

Vocabulary

1. instrument – (международный) договор
2. common title – общее название
3. preamble – преамбула, вступление
4. in simplified form – в упрощенной форме
5. to be cloaked with (authority) – быть наделенным (властью)
syn. to be vested with
6. to set forth (the rights and obligations) – излагать (права и обязанности)
7. to comprise provisions – содержать положения
8. to enter into force – вступать в силу
9. entry into force – вступление в силу
10. termination of the treaty – прекращение действия договора
11. accession – присоединение (к международному договору)
12. seal – печать
13. to clarify – прояснять
14. to be authentic – *здесь*: быть основным
15. mutual relations – взаимоотношения
16. to conclude a treaty – заключить договор
17. to distinguish between – делать различие между

1. Прочитайте и переведите текст.

Over the past centuries, state practice has developed a variety of terms to refer to international instruments by which states establish rights and obligations among themselves. "Treaty" is the most common title of an international agreement but the following are also used: convention, act, general act, protocol, agreement, *modus vivendi*, concordance, charter, declaration, and compromise. Although there is no officially correct form, treaties generally comprise four parts: the title, the preamble, the main body, and the final part.

a. Title: A description of the type of treaty and the subject matter, the title often also includes the names of the contracting parties. Treaties concluded in simplified form do not usually have titles.

b. Preamble: Following the title and serving as an introduction, the preamble states the reasons for the treaty, the names of the negotiating representatives, and the authority with which the representative is cloaked.

c. Main body: This sets forth the rights and obligations of the parties.

d. Final part: The final part comprises the provisions setting forth the guidelines for entry into force, termination of the treaty, revisions, accessions, reservation, publication, and languages in which the text will be written. The treaty finally concludes with the date and place of conclusion and the signatures and seals of the contracting parties.

Language: There is no universal rule as to what language or what number of languages must be utilized for the text of the treaty. Rather, the language of the treaty is selected by the contracting parties. When a treaty is published in more than one language, the treaty itself should clarify which text is to be the authentic and authoritative one.

Although these instruments differ from each other by title, they all have common features and international law has applied basically the same rules to all of these instruments. These rules are the result of long practice among the States, which have accepted them as binding norms in their mutual relations. Therefore, they are regarded as international customary law. Since there was a general desire to codify these customary rules, two international conventions were negotiated. The 1969 Vienna Convention on the Law of Treaties ("1969 Vienna Convention"), which entered into force on 27 January 1980, contains rules for treaties concluded between States. The 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations ("1986 Vienna Convention"), which has still not entered into force, added rules for treaties with international organizations as parties. Both the 1969 Vienna Convention and the 1986 Vienna Convention do not distinguish between the different designations of these instruments. Instead, their rules apply to all of those instruments as long as they meet certain common requirements.

The Vienna Convention on the Law of Treaties defines a treaty as "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."

2. Переведите следующие слова и словосочетания из текста.

- 1) subject matter
- 2) negotiating representatives
- 3) customary rules
- 4) modus vivendi

- 5) international instrument
- 6) to establish rights
- 7) contracting parties
- 8) to enter into force
- 9) accession
- 10) to comprise provisions.

3. Найдите в тексте английские эквиваленты русским словосочетаниям.

- 1) международный договор
- 2) состоять из четырех частей
- 3) служить предисловием
- 4) права и обязанности сторон
- 5) прекращение действия договора
- 6) оговорка
- 7) общие черты
- 8) являться результатом
- 9) кодифицировать правовые нормы
- 10) в письменном виде

4. Прочитайте текст еще раз и ответьте на вопросы.

1. What is the most common title of an international agreement?
2. What other titles of “treaty” are listed in the text?
3. How many parts does a treaty comprise? What are they?
4. Which part of a treaty sets forth the rights and obligations of the parties?
5. Are there any rules as to what language or what number of languages must be utilized in a treaty?
6. How does the Vienna Convention define a treaty?

5. Замените русские слова и выражения в скобках соответствующими английскими эквивалентами.

- 1) “Treaty” is the most common title of (международного договора).

2) Treaties generally comprise the title, the preamble, the main body and (заключительную часть).

3) The main body of the agreement sets forth (права и обязанности сторон).

4) The treaty finally concludes with the date and place of conclusion and (подписями и печатями) of the contracting parties.

5) The rules are the result of long practice among the States, which (приняли) them as binding norms in their mutual relations.

6) These binding norms (считаются) as international customary law.

7) Since there was a desire (кодифицировать) these customary rules, two international conventions were negotiated.

8) The 1969 Vienna Convention on the Law of Treaties (вступила в силу) on 27 January 1980.

9) Both Conventions (не делают различия между) the different designations of the instruments used.

10) The rules apply to all the instruments as long as they meet certain (общие требования).

The Classification of Treaties

6. Прочитайте текст.

There exist different classifications of treaties. Political treaties include alliances, peace settlements, disarmament agreements, and territorial settlements. Commercial treaties deal with tariffs, fishing rights, navigation, and the opening of consulates and offices of tourism. Some treaties are constitutional or administrative documents. The United Nations Charter is an example. Such treaties establish and regulate international organizations and specialized agencies. There are treaties that deal with criminal justice, that define international crimes such as terrorism, and that provide for extradition, or the process by which one state surrenders to another an individual for trial. Treaties pertaining to civil law are conventions for the protection of human rights and for the enforcement of trade mark and copyright laws. The codifying of international law also comes within the scope of treaties. These include rules for the conduct of war and the settlement of disputes. A single treaty often embraces several of these elements.

The principle that treaties must be observed – *pacta sunt servanda*—constitutes the foundation of the law of treaties. The Vienna Convention on the

Law of Treaties states this as follows: “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.” This means that each treaty that is legitimately in force is legally binding on all signatories. It must be carried out in good faith, i.e. not formally but honestly; each signatory State has the duty to take all measures necessary to carry out the treaty's provisions in accordance with its aims and principles. The principle of good faith prohibits abuses of treaty rights – that is, their use to the disadvantage of the legitimate rights and interests of other States. Finally, an important substantive element of the principle that “treaties must be observed” is that a State may refuse to implement a treaty or limit its implementation only on the basis of international law. A signatory State does not have the right to refer to its own domestic law to justify the non-execution of treaties.

7. Найдите в тексте английские эквиваленты следующим словам и словосочетаниям и составьте с ними предложения.

- 1) установление мира
- 2) урегулирование территориальных споров
- 3) соглашение о разоружении
- 4) торговый договор
- 5) заниматься уголовным судопроизводством
- 6) предусматривать выдачу преступника властям
- 7) иметь отношение к гражданскому праву
- 8) защищать авторские права
- 9) товарный знак
- 10) урегулировать споры
- 11) соблюдать договор
- 12) являться обязательным
- 13) добросовестно выполнять обязательства
- 14) подписавшаяся сторона
- 15) злоупотребление договорными правами

8. Передайте краткое содержание текста на английском языке.

9. Переведите положения, изложенные в таблице, на английский язык и расскажите об основном принципе международного договорного права *pacta sunt servanda*.

	ПАКТА СУНТ СЕРВАНДА
→	1. Добросовестное выполнение своих международных обязательств всеми государствами.
→	2. Неукоснительное выполнение своих международных обязательств независимо от внутренних и внешних условий.
→	3. Нарушение договора не может оправдываться ссылкой государства на свое внутреннее право.
→	4. Договоры, заключаемые государством, не должны противоречить друг другу.
→	5. Государство не вправе произвольно прекращать или пересматривать свои договоры.
→	6. Форма договора не умаляет его обязательств.
→	7. Разрыв дипломатических отношений государствами не препятствует соблюдению ими договоров.

The Conclusion of Treaties

10. Прочитайте текст и озаглавьте части (В-Н).

A. Stages in the Conclusion of Treaties

The conclusion of an international treaty consists of two stages:

a) the first stage is a harmonizing of wills of States or of other subjects of international law with regard to rules of conduct, i.e. concerning the text of the treaty. In concluding bilateral treaties this includes negotiations between parties and arriving at accord on the text of the treaty. In concluding multilateral treaties this stage consists in the drafting and adoption of the text of the treaty by the

corresponding international conference or organ of an international organization. At multilateral conferences the text of the treaty is adopted by a two-thirds majority of the participants unless other provisions are made.

b) the second stage concerns a harmonizing of the wills of States concerning their recognition of the norms of the treaty as binding and consists of individual actions by States that may differ depending on the relevant terms of specific treaties (signing, ratification, etc).

