1987
 Imprisonment For Debt
 Limitation Act 1908
 Income Tax Act 1994
 Industry Training Act 1992
 International Air Services
 Licensing Act 1947
**International Energy
 Agreement Act 1976**
**International Finance
 Agreements Act 1961**
**International War Crimes
 Tribunals Act 1995**
 Judicature Act 1908
 Kermadec Islands Act 1887
 Law Practitioners Act 1982
 Layout Designs Act 1994
 Legal Services Act 1991
 Machinery Act 1950
 Maori Affairs Act 1953
 Maori Fisheries Act 1989
 Maori Language Act 1987
 Marine Insurance Act 1908
 Marine Mammals Protection
 Act 1978
 Marine Pollution Act 1974
Maritime Transport Act 1994
 Marketing Act 1936
 Marriage Act 1955
 Measurement Standards
 Act 1992
 Meat Act 1981
 Meat Export Control Act
 1921–1922
 Medical Practitioners Act 1995
 Medicines Act 1981
 Mental Health (Compulsory
 Assessment and Treatment)
 Act 1992
 Meteorological Services
 Act 1990
 Minimum Wage Act 1983
 Misuse of Drugs Act 1975
 Mutual Assistance in Criminal
 Matters Act 1992
 Nauru Island—Finance
 Act 1977
 New Zealand Bill of Rights
 Act 1990
 New Zealand Boundaries
 Act 1863
**New Zealand Nuclear Free
 Zone, Disarmament, and
 Arms Control Act 1987**
 Niue Act 1966
 Niue Constitution Act 1974
 Official Information Act 1982
 Ombudsmen Act 1975
**Ozone Layer Protection
 Act 1990**
 Pacific Islands Polynesian
 Education Foundation
 Act 1972
 Parental Leave and
 Employment Protection
 Act 1987
 Passports Act 1992
Patents Act 1953
 Penal Institutions Act 1953
 Pesticides Act 1979
 Petroleum Demand Restraint
 Act 1981

Plant Variety Rights Act 1987	Territorial Sea and Exclusive Economic Zone Act 1977
Political Disabilities Removal Act 1960	Time Act 1974
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