Non-Binding International Agreements:
A Comparative Assessment

University of Chicago Law School
September 23, 2021 (on Zoom)
8:00 am – 12:00 pm CDT

AGENDA

8:00 – 8:10 am  Welcome and Introduction – Curtis Bradley

8:10 – 9:00 am  Topic 1: What are Nonbinding International Agreements and Why Are They Used?
Moderator: Hannah Woolaver

In your country, what factors influence the decision about whether to use a nonbinding rather than a binding instrument? What is gained or lost when an arrangement is made nonbinding rather than binding? If your country is increasingly entering into nonbinding agreements, why is this the case? Are there different rules in your country for different kinds of nonbinding agreements? If so, how does your country differentiate among them?

9:00 – 9:50 am  Topic 2: Issues of Internal and External Coordination
Moderator: Thomas Kleinlein

For those of you from countries that have centralized executive branch review of nonbinding international agreements before they are concluded, how well does this process work and what (if any) problems are there in its operation? Would it be beneficial for nations to follow some sort of “best practices” in drafting nonbinding agreements? Are there circumstances in which it might be desirable for there to be ambiguity about whether an agreement is binding?

9:50 – 10:40 am  Topic 3: Issues of Transparency
Moderator: Jack Goldsmith

What problems (if any) would be created if the executive in your country were required to publish its nonbinding agreements? Is transparency inappropriate for some types of agreements or some subject matters? If your country were going to require publication of nonbinding agreements, how would it define what they are so that the executive knows what is and is not covered by the requirement?

10:40 – 11:30 am  Topic 4: Issues of Legislative Participation
Moderator: Helmut Aust
Are there circumstances in which it would be desirable for the executive to notify the legislature about a nonbinding international agreement before the agreement is concluded, and, if so, how should this be encouraged? Should legislative approval ever be required for the conclusion of a nonbinding agreement? To what extent are nonbinding agreements being used as a way of evading requirements of legislative notice or approval? Do legislative bodies have the capacity to effectively monitor or review nonbinding agreements?

11:30 am – 12:00 pm  **Wrap-Up Discussion**

Moderator: Oona Hathaway