B.

Although the Vienna Convention itself does not provide a definition, “adoption” is generally defined as the formal act signifying that the form and content of the treaty have been agreed upon. Adoption signifies that the negotiations have been completed, disputed points have been resolved, and the wording of the final document agreed.

C.

The signing of the treaty may, by itself, signify the state's definitive consent to be bound when: the treaty states that the signature is a signal of the state's definitive consent; it is otherwise established by the contracting parties; or intent that the signature establishes definitive consent is indicated from the “full powers” document or otherwise expressed during the negotiations.

D.

Historically, ratification was the process of verifying the authority given the representatives who had negotiated and signed a treaty, but the modern understanding in many states is that ratification is a check on the treaty-making powers of the executive branch by passing the treaty through the parliamentary/legislative branch of government. Ratification provides an additional opportunity to carefully consider the rights and obligations of a treaty before consenting to be bound by its terms. The law of treaties, as reflected in the Vienna Convention, does not require ratification for a state to be bound by a treaty, and many informal international agreements bind parties on the basis of a signature alone.

E.

Accession is the process by which a state which was not a signatory of the treaty may nevertheless become a party to the treaty and be bound to its terms. Parties to a treaty are not given different treatment according to the manner in which they became parties.

F.

Article 14 of the Vienna Convention refers to “acceptance” as “an expression of consent to be bound either without a signature or after a non-binding prior signature”. Acceptance is not so much an actual method of consent as it is a term seen in treaty provisions, the meaning of which varies according to the context.

G.

The term “approval” was introduced into international law to correspond to the internal procedures of states which call for the “approval” of treaties.

H.

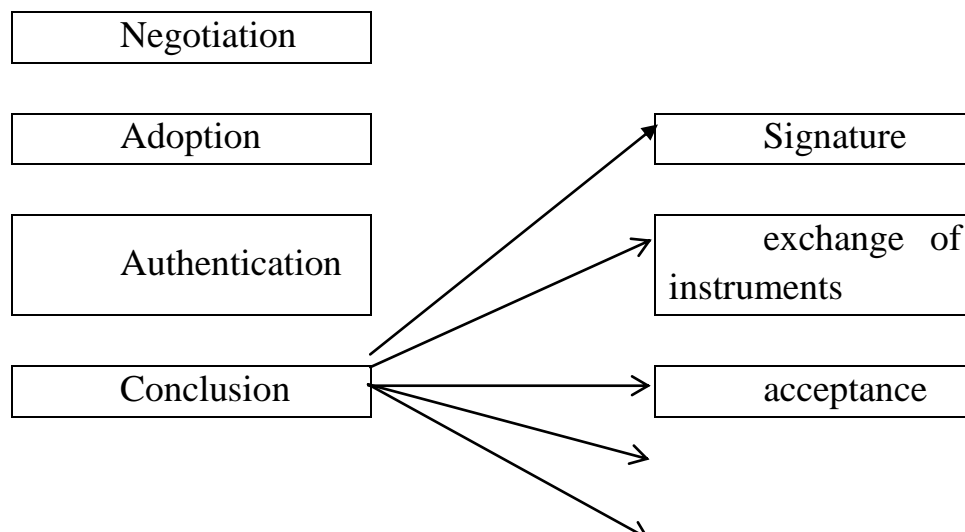
Entry into force is the actual implementation of the treaty’s terms and in the Vienna Convention is governed by Article 24. Entry into force often occurs when specific requirements laid out in the treaty have been met.

11. Закончите следующие предложения, используя необходимую информацию из текста.

1. Consent may be expressed in many ways:
2. “Adoption” is generally defined as
3. Ratification is a check on the treaty-making powers of the executive branch by passing the treaty through
4. Accession is the process by which a state which was not a signatory of the treaty may
5. “Acceptance” is an expression of consent to be bound either without a signature or after
6. Entry into force often occurs when specific requirements

12. Расскажите о договорном процессе, используя таблицу.

Treaty process



Entry force	into
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approval

accession

ratification
