

LEGAL MEMORANDUM

Is the United States in a Treaty Relationship with the United Nations?

Questions:

Is any participation and funding of the United Nations (and its subsidiary and/or associated organizations) legal?

Did the 1945 signing of the United Nations (UN) Charter and the US Senate vote authorizing the President's signature create Treaty obligations binding on the United States?

Was the UN Charter ratified as a Treaty by the US Senate or is it merely a contract between the United States and an international association?

Is the absence of the required deposit of the formal Instrument of Ratification evidence that the UN Charter was not lawfully ratified?

Are the UN Charter and related UN documents (such as the WHO Constitution) binding on State governments under the Supremacy Clause of the US Constitution?

Are the UN Charter and related UN documents binding in any way on the United States?

What binding obligations does membership in the UN (and its subsidiary organizations) impose on the United States?

Was the manner in which then President Harry S. Truman presented the Charter to the US Senate unconstitutional as conceived in deceit, maintained in deceit and thus *ultra vires*, beyond the power of the President and Senate?

Are any signatories to the UN Charter bound, as if by a "Treaty", to either the UN or its Member States?

Facts & Law:

[A] At the end of World War Two the victorious powers negotiated the establishment of a successor to the League of Nations, to be called the “United Nations.” The UN Conference in San Francisco, in the spring and early summer of 1945, following the defeat of Nazi Germany, adopted the Charter and it was opened for signatures. President Truman was present at the Conference when the US Secretary of State signed the Charter, June 26, 1945. [1]

Bilateral Treaties in Force as of January 1, 2020	
UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION	
TELECOMMUNICATION Agreement to permit the exchange of third-party messages between amateur stations of the United States and amateur station 4U1VIC of the Vienna International Amateur Radio Club. <i>Exchange of letters at Vienna November 21 and December 3, 1985.</i> <i>Entered into force January 2, 1986.</i> TIAS	UNITED NATIONS ENVIRONMENT PROGRAMME ENVIRONMENT & CONSERVATION Agreement to cooperate on activities and facilities to support the UNEP division of early warning and assessment in North America. <i>Signed at Washington December 21, 2004.</i> <i>Entered into force December 21, 2004.</i> TIAS 04-1221 Amendment. November 21, 2014 (TIAS 14-1121)
UN & RELATED ORGANIZATIONS Agreement regarding the headquarters of the United Nations. <i>Signed at Lake Success June 26, 1947.</i> <i>Entered into force November 21, 1947.</i> 61 Stat. 3416; TIAS 1676; 12 Bevans 956; 11 UNTS 11 Supplemental agreement regarding the headquarters of the United Nations. <i>Signed at New York February 9, 1966.</i> <i>Entered into force February 9, 1966.</i> 17 UST 74; TIAS 5961; 554 UNTS 308 Amendment. December 8, 1966 (17 UST 2319; TIAS 6176; 581 UNTS 362) Second supplemental agreement regarding the headquarters of the United Nations. <i>Signed at New York August 28, 1969.</i> <i>Entered into force August 28, 1969.</i> 20 UST 2810; TIAS 6750; 687 UNTS 408 Third supplemental agreement regarding the headquarters of the United Nations. <i>Signed at New York December 10, 1980.</i> <i>Entered into force December 10, 1980.</i> 32 UST 4414; TIAS 9955 Fourth supplemental agreement regarding the headquarters of the United Nations, with annex. <i>Signed at New York June 18, 2009.</i> <i>Entered into force June 18, 2009.</i> TIAS 09-618	UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES MIGRATION & REFUGEES Agreement relating to assistance with Cuban refugees. <i>Signed at Geneva May 16 and 21, 1980.</i> <i>Entered into force May 21, 1980.</i> TIAS Agreement concerning United States and UNHCR cooperation in providing assistance to the Cuban boat people. <i>Exchange of letters at Washington September 29 and October 5, 1994.</i> <i>Entered into force October 5, 1994.</i> TIAS
UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION ENVIRONMENT & CONSERVATION Agreement concerning the establishment of the International Centre for Integrated Water Resources Management at the U. S. Army Corps of Engineers Institute for Water Resources as a Category 2 Centre under the auspices of UNESCO. <i>Signed at Alexandria October 29, 2009.</i> <i>Entered into force February 10, 2016.</i> TIAS 16-210	UNITED NATIONS INTERIM ADMINISTRATION MISSION IN KOSOVO FINANCE Agreement for investment support projects in Kosovo. <i>Signed at Washington and Pristina May 17 and 30, 2002.</i> <i>Entered into force May 30, 2002.</i> TIAS UNIVERSAL POSTAL UNION TAXATION Tax reimbursement agreement, with annex. <i>Signed at Bern January 12, 1995.</i> <i>Entered into force January 12, 1995.</i> TIAS 12598
https://www.state.gov/wp-content/uploads/2020/08/TIF-2020-Full-website-view.pdf	
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[B] In Article 110 the Charter requires its ratification:

1. *The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.*

2. *The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.*
3. *The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states. [2]*

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state.gov/wp-content/uploads/2020/08/TIF-2020-Full-website-view.pdf

[C] Harry S. Truman, the President of the United States, and a former Senator, personally took the Charter to the US Senate asking for ‘advice and consent’ to join the United Nations.

[D] On July 28, 1945 the Senate held a Roll Call vote, as the Congressional Record shows [3]:

The Congressional Record states:

“Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the treaty is ratified.”

8190 CONGRESSIONAL RECORD—SENATE JULY 28

Mr. HOEY (when Mr. BAILEY's name was called). My colleague the senior Senator from North Carolina (Mr. BAILEY) is detained at home because of illness in his family. If he were present he would vote for the ratification of the Charter. If his vote had been essential to ratification he would have been here regardless of the illness in his family.

Mr. CONNALLY (when Mr. GLASS' name was called). The Senator from Virginia (Mr. GLASS) is absent because of personal illness. He has requested that I announce that fact to the Senate, together with the statement that if he were able to be present he would vote for the ratification of the Charter.

Mr. WHERRY (when the name of Mr. JOHNSON of California was called). I announce that the Senator from California (Mr. JOHNSON) is paired on this question with the Senator from Kansas (Mr. REED) and the Senator from Idaho (Mr. THOMAS) were present they would vote "yea."

I also announce that the Senator from California (Mr. JOHNSON) is necessarily absent, the Senator from Idaho (Mr. THOMAS) is absent because of illness, and the Senator from Kansas (Mr. REED) is absent on official business.

The roll call was concluded.

The result was—yeas 89, nays 2, as follows:

Alton Andrews Austin Baile Bankhead Barkley Bilbo	Cherry Cress Guffey Gurney Hart Hatch Hawkes	Myers O'Daniel O'Mahoney Overton Pepper Rudolphe Revercomb
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Brewster Bridges Briggs Brooks Buck Burton Bushman Butler Byrd Caphart Copper Carville Claudier Clausen Connally Cordon Donnell Downey Eastland Kilender Ferguson Fulbright George	Hayden Hickenlooper Hill Hoey Johnson, Colo. Johnson, S. C. Kilgore La Follette Lucas McCarran McClellan McFarland McKellar McMahon Magnuson Mason Mead Millikin Mitchell Moore Morse Murdoch Murray	Robertson Russell Sintonstall Smith Stewart Tate Taylor Thomas, Ok. Thomas, Uu Tobey Tunnell Tydings Vandenberg Wagner Wain Wheeler White Wiley Willis Wilson Young
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YEAS—89
NAYS—2
NOT VOTING—5

Langer Shipstead
 Johnson, Calif. Thomas, Idah
 Reed

The PRESIDENT pro tempore. On this vote the yeas are 89, the nays are 2. Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the treaty is ratified.
 Mr. BARKLEY. Mr. President, I ask that the President be immediately notified of the action of the Senate in advising and consenting to the ratification of the treaty.
 The PRESIDENT pro tempore. Without objection, the President will be so notified.

senate.gov/about/resources/pdf/un-charter-roll-call-vote-1945.pdf

[E] The US State Department, as official Depository, has published a document showing the ratifications of the original members. This excerpt shows the initial US signing of the Charter by the Secretary of State in June of 1945 and the date in August of 1945 when President Truman signed the Charter while he was in Europe at the Potsdam Conference [4].

Date of most recent action: December 21, 1945

Charter of the United Nations

Done: San Francisco June 26, 1945
 Opened For Signature:
 Entry into Force: October 24, 1945

In accordance with Article 110, the Charter entered into force on 24 October 1945, after ratification by the five permanent members of the Security Council and a majority of the other countries. Twenty-two countries subsequently deposited their instruments of ratification.

Czechoslovakia was an original signing member of the Charter. Signed June 26, 1946, deposited their notice of ratification October 19, 1945 and entered into force October 24, 1945. On January 19, 1993 both the Czech Republic and Slovakia deposited their declarations of acceptance to the Charter of the United Nations.

For a list of states that were admitted to the United Nations following the enter into force date of the the Charter see United Nations website. <http://www.un.org/en/member-states/index.html>

Legend: (no mark) = ratification; a = accession; d = succession; c = acceptance; p = approval; h = adherence

Participant	Signature	Consent to be Bound	EIF date	Note
United States	June 24, 1945	August 8, 1945	October 24, 1945	

<https://2017-2021.state.gov/wp-content/uploads/2019/03/298-UN-Charter.pdf>

[F] While the National Archives shows a photo of President Truman signing the actual Charter on August 8, 1945. There is no record of a formal “Instrument of Ratification” on file with the Depository, as required by the Charter itself. [5] [6]

[G] The US Constitution provides, Article VI:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby”

[H] The Vienna Convention on Treaties (VCLT) defines Treaties as contracts between sovereign states.

” Article 1 – Scope of the present Convention

The present Convention applies to treaties between States.

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...” [7]

<https://www.govinfo.gov/content/pkg/COMPS-1090/pdf/COMPS-1090.pdf>

UNITED NATIONS PARTICIPATION ACT OF 1945

[Chapter 583 of the 79th Congress; Approved December 20, 1945]

[As Amended Through P.L. 117-263, Enacted December 23, 2022]

[Currency: This publication is a compilation of the text of Chapter 583 of the 79th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>]

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

AN ACT To provide for the appointment of representatives of the United States in the organs and agencies of the United Nations, and to make other provision with respect to the participation of the United States in such organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United Nations Participation Act of 1945".

SEC. 2. [22 U.S.C. 287] (a) The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time, direct.

(b) The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations. They shall, at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the Representative of the United

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[I] Congress initially adopted the UN Participation Act in 1945 [8] after President Truman signed the Charter. While the Act provides for an ambassador-rank US

Representative appointed by the President with the advice and consent of the Senate it does not authorize US participation in the United Nations.

Discussion: The United States relationship with the UN is unconstitutional, conceived in deceit, maintained in deceit and is thus *ultra vires*.

Harry S. Truman assumed the office of President of the United States when President Roosevelt died on April 12, 1945. Previously he had been Vice-President of the United States and President of the Senate, of which he had been a member prior to becoming Vice-President.

In an unprecedented act, Truman personally presented the United Nations Charter to the US Senate and spoke to the body in favor of participating in the UN. He stated, among other points:

“I am appearing to ask for the ratification of the Charter... in accordance with the Constitution. ... **For this is not a static treaty...**” [9] (Emphasis added)

Although the President *pro tem* of the Senate inaccurately characterized the Charter of the United Nations as a “treaty” the President of the United States specified it was not a “treaty.”

This inconsistency suggests that the Senate was misinformed regarding the nature of the document. This situation is further exposed by the US State Department’s official compendium of Treaties in Force [10] which does not list the UN Charter as a Treaty in force.

The Vienna Convention on Treaties is clear: international agreements, such as Charters, are not treaties.

Therefore, by the preponderance of relevant authorities, the Charter is not a treaty. Despite the incorrect use of the word “treaty” in the Congressional Record, UN decisions do not trigger the “Supreme Law of the Land” clause of the Constitution.

The UN Charter was conceived, presented and maintained by deceit. Any action by the US Government in furtherance of participation is *ultra vires* and void as unconstitutional.

Thus, State (and local) governments are not bound to follow UN dictates, including those issued by such subsidiary UN bodies as the World Health Organization.

The Charter explicitly differentiates between ‘Treaties’ and ‘international agreements’, stipulating that any Treaty brought before the UN must be registered with the Secretariat. The facts further show that no signatory to the UN Charter is bound, as if by a “Treaty”, to either the UN or its Member States. Nations which conclude the same international agreement do not enter into a Treaty among themselves by so doing. Section 102 of the Charter, the only Article referencing Treaties, states:

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.
2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations. [12]

The deception continues even today, since the US State Department erroneously refers to the UN Charter as a “multilateral treaty”.

“The United States is depositary for over 200 multilateral treaties – including, for example, the Charter of the United Nations, The Statute of the International Atomic Energy Agency, and the North Atlantic Treaty. In its depositary capacity, the United States keeps the original treaty texts and facilitates their signature, as appropriate. The depositary also receives instruments relating to the treaties, such as instruments of ratification, and maintains status lists of such actions.” [13]

Note that all of the United Nations ‘treaties’ listed on the various State Department compilations noted above appear to be operational agreements for various international agencies, not Treaties governing relations among States.

International conventions and agreements to form international associations, private clubs among nations, are not Treaties under Article VI of the US Constitution and as such are not binding on the Nation or its several States.

With the very recent Decision by the United States Supreme Court, *Loper et al. vs Department of Commerce*, overturning the traditional ‘deference’ shown by Courts to the interpretations of law by Federal Agencies, there is no special credence that we must give to the State Department’s interpretation of US treaty obligations. [14]

Continued participation in the UN and its subsidiary organizations, commitment of resources or public funding of same, on the basis of our alleged “treaty” obligations to them, is an unlawful act and must be immediately terminated.

Respectfully submitted,

Ralph Fucetola JD
Attorney at Law: 1971 – 2006

- [1] <http://www.sfmuseum.org/un/signing.html>
- [2] <https://www.un.org/en/about-us/un-charter/full-text>
- [3] <https://www.senate.gov/about/resources/pdf/un-charter-roll-call-vote-1945.pdf>
- [4] <https://2017-2021.state.gov/wp-content/uploads/2019/03/298-UN-Charter.pdf>
- [5] <https://www.trumanlibrary.gov/photograph-records/64-50>
- [6] <https://history.state.gov/historicaldocuments/frus1945v01/introduction>
- [7] VCLT: https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf
- [8] UN Participation Act of 1945: <https://www.govinfo.gov/content/pkg/COMPS-1090/pdf/COMPS-1090.pdf>
- [9] <https://www.trumanlibrary.gov/library/public-papers/69/address-senate-urging-ratification-charter-united-nations>
- [10] <https://www.state.gov/wp-content/uploads/2020/08/TIF-2020-Full-website-view.pdf>
- [11] <https://www.state.gov/wp-content/uploads/2023/06/TIF-Supplement-Report-2023.pdf>
- [12] <https://www.un.org/en/about-us/un-charter/full-text>
- [13] <https://www.state.gov/depositary-information/>
- [14] <https://www.scotusblog.com/2024/06/supreme-court-strikes-down-chevron-curtailling-power-of-federal-agencies/>

Note: some agreements listed by the State Department as “multilateral treaties” are certainly not; for example, the Kosovo UN Security Council Resolution is on the list:
https://en.wikipedia.org/wiki/United_Nations_Interim_Administration_Mission_in_Kosovo