

INTERPRETATION OF TREATIES

Interpret. How?

- There are various ways in which documents can be interpreted, like:
 - Textual or literal interpretation; or
 - Effective or teleological approach (giving effect to intention or parties, or object and purpose of treaty).
- The ILC rejected the idea that “in interpreting a treaty one must give greater weight to one particular factor.”
- This was in line with the traditional way of interpreting treaties

- The ICJ considers that the principles embodied in Articles 31 and 32 reflect CIL, and other international courts and tribunals, like the WTO

On The Interpretation Of Treaties On The Interpretation Of Treaties

F. A. Engelen



On The Interpretation Of Treaties On The Interpretation Of Treaties:

On the Interpretation of Treaties Ulf Linderfalk, 2007-09-11 1 PURPOSE AND TOPIC We live in the age of treaties. Increasingly bilateral and multilateral written agreements are used for the creation of new international legal standards. For political reasons, states are decreasingly less willing to rely upon customary international law for the regulation of legal matters. New technology and growing international exchange have established the need for an ever more precise and flexible international law, a need not satisfactorily met by customary law. In many fields of activity, we can seriously question whether the creation of a rule of custom is at all possible. Considering also that the number of states capable of drafting and concluding treaties seems to be growing, it is not surprising that treaties are concluded far more frequently than ever before. In several ways, this is a development that should be met with approval. By entering into written agreements, states avoid the difficulties inherent in customary international law. At the same time, the increasing number of treaties should also be causing concern. The more treaties that are concluded, the more treaties that will have to be applied, and the more treaties that are applied, the more often the question will arise: To what extent and under what specific conditions should such an application occur? Naturally, this includes the question of how treaties should be interpreted.

Interpretation in International Law Andrea Bianchi, Daniel Peat, Matthew Windsor, 2015 International lawyers have long recognised the importance of interpretation to their academic discipline and professional practice. As new insights on interpretation abound in other fields, international law and international lawyers have largely remained wedded to a rule-based approach focusing almost exclusively on the Vienna Convention on the Law of Treaties. Such an approach neglects interpretation as a distinct and broader field of theoretical inquiry. Interpretation in International Law brings international legal scholars together to engage in sustained reflection on the theme of interpretation. The book is creatively structured around the metaphor of the game, which captures and illuminates the constituent elements of an act of interpretation. The object of the game of interpretation is to persuade the audience that one's interpretation of the law is correct. The rules of play are known and complied with by the players, even though much is left to their skills and strategies. There is also a meta-discourse about the game of interpretation, playing the game of game playing, which involves consideration of the nature of the game, its underlying stakes, and who gets to decide by what rules one should play. Through a series of diverse contributions, Interpretation in International Law reveals interpretation as an inescapable feature of all areas of international law. It will be of interest and utility to all international lawyers whose work touches upon theoretical or practical aspects of interpretation.

Treaty Interpretation, 2008-06-19 This book explains the rules for interpretation of treaties and gives examples of their application in national and international jurisdictions. The rules of treaty interpretation codified in the Vienna Convention on the Law of Treaties now apply to virtually all treaties which may be encountered in an international context and also within national legal systems where treaties have an impact on a large and growing range of matters. The rules of treaty interpretation differ somewhat from typical rules for

interpreting legal instruments and legislation within national legal systems Lawyers and also some 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 of interpretation but also how these rules have been and are to be applied in practice Now that the codified rules of treaty interpretation have been in force for some twenty five years there is a considerable body of case law on their application This case law combined with the history and analysis of the rules of treaty interpretation 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 domestic legislation This book provides a guide to interpreting treaties properly in accordance with the modern rules

