Dictionary Entries: International Law, International Court of Justice, and Territorial Sea

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million members. By that date only 16 percent of the "new" Teamsters were truck drivers, and the union represented a diverse assortment of workers such as policemen, teachers, school principals, nurses, airline pilots, and zookeepers. Even the character dressed in the Mickey Mouse costume in Disney World is a Teamster.

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See also Labor; Trade Unions.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS V. UNITED STATES, 431 U.S. 329 (1977), a Supreme Court decision that involved the employer T.I.M.E.-D.C., Inc., a national common carrier of motor freight, and the International Brotherhood of Teamsters, a labor union representing a large group of employees. The federal district and circuit courts held that T.I.M.E.-D.C. had violated Title VII of the Civil Rights Act of 1964 by engaging in a pattern or practice of employment discrimination against African Americans and Spanish-surnamed Americans. The lower courts also held that the union had violated the act by cooperating with the employer to create and maintain a seniority system that perpetuated past discrimination.

On appeal, the Supreme Court agreed with the government that the company had engaged in a systemwide practice of minority discrimination in violation of Title VII. The Court denied, however, the government's claim that the union's seniority system, which was exempt from Title VII, also violated the provision because it perpetuated discrimination. The Court also rejected the notion that victims suffering discriminatory acts prior to Title VII qualified for judicial relief under it.

In dissenting opinions, Justices Thurgood Marshall and William J. Brennan argued that the law granting exemption to seniority plans was not "plainly and unmistakably clear" regarding perpetuation of discrimination, and thus the union's seniority system should not be protected. The Court's decision provided broad immunity to seniority plans that are on their face neutral, even if they perpetuate the effects of past discrimination.

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See also American Federation of Labor-Congress of Industrial Organizations.

INTERNATIONAL COURT OF JUSTICE (ICJ), sometimes known as the “World Court.” The principal judicial organ of the United Nations (UN) since 1946, its statute is a multilateral agreement annexed to the charter of the United Nations.

The court serves as a principal vehicle for furthering the UN’s mandate to facilitate the peaceful resolution of international disputes, acting as a permanent, neutral, third-party dispute settlement mechanism rendering binding judgments in “contentious” cases initiated by one state against another. Parties to dispute before the court must consent to the exercise of the court’s jurisdiction. This may be demonstrated in one of three ways: (1) by special agreement or compris, in the context of a particular case; (2) by treaty, such as a multilateral agreement that specifies reference of disputes arising under it to the court; or
(3) by advance consent to the so-called “compulsory” jurisdiction court on terms specified by the state concerned. The court also has the power to render advisory opinions at the request of international institutions such as the UN General Assembly.

Located in The Hague, the ICJ is the successor to the Permanent Court of International Justice, an organ of the League of Nations, which itself was the culmination of earlier international movements to promote international arbitration as an alternative to armed conflict. After World War II, the United States became party to the statute and accepted the compulsory jurisdiction of the court on terms specified by the Senate, including the famous Connally amendment, in which the United States declined to give its consent to “disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America, as determined by the United States of America.” Over the subsequent decade and a half the United States unsuccessfully initiated a series of cases against the USSR, Hungary, Czechoslovakia, and Bulgaria concerning aerial incidents in Europe. The court as a whole had relatively few cases on its docket during the 1960s, but the United States successfully appealed to the ICJ to vindicate its position as a matter of legal right during the Iranian hostage crisis.

A case initiated by Nicaragua in 1984 challenging U.S. support of the Contra militias and the mining of Nicaraguan ports proved to be a watershed in U.S. dealings with the court. After vigorously and unsuccessfully contesting the court’s jurisdiction in a preliminary phase, the United States declined to appear on the merits and subsequently withdrew its consent to the compulsory jurisdiction of the court in 1985. However, the United States continues to be party to cases relying on other jurisdictional grounds.

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See also League of Nations; United Nations.

INTERNATIONAL GEOPHYSICAL YEAR, eighteen months (1 July 1957–31 December 1958) of geophysical observations by about 30,000 scientists and technicians representing more than seventy countries. The extension of this program for an additional year (until 31 December 1959) was officially called International Geophysical Cooperation (IGC), but that period is generally included in the term “International Geophysical Year” (IGY). The IGY and IGC attempted simultaneous observations in eleven fields of earth, near-earth, and solar physics: aurora and airglow, cosmic rays, geomagnetism, glaciology, gravity, ionospheric physics, latitude and longitude determination, meteorology, oceanography, seismology, and solar activity. The IGY oversaw the launching of the first artificial earth satellites, inaugurating the age of space exploration.

International cooperation in science began in the 1830s with the networks of scientific observers organized by Karl Friedrich Gauss in Germany to observe and record geomagnetic changes, and by W. Whewell and Sir John W. Lubbock in England to make tidal observations. Because observations in high northern latitudes could not be made routinely, Lt. Karl Weyprecht of the Austrian Navy organized the First International Polar Year in 1882–1883, during which scientists and military men from ten European countries and the United States operated twelve stations in the Arctic and two in the Antarctic. The American stations were at Point Barrow, Alaska, and at Grinnell Land in the Canadian Arctic. The rescue of the latter’s observers (under army Lt. A. W. Greely) is famous in the annals of polar exploration. Fifty years later the Second International Polar Year (1932–1933) saw fourteen countries (twelve from Europe, plus the United States and Canada) occupy twenty-seven stations, again mostly in the Arctic. Of the scientific publications that resulted, more came from the United States than from any other country.

By 1950, the rapid advances in geophysics and the need to restore the international network of scientists that had been ruptured by World War II led Lloyd V. Berkner of the United States to propose another international polar year to be held only twenty-five years after the previous one, in 1957–1958. The international scientific bodies to whom he referred his proposal, organized under the umbrella International Council of Scientific Unions, broadened it to include the entire earth; thus the IGY replaced its predecessors’ limited programs with a comprehensive program of observations in fields where data recorded simultaneously at many places could yield a picture of the whole planet. Scientists occupied more than 2,500 stations worldwide at a cost of about $500 million.

Two of the most prominent achievements of the IGY were the discovery of the Van Allen radiation belts and the calculation of a new, pear-shaped model of the shape of the earth. Both these results came from rocket-launched satellites, the IGY’s most spectacular new feature. So successful was the IGY that it has been followed by a number of other cooperative research programs, including the International Year of the Quiet Sun (1964–1965), the International Hydrological Decade (1965–1975), and the International Decade of Ocean Exploration (1970–1980).

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INTERNATIONAL LAW is traditionally understood to be the law governing the relations among sovereign states, the primary “subjects” of international law. Strictly speaking, this definition refers to public international law, to be contrasted with private international law, which concerns non-state actors such as individuals and corporations. Public international law originates from a number of sources, which are both created by and govern the behavior of states. Treaties or international agreements are a familiar source of international law, and are the counterpart of domestic contracts, which create rules for the states that accept them. Customary international law, which has fewer analogues in domestic law but which is binding as a matter of international law, originates from a pattern of state practice motivated by a sense of legal right or obligation. Particularly since World War II, international institutions and intergovernmental organizations whose members are states, most notably the United Nations (UN), have become a principal vehicle for making, applying, implementing and enforcing public international law.

The United States is a modified “dualist” legal system, which means that international law does not necessarily operate as domestic law. In fact, both the Congress and the president may violate international law under certain circumstances. Similarly, the Constitution is held superior to international law in the event of an outright conflict, and in such cases the courts will recognize the primacy of domestic legal authorities over international law. Article I, section 8 of the Constitution apportions certain exclusive powers related to foreign relations and international law to the Congress. These include the authority to declare war, to regulate international trade, to establish and maintain an army and navy and to establish rules governing them, and to “define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations.” Otherwise, the president, as commander in chief and chief executive, exercises considerable unenumerated powers in such areas as the recognition of foreign states and governments, and is “the sole organ of the nation in its external relations, and its sole representative with foreign nations” (United States v. Curtiss-Wright Export Corp., 1936).

The Constitution likewise gives the president the power to negotiate treaties, subject to Senate advice and consent by a two-thirds majority. In the early 2000s, many of the nation’s international agreements were nonetheless concluded as executive agreements, without congressional participation. While treaties, according to Article VI of the Constitution, are the supreme law of the land, U.S. courts make a distinction between “self-executing” treaties that will be applied as rules of decision in domestic litigation and those that will not. Article I, section 10 of the Constitution prohibits the states of the Union from entering into treaties or alliances, or from engaging in most other functions related to the conduct of foreign affairs.

Modern international law is generally taken to originate with the Treaties of Westphalia of 1648, which ended the Thirty Years’ War. The system of co-equal sovereign states that resulted, with no authority such as an international legislature or court of general jurisdiction superior to that of the state, required the application of legal approaches different from those found in most municipal legal systems. Early treatments of international law by such writers as Hugo Grotius (1583–1645) were strongly influenced by concepts of natural law and the religious tradition on which it drew. In the nineteenth through the early twenty-first centuries, positivism became the dominant perspective in international law. In contrast to abstract principles of ethics or morality, legal positivism relies on affirmative acts of states to establish the law.

As demonstrated by the references in its Constitution, the United States has both acknowledged the importance of and contributed to the development of international law from the earliest days of the Republic. American contributions have been particularly important in the development of the law of neutrality, the body of law defining the rights and obligations of a third state adopting an attitude of impartiality toward belligerents in armed conflict with each other. During the first century of its existence, the law governing neutrality was among the most important international legal concerns of the new nation, whose commerce was dependent on the freedom to trade with belligerents on both sides of the French Revolution and the Napoleonic Wars.

Washington’s Neutrality Proclamation of 1793, followed by the Neutrality Act of 1794, were innovations in the law of neutrality. Before asserting expanded rights as a neutral, the U.S. implicitly acknowledged the need to clarify the obligations associated with that legal status. These authorities stressed the then-new concept of neutral states’ duties to regulate certain activities of their citizens. They further contributed to a distinction between acts which neutral governments and their citizens by international law are forbidden to commit, and acts which neutral governments are obliged to suppress. The United States alleged that its rights as a neutral state had been violated in disputes with Britain over its practice of seizing cargoes of U.S. merchant vessels trading with France and
impressing U.S. sailors into the British navy, both precipitating factors leading to the War of 1812. During the Civil War, the United States was similarly assertive in pressing the duties of neutral states, most famously in the Treaty of Washington (1871) and the subsequent Alabama arbitration (1872), which established the liability of Great Britain for violating its legal status as a neutral state by allowing private parties under its jurisdiction to build and outfit vessels for war for the Confederacy. Since the late eighteenth century, the U.S. Supreme Court has advanced the development of international law in such areas as the immunity of foreign governments from suit.

The United States also substantially contributed to the use of international arbitration as a mechanism for the peaceful settlement of disputes between states. The Treaty of Amity Commerce and Navigation with Britain, popularly know as Jay's Treaty (1794), designed to address certain unsettled issues remaining after the American War of Independence, contained a number of arbitration clauses that were important developments in international law and practice. In the latter part of the nineteenth century, the United States and Great Britain conducted arbitration over fur seals in the Bering Sea (1893), and the American-Mexican Mixed Claims Commission, established by international convention in 1868, adjudicated more than 200 claims between 1871 and 1876.

In the late 1800s, the United States' approach to international law was influenced by peace movements advocating international arbitration as a mechanism for settling disputes and as an alternative to armed force. These trends bore fruit in the form of the Hague Peace Conferences of 1899 and 1907, of which the former established the Permanent Court of Arbitration. The United States, however, failed to participate in the next major step in the development of international arbitration: the establishment of the Permanent Court of International Justice (PCIJ) under the auspices of the League of Nations in 1920. Although the Senate failed to approve U.S. membership in the League of Nations, the United States signed the agreement establishing the PCIJ. A protocol was adopted in 1929 amending the PCIJ's Statute, the institution's governing instrument, in a manner intended to be responsive to the concerns of the U.S. Senate so as to permit U.S. accession. That agreement, however, failed to receive the necessary two-thirds majority in a Senate vote in 1935. Nonetheless, a judge of U.S. nationality served on the court throughout its existence, which terminated at the end of World War II. In the interwar period, the United States also articulated and asserted an international standard of "prompt, adequate and effective compensation" as a remedy for governmental expropriation of foreign nations' property, a matter that continues to be both highly relevant and controversial in the law of foreign investment.

In the latter part of the twentieth century, dominated by the Cold War and the emergence of the United States as a global superpower, the United States continued in its rhetorical commitment to international law as a vehicle for ensuring a stable and peaceful world order. Among other things, it consented to the compulsory jurisdiction of the International Court of Justice the successor to the PCIJ, albeit with significant reservations. However, instances in which the International Court of Justice adjudicated that the United States had violated international law, most notably in mining Nicaraguan ports and supporting the Contra militias, tended to undermine some of the United States' credibility as an adherent to the rule of law. Criticisms have also been directed at the United States' apparent hostility to some major multilateral agreements including the United Nations Convention on the Law of the Sea, the Comprehensive Nuclear Test Ban Treaty, the Convention on the Rights of the Child, the Rome Statute of the International Criminal Court, the Kyoto Protocol on global climate change, and conventions adopted by the International Labor Organization.

With the end of the Cold War in the last decade of the twentieth century, international institutions and international law have become increasingly important. The creation of new intergovernmental national organizations such as the World Trade Organization and the European Bank for Reconstruction and Development, and the reinvigoration of international institutions like the UN Security Council, are evidence of the importance of the rule of law in the new millennium. The United States' reliance on the UN Security Council's prior authorization before initiating hostilities to expel Iraq from Kuwait (1991) was interpreted by many international lawyers as an indicator of a newly enhanced stature for international law and institutions. At the same time, the United States as the sole remaining superpower seems to be searching for an appropriate role for law in its foreign policy for situations such as Kosovo, in which U.S. and NATO intervention was not authorized by the Security Council and rested on an uncertain legal foundation. Two challenges to the application of capital punishment to foreign nationals, initiated by Paraguay and Germany in the International Court of Justice, suggest as well that in the United States international law may play a small role in the face of competing domestic political considerations.

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INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION

Although founded in 1937, the International Longshoremen's and Warehousemen's Union (ILWU) has origins rooted in the early years of the twentieth century. In 1912, a group of West Coast locals bolted the International Longshoremen's Association (ILA) in opposition to the undemocratic practices of East Coast ILA presidents Dan Keefe and T. V. O'Connor. Like his predecessor Keefe, who resigned in 1908, O'Connor continued the practice of buying votes through his grip on the abusive hiring system. Lacking job security, longshoremen often sold their votes in exchange for being selected to join daily work crews. On the West Coast, the ILA emerged within a more militant and democratic context, as the radical Industrial Workers of the World exercised influence among longshoremen. In 1915, the clash between militant and corrupt union practices caused a split in ILA West Coast leadership. Company unions emerged, which longshoremen unsuccessfully challenged in a 1919 strike. For a decade, company unions and the Waterfront Employers Association undermined genuine longshoremen organization.

In 1933, longshoremen revived ILA locals on the Pacific Coast. The next year, company unions collapsed when ILA members struck all Pacific ports. ILA locals demanded unified bargaining by all West Coast maritime unions over wages, union hiring halls, and hours. The conflict resulted in the death of six workers, and hundreds of strikers were injured. After a four-day general strike in San Francisco led by militant workers and supported by the Communist Party, employers finally agreed to arbitration, which granted the union most of its demands. Moreover, the strike entrenched militant leaders like Harry Bridges, who became president of the San Francisco ILA local in 1936.

In 1936, Bridges entered into dispute with East Coast–based ILA president Joseph Ryan over strategy pursued by West Coast locals to unite all maritime unions into one federation. Ideological differences and ILA refusal to ally itself with unskilled workers sharpened the conflict. As an American Federation of Labor (AFL) affiliate, the anticomunist ILA adhered to craft unionism and declined entering into bargaining agreements with the unskilled. In February 1937, Bridges defied Ryan and led workers in a ninety-eight-day strike that failed to make significant gains for West Coast locals. While Bridges blamed Ryan and his lack of support for the strike's failure, the East Coast ILA leader called Bridges and his lieutenant, Louis Goldblatt, “puppets of the international communist conspiracy.” In 1937, growing ideological hostility, coupled with opposing trade union philosophies, prompted the Bridges-led Pacific Coast ILA to break with Ryan and affiliate with the recently formed and more inclusive Congress of Industrial Organizations (CIO). This event resulted in the West Coast locals receiving a CIO charter to form the ILWU. The separation was finalized when ILWU members elected Harry Bridges as their president.

Because the ILWU constitution prohibited political discrimination, Communist Party influence remained, and some of its members held several key union posts. The Soviet-American alliance during World War II ensured ILWU enforcement of no-strike pledges and maximum productivity. The ILWU then expanded its activities into Hawaii, organizing not only longshoremen, but also workers in agriculture, hotels, and tourism. The ILWU became one of the first multiracial and multiethnic unions as Asians, Latinos, and African Americans filled its ranks.

