

Forum: Legal Committee (GA5)

Issue: Increasing transparency and accountability between parties in international treaties

Student Officer: [Kyle Arda-Jon ATAY](#)

Position: President Chair

Introduction

International treaties have been an essential part of human civilization for millennia. Beginning with the Egyptian-Hittite peace treaty from almost 3300 years ago to today, there has always been some form of interaction between different states.

Transparency and accountability between parties in international treaties is a crucial matter in today's world. With the ever-increasing globalization of diplomacy, legislation, and trade, responsibility in treaties becomes that much more significant. As more international treaties emerge and become even more widespread, the effect on the global population increases, as well. Much chaos and disorder can be prevented if parties act responsibly regarding treaties they are a party to.

Definition of Key Terms

Transparency: acting openly and honestly.

Accountability: the state of being accountable, liable, or answerable.

Party: a person or group that participates in some action, affair, plan, etc.; participant.

International treaty: A formal, binding written agreement between parties governed by international law. Though it can involve individuals, businesses, international organizations, and other legal entities, it is typically made by and between sovereign states.

Diplomacy: the conduct by government officials of negotiations and other relations between nations.



Legislation: the act of making or enacting laws; a law or a body of laws enacted.

Trade: the act or process of buying, selling, or exchanging commodities, at either wholesale or retail, within a country or between countries.

State actor: any public official acting in official capacity.

Background Information

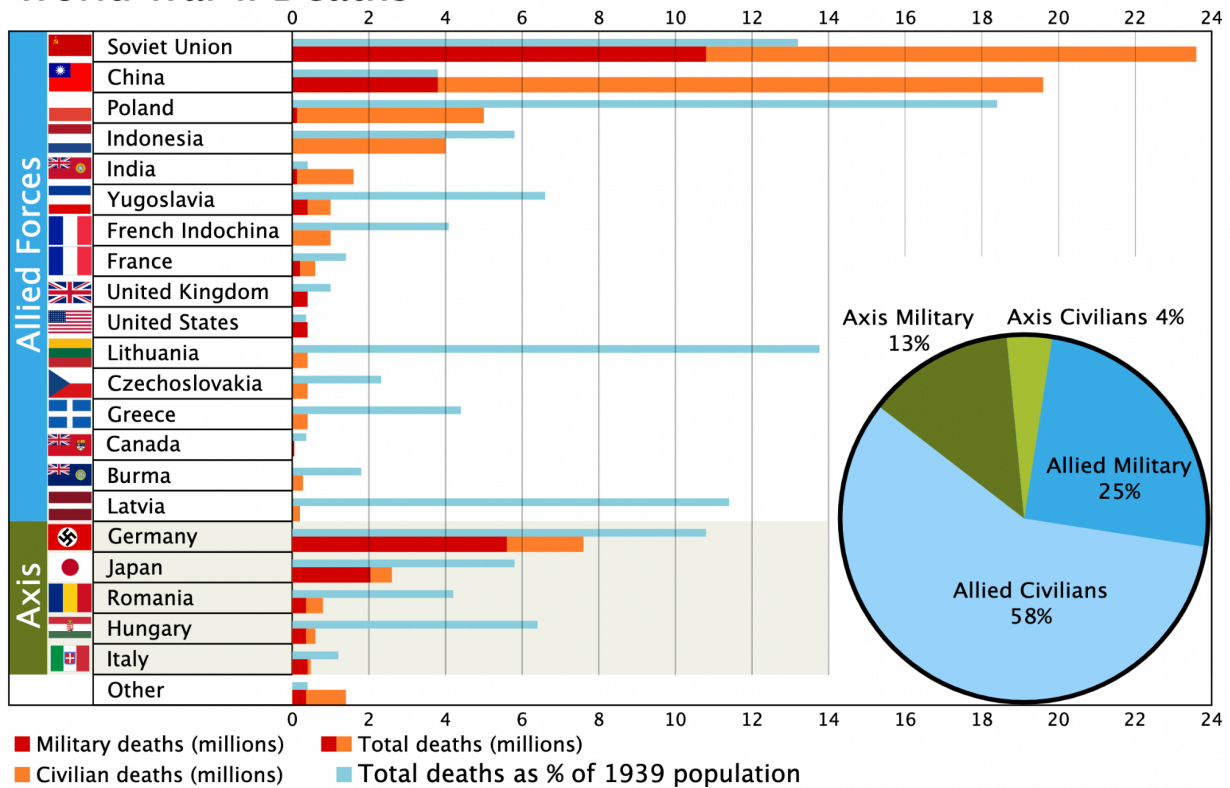
The vitality of transparency and accountability in international treaties

Whenever a treaty is conducted internationally between two parties, it is expected that all sides uphold their end of the agreement for it to be carried out in the way it was intended.