Interpretation of Treaties Ravi Sharma Aryal, 2003 This Book Includes The Evolution Interpretation And The Approaches Of Treaties Interpretation And Also Covers A Study Of The Provisions Relating To Rules Of Interpretation Including The Interpretation Of Treaties Authenticated In Two Or More Languages *Interpretation of Tax Treaties under International Law* F. A. Engelen, 2004 This publication considers the interpretation of tax treaties primarily from the standpoint of public international law The principal purpose of this study is to analyse and discuss the rules and principles of international law relevant to the interpretation of treaties in general and their application to tax treaties in particular The rules of international law enshrined in articles 31 32 and 33 of the Vienna Convention on the Law of Treaties are therefore central to this study Where appropriate reference is made to the jurisprudence of the International Court of Justice and to the law and procedure of other international court and tribunals Considers also the extent to which the relevant rules and principles of international law are binding on domestic court and taxpayers The importance of international law for the purpose of the interpretation of tax treaties is illustrated by a number of leading cases decided by the Dutch Supreme Court Hoge Raad **Treaty**

Interpretation and the Vienna Convention on the Law of Treaties M. Fitzmaurice, Olufemi A. Elias, Panos Merkouris, 2010 Interpretation has always been a cornerstone of international adjudication This book offers a comprehensive analysis both on a theoretical and a practical level of where the principles of interpretation enshrined in Articles 31 33 of the VCLT currently stand *The Interpretation of Treaties* Tsune-Chi Yü, 1927 Studies treaty interpretation for two reasons academic and judicial with the goal of approaching the nature of the problem studying the standards of interpretation sources of evidence and rules **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

The Evolutionary Interpretation of Treaties Eirik Bjorge, 2014-07-17 If an old treaty regulating commerce or forbidding degrading treatment of persons is to be interpreted decades after its conclusion does commerce or degrading treatment of persons have the same meaning at the time of interpretation as they had when the treaty was concluded The evolutionary interpretation of treaties has proven one of the most controversial topics in the practice of international law Indeed it has been seen as going against the very grain of the law of treaties and has been argued to be contrary to the intention of the parties breaching the principle of consent This book asks what the place of evolutionary interpretation is within the understanding of treaties at a time when many important international legal instruments are over five decades old It sets out to place the evolutionary interpretation of treaties on a firm footing within the Vienna rules of interpretation as codified in Articles 31-33 of the Vienna Convention on the Law of Treaties The book demonstrates that the evolutionary interpretation of treaties in common with all other types of interpretation is in fact based upon an objective understanding of the intention of the parties In order to marry intention and evolution the book argues that on the one hand evolutionary interpretation is the product of the correct application of Articles 31-33 and on the other that Articles 31-33 are geared towards the objective establishment of the intention of the parties The evolutionary interpretation of treaties is therefore shown to represent an intended evolution

Demystifying Treaty Interpretation Andrea Bianchi, Fuad Zarbiyev, 2024-03-14 Demystifying Treaty Interpretation doesn't just tell you how treaties are commonly interpreted It helps you understand also the process of treaty interpretation and its outcomes The idea that rules of treaty interpretation can guide us to the meaning of treaty provisions in a simple and straightforward manner is a myth to be dispelled This book aims to capture some of the complex and nuanced processes involved in treaty interpretation It spurs further reflection about how interpretation takes place against the background of concepts categories

and insights from other disciplines A useful tool for scholars practitioners and researchers engaging with treaty interpretation at all levels the book aims to enhance the reader s knowledge and mastery of the interpretive process in all its elements with a view to making them more skilled and effective players in the game of interpretation Treaty Interpretation Under the Vienna Convention on the Law of Treaties Chang-fa Lo,2017-10-31 This book is devoted to an idea of a second round of codification of certain new rules for treaty interpretation Currently treaty interpretation is guided by Articles 31 through 33 of the Vienna Convention on the Law of Treaties VCLT The fundamental rule is that a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose These rules lay the foundation for treaty interpretation They represent the first round of codification of the contents of some previous customary international law rules The book argues that the current rules are overly simplified After almost fifty years of codification of the VCLT the codified text in it is practically insufficient in addressing some traditional treaty interpretation issues such as the interpretation involving time factors or technology development and in coping with some new development of international law such as the diversification and fragