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TREATY INTERPRETATION

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Treaty Interpretation Richard Gardiner, 2015-06-18 This series features works on substantial topics in international law which provide authoritative statements of the chosen areas Taken together they map out the whole of international law in a set of scholarly reference works and treatises intended to be of use to scholars practitioners and students This book provides a guide to interpreting treaties properly in accordance with the modern rules for treaty interpretation which are codified in the Vienna Convention on the Law of Treaties These rules now apply to virtually all treaties both in an international context and within many national legal systems where treaties have an impact on a large and growing range of matters Lawyers administrators diplomats and officials at international organisations are increasingly likely to encounter issues of treaty interpretation which require not only knowledge of the relevant rules but also how these rules have been and are to be applied in practice There is now a considerable body of case law on application of the codified rules This case law combined with the history and analysis of the rules provides a basis for understanding this most important task in the application of treaties internationally and within national systems of law Any lawyer who ever has to consider international matters and increasingly any lawyer whose work involves domestic legislation with any international connection is at risk nowadays of encountering a treaty provision which requires interpretation whether the treaty provision is explicitly in issue or is the source of the relevant legislation This expanded edition includes consideration of a range of recent cases takes account of relevant work of the International Law Commission and has new material addressing matters raised in the growing body of literature on treaty interpretation

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domestic legislation with any international connection is at risk nowadays of encountering a treaty provision which requires interpretation whether the treaty provision is explicitly in issue or is the source of the relevant domestic legislation This book provides a guide to interpreting treaties properly in accordance with the modern rules Treaty Interpretation by the WTO Appellate Body Isabelle Van Damme,2009 This book analyses how the Appellate Body uses particular principles of general international law in interpreting the WTO covered agreements It deals equally with general international law and WTO law The aim is to explain how the Appellate Body interprets and applies customary international law on treaty interpretation in dealing with the WTO covered agreements The main concern is to analyse the judicial reasoning and ways of justifying judicial decision making In particular it answers the question of how the Appellate Body explains its reading of WTO treaty language It is argued that the Appellate Body has interpreted the WTO covered agreements in a contextual and effective manner an approach that corresponds with general international law The character of the WTO covered agreements has nevertheless confronted the Appellate Body with some questions of interpretation that were until recently unexplored or neglected by other courts and tribunals In that sense the Appellate Body has contributed to the development of general international law on treaty interpretation or at least to its practice WTO law is primarily treaty law but increasingly soft law and broader themes and values from other disciplines such as governance variable geometry and legitimacy are introduced and discussed Customary international law with the exception of the principles of treaty interpretation and general principles of law are often seen as excluded entirely An ancillary theme of this proposed monograph is the extent to which customary international law and general principles of law have penetrated WTO law through the technique of treaty interpretation

International Law Malcolm David Evans,2014 Clearly and accessibly written this new text provides a valuable resource for undergraduate and postgraduate students of international law and covers subjects including the history theories and sources of international law as well as current areas of interest such as international criminal law Patterns of Treaty Interpretation as Anti-Fragmentation Tools Liliana E. Popa,2017-12-29 This book investigates whether treaty interpretation at the ECtHR and WTO which are sometimes perceived as promoting self contained regimes could constitute a means for unifying international law or conversely might exacerbate the fragmentation of international law In this regard the practice of the ICJ on treaty interpretation is used for comparison since the ICJ has made the greatest contribution to the development and clarification of international law rules and principles Providing a critical analysis of cases at the ICJ ECtHR and WTO both prior to and since the adoption of the 1969 Vienna Convention on the Law of Treaties the book reveals how the ECtHR and WTO apply the general rules of treaty interpretation in patterns which are similar to those used by the ICJ to address difficulties in interpreting the text of treaties Viewed in the light of the ECtHR s and WTO s interpretative practices both the VCLT s general rules of interpretation and the ICJ s interpretative practice serve to counteract the fragmentation of international law *International Law* Malcolm Evans,2010-06-24 Clearly and accessibly written this new text provides a

valuable resource for undergraduate and postgraduate students of international law and covers subjects including the history theories and sources of international law as well as current areas of interest such as international criminal law

Uniformity and Fragmentation of the 1999 Montreal Convention on International Air Carrier Liability Cyril-Igor Grigorieff, 2022-05-12 The 1999 Montreal Convention is the most recent in force treaty to regulate several important aspects of international air carrier liability in a uniform manner This book examines in detail to what extent the 1999 Montreal Convention's aim of uniformity has been achieved To this end it scrutinizes the exact scope of this aim and analyses the factors that may have prevented it from being fully achieved It studies the wording of the treaty and its predecessors their travaux préparatoires the judicial decisions of numerous civil and common law jurisdictions as well as various other interpretative tools Among many others themes addressed in this study include exclusivity the autonomy of terms used translation issues accident bodily injury damage delay consumer rights the 1969 Vienna Convention on the Law of Treaties hermeneutics the Warsaw System regional air law including EU Regulation 261/2004 and algorithms The study also suggests ways to reduce the fragmentation of the 1999 Montreal Convention with a series of directly applicable recommendations and an analysis of what Artificial Intelligence could mean for the future This book which is intended to be practical is aimed at all lawyers well versed in aviation law as well as aviation enthusiasts They will find it a useful tool for interpreting the 1999 Montreal Convention in a manner consistent with its ambition as well as recent case law from all continents on hot topics

International Law in the Transition to Peace Carina Lamont, 2021-11-14 This book proposes a normative framework specifically designed for the complex and legally uncertain time period between armed conflicts and peace As such it contributes both to the furthering of a jus post bellum framework and to enhanced legal clarity in complex and legally uncertain environments This in turn contributes to strengthened protection engagements and thus to improved prospects of enabling sustainable peace and security in both national and international perspectives The book offers a novel but persuasive argument for a legal framework specific for transitional environments Such legal framework it is argued is warranted in order to enable legal clarity to contemporary and outstanding legal issues as well as to furthering peace efforts in complex environments The legal framework suggested proposes a dividing line between applicable legal frameworks that it is submitted enhances both legal clarity on protection engagements and the quest for sustainable peace The framework proposed is founded on a legal analysis of the protective nature and function of law It thus provides a rare but important perspective on law that is of value in the quest for sustainable peace and security The research draws uniquely on both contemporary legal debates and on peace and conflict research It does so in order to enable legal analysis that is both legally sound as well as appropriate and adequate in today's peace and security realities The book provides a valuable resource for academics researchers and policy makers in the areas of Public International Law International Humanitarian Law International Human Rights Law the law of Peace Operations and Peace and Security Studies *Incorporating Indigenous*

Rights in the International Regime on Biodiversity Protection Federica Cittadino, 2019-08-12 In *Incorporating Indigenous Rights in the International Regime on Biodiversity Protection* Federica Cittadino convincingly interprets the Convention on Biological Diversity CBD and its related instruments in light of indigenous rights and the principle of self determination. Cittadino's harmonisation of these formally separated regimes serves at least two main purposes. First, it ensures respect for the human rights framework that protects indigenous rights whilst implementing the biodiversity regime. Second, harmonisation allows for the full operationalisation of the indigenous related provisions of the CBD framework that concern traditional knowledge, genetic resources and protected areas. Federica Cittadino successfully demonstrates that the CBD may allow for the protection of indigenous rights in ways that are more advanced than under current human rights law.

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