Otherwise, at least one of the parties may develop policies and take actions that are forbidden by the treaty that they have partaken in, which could lead to severe consequences. Such an example is the actions taken by the administration of the Third Reich following the election of Adolf Hitler as chancellor. The Treaty of Versailles was the peace treaty signed between the German Empire and the Member States of the Triple Entente alliance, such as the United Kingdom of Great Britain and Ireland (the UK) and the Third French Republic (France) following the conclusion of the Great War, also known as World War I (WW1). It forbade the German government to have a large military, from making any significant advancements in it, and to rearm, among other stipulations of the treaty. MEFO bills were also used to circumvent the economic restrictions imposed upon Germany by Versailles. This "cheating" on the Treaty of Versailles by Hitler and his government allowed the State to secretly remilitarize and revitalize its economy, which led to it being able to initiate an invasion of Poland that would lead to World War II (WW2), with 70-85 million deaths. Had Germany been transparent and accountable concerning the Treaty of Versailles, none of this might have happened at all.



World War II Deaths



A graph depicting the deaths of many of the nations that were involved in WW2, which started September 1, 1939, and ended September 2, 1945.

Transparency

The fundamental tenet of transparency is that public actors ought to conduct themselves openly. The right to access information held by public bodies, also known as the right to information, is a crucial tool for ensuring transparency. Currently, laws implementing this right are in place in about 100 countries worldwide.

Several other components are also included in the concept of transparency, such as the current open data movement and making sure public meetings of decision-making bodies are accessible to the general public.

Accountability



Accountability involves holding parties to an international treaty accountable for their decisions and actions. There are two aspects to accountability. The first principle is answerability, which requires State actors to provide public information and explanations of their activities. However, answerability must be accompanied by effective mechanisms for obtaining accountability. Accountability can be vertical, meaning it is directly owed to the public, or horizontal, where it is delivered through mechanisms between public institutions.

The relationship between transparency and accountability

Accountability and transparency are interdependent and mutually reinforcing in that it is nearly impossible to achieve the other without the former. These ideas also significantly overlap with one another. This is especially clear in the accountability's answerability dimension. There are, nevertheless, significant variations. Systems of accountability enforcement extend beyond transparency, and openness necessary for transparency touches on domains far beyond those necessary for answerability.

The majority of international statements regarding accountability are rather general in nature, most likely because different nations have quite varied systems in place to ensure accountability. Simultaneously, it is evident that accountability has a solid international legal basis, primarily stemming from the freedom to vote and engage in public life. Although international courts and other organizations have frequently based the right to information on the right to freedom of expression—which, by international law, encompasses the right to seek and receive as well as the right to impart—these rights also serve as a foundation for transparency.

Although the various components of accountability have not been precisely defined by international standards, this is not the case for transparency, and more especially for the right to information (RTI), where the following ten standards have been identified:

- Clear legal guarantees of the right



- Broad application of the right
- Proactive disclosure of important information
- Open meetings of public decision-making bodies
- Clear procedures for processing requests for
- information
- A clear and narrow regime of exceptions
- A system of appeals
- A system of sanctions and protections
- Measures to promote implementation
- Beyond RTI to open data

Major Countries and Organizations Involved

United Nations (UN)

The United Nations has made a substantial contribution to the advancement of transparency in treaty-based investor-state arbitration through the United Nations Convention on Transparency in Investor-State Arbitration. With a focus on the value of information exchange and oversight procedures, this convention seeks to guarantee accountability and transparency in investor-state arbitration.

European Union (EU)

Transparency, honesty, and responsibility within EU institutions have advanced significantly. To retain high standards of integrity and transparency, the EU has put in place operational and legislative tools, such as the creation of the Transparency Register to disclose interactions with lobbyists.

International Labor Organization (ILO)

By freely disclosing financial and performance information, the ILO demonstrates its dedication to accountability and openness in its operations and ensures that it will always be a trustworthy partner. The ILO's efforts are



concentrated on stopping fraudulent activities and promoting an anti-fraud culture among its collaborators and partners which is aimed at ensuring that it remains a reliable partner in promoting decent work for all and the Sustainable Development Goals (SDGs).

Kingdom of Denmark

Denmark is a pioneer in the field of encouraging transparency, especially when it comes to climate action. In light of the Paris Agreement, the nation is attempting to increase domestic adherence to global transparency standards. As part of its commitment to transparency, Denmark submits progress reports detailing how it is carrying out adaptation and mitigation plans in accordance with the goals outlined in its national climate pledges.

Oriental Republic of Uruguay, Kingdom of Norway, & People's Republic of China

China, Uruguay, and Norway are among the nations that are rising to the forefront of the fight against climate change as advocates of transparency. In light of the Paris Agreement, the nations are attempting to improve domestic adherence to global transparency standards. As part of their commitment to openness, they will provide updates on the status of their mitigation and adaptation plans, based on the goals outlined in their national climate pledges.

Republic of Finland, Togolese Republic, & Republic of Lebanon

Other states that support transparency and responsibility are Finland, Togo, and Lebanon, especially when it comes to addressing climate change. In order to guarantee that they are contributing to the goal of keeping global warming well below 2°C relative to pre-industrial levels—1.5°C is a critical target of the Paris Agreement—the nations are constructing strong systems for managing climate data. Their increased efforts in gathering and analyzing data are intended to give a clear update on the state of mitigation and adaptation measures implementation.



The United Nations Development Programme (UNDP) & Japan

A US \$2.26 million project to advance accountability and transparency in governance in Guinea-Bissau has been signed by the UNDP and Japan. By emphasizing the improvement of national capacities to combat corruption, the transparency of State activities and budget, and the accountability and transparency of public administration offices and procedures, the project seeks to expedite ongoing efforts to strengthen governance in the nation.

Timeline of Events

1950	A statute requiring the State Department to publish non-classified executive agreements within 180 days after their conclusion is enacted in the United States of America.
1972	The Case-Zablocki Act is passed, requiring transmission of executive agreements to Congress within 60 days after they take effect.
1994	The United States State Department is allowed to exempt certain agreements from publication if the public interest is insufficient to justify their publication.
2012	The High Commissioner's report on strengthening the United Nations human rights treaty body system recommends the establishment of national mechanisms for reporting and follow-up (NMRFs).
2015	Transparency International and DG Regio launch a pilot project to work towards



	ensuring clean contracting in the European Union, involving monitoring of public procurement projects across 11 countries.
2019	The Integrity Pacts EU project is featured in the Economist Intelligence Unit publication "The future of public spending: Why the way we spend is critical to the Sustainable Development Goals".
2022	Congress enacts sweeping new transparency requirements for international agreements, implementing reforms argued for in a 2020 article by The Lawfare Institute and Just Security.

Relevant UN Resolutions and Other Documents

- Trade Facilitation Agreement (TFA): The TFA, which was adopted in 2013, provides a common framework for countries to implement efficient and transparent trade facilitation measures, reducing costs and delays.
- United Nations Convention against Corruption (UNCAC): The UNCAC is a legally binding international anti-corruption treaty that aims to promote and strengthen measures to prevent and combat corruption more efficiently and effectively.
- Organisation for Economic Co-operation and Development (OECD): The OECD is an international organization that works to promote policies that will improve the economic and social well-being of people worldwide. The OECD provides guidance and recommendations on various economic issues, including corruption and transparency.
- Global Task Force on Corruption: The Global Task Force on Corruption is an international organization that works to prevent and combat corruption. The



Global Task Force on Corruption provides guidance and recommendations on various anti-corruption measures, including transparency and accountability.

Previous Attempts to Solve the Issue

- The United Nations Commission on International Trade Law (UNCITRAL) Rules on Transparency in Treaty-based Investor-State Arbitration (the "Rules on Transparency" or "Rules") are applied per the consent of the Parties to investment treaties concluded before April 1, 2014, as expressed in the Convention. The Rules on Transparency are a set of procedural guidelines for disclosing information about investor-State arbitrations resulting from investment treaties to the public, and they went into effect on April 1, 2014. The Rules are applicable, among other things, to investment treaties signed before April 1, 2014, provided that both parties to the applicable investment treaty consent to their application. An effective and adaptable method for capturing such an agreement is the Convention.
- The OECD Framework provides guidelines regarding the appropriateness and desirability of transparency for international investment for Investment Policy Transparency.
- To achieve the Asia-Pacific Economic Cooperation's (APEC) objectives of free trade and investment as well as economic stability, transparency is a fundamental tenet of the organization. A set of General Transparency Standards was adopted by Leaders in 2002, committing members to actions like publishing all laws and regulations and setting up procedures for administrative decision-making appeals. Nine sets of Area-Specific Transparency Standards were used to map the general standards onto specific trade policy areas in 2003 and 2004. Finally, a consensus was reached to incorporate the transparency standards into Individual Action Plan (IAP) templates for annual reporting beginning in 2005.



- Transparency provisions are becoming more prevalent in other related fields, such as environmental agreements and corporate social responsibility agreements, according to recent research by the United Nations Conference on Trade and Development (UNCTAD).
- The EU has additionally taken action to encourage accountability, transparency, and integrity in trade negotiations. One such action is the application of the Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules of the United Nations Commission on International Trade Law.

Possible Solutions

Some possible solutions to the question of increasing transparency and accountability between parties in international treaties could be but are not limited to the sharing of information, the adoption of standards and rules, the utilization of technology, and raising awareness.

With the sharing of information, parties to an international agreement are in a way agreeing to be mutually accountable and transparent with each other so that both sides can hold up their end of the agreement.

Member States and/or the UN could adopt standards for transparency and accountability. Such standards would provide a set of guidelines and rules for parties in international treaties to follow in order to remain responsible and avoid detrimental consequences.

International treaties can be made more transparent with the use of technology. Blockchain technology, for instance, can be used to produce an unchangeable, transparent record of treaty negotiations and agreements.

Social awareness could also be raised to make more people aware of this issue and could create the possibility of civilians applying pressure to the government to be more transparent and accountable in international treaties.



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***If you have any questions regarding the report or the conference in general, feel free to contact the SG, PGA, and the DSGs at any time.*