Cold War politics threatened the union's stability and survival. The 1947 Taft–Hartley Act required the signing by union leaders of affidavits disavowing communist affiliation. The initial refusal by ILWU officials to sign affidavits left the union vulnerable to raids by rival unions. The ILWU responded by seeking National Labor Relations Board (NLRB) intervention. In exchange for NLRB protection, ILWU officials ultimately signed the affidavits. This did not end the union's political problems, and in 1950 the CIO expelled the ILWU for alleged communist domination.

Despite political isolation, the ILWU had successfully maintained control over the hiring hall and entered into a new era of cooperation with employers. Contrib-
Northern Mariana Islands (CNMI), the U.S. Virgin Islands, Guam, and American Samoa. Although federal laws generally apply in the territories, and their inhabitants are U.S. citizens (or, in American Samoa, U.S. nationals), they cannot vote in presidential elections and do not have senators or representatives in the federal government. Instead, they elect nonvoting delegates to Congress, except for the CNMI, which simply sends a representative to Washington, D.C. The Departments of War, State, Interior, and the Navy have all played a role in the administration of territories. In 1873, Congress conferred upon the Department of the Interior statutory jurisdiction over territorial governments, but after 1898, Guam was assigned to the Navy Department, and the Philippines and Puerto Rico to the War Department. In 1934 President Franklin D. Roosevelt created by executive order the Division of Territories and Island Possessions within the Department of the Interior. In 1950 this division became the Office of Territories. In the early 2000s it was known as the Office of Insular Affairs.

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Christina Duffy Burnett

*See also Territories of the United States.*

**TERRITORIAL SEA**

is a belt of coastal waters subject to the territorial jurisdiction of a coastal state. The territorial jurisdiction of the coastal state extends to the territorial sea, subject to certain obligations deriving from international law; the most significant of which is the right of innocent passage by foreign ships. The distinction between the territorial sea, in effect an extension of exclusive coastal state sovereignty over its land mass and the high seas, a global commons beyond the reach of any state's jurisdiction, dates at least to the early eighteenth century in Europe.

A limit to the territorial sea of three nautical miles from the coast was accepted by many countries until the latter part of the twentieth century, including by the United States, which claimed a three-mile territorial sea dating from the beginning of the republic. A United Nations-sponsored conference in 1958 adopted four major multilateral agreements on the law of the sea, but failed to secure an international agreement on a compromise limit to the territorial sea. The United States, along with other maritime powers such as the United Kingdom, Japan, and the Netherlands, argued for the traditional three-mile limit so as to preclude coastal-state encroachments into the navigational freedoms of the high seas. A second UN conference convened in 1960 was similarly unsuccessful. The Third United Conference on the Law of the Sea, initiated in 1973, adopted a major new multilateral convention in Montego Bay, Jamaica, in 1982. That agreement confirmed the emerging trend toward a twelve-mile limit. Although the United States is not a party to the 1982 convention, President Reagan in December 1988 claimed a twelve-mile territorial sea on behalf of the United States.

According to the Montego Bay convention, which has emerged as the international standard even for those states not party to it, measurement of the territorial sea from convoluted shorelines may be made from baselines connecting headlands. Baselines are also used for bays and estuaries with headlands not over twenty-four miles apart, between outer points of coastal inland chains that enclose internal waters, and for historic bays to which territorial claims have been established by long and uncontested use.

The territorial sea is now but one component of a larger international legal regime governing the interests of coastal states in their adjacent waters. The United States, like many states, claims limited jurisdiction in a "contiguous zone" of twelve additional miles beyond the territorial sea to enforce customs, fiscal, immigration, and sanitary laws, and to punish violations of its laws committed in its territory or territorial sea. U.S. courts have supported the arrest of smugglers hovering beyond territorial waters with the intent to violate customs laws. Legislation authorizing a four-league customs-enforcement zone was protested by other countries, but during Prohibition several countries agreed by treaty to arrests within a one-hour sailing distance from shore.

Many countries, following President Harry S. Truman's proclamation in 1945, have claimed jurisdiction over continental shelves extending off their coasts. This form of jurisdiction extends to the seabed and not the water column above it, primarily for the purpose of exploiting resources such as oil and gas. The extent of the continental shelf may vary, depending on the shape of the sea floor. "Exclusive economic zones," which govern the use of the water column primarily for the purposes of fishing, may extend up to 200 nautical miles from a coastal state's baseline. In 1983 President Reagan claimed an exclusive economic zone of 200 nautical miles on behalf of the United States.

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*See also International Law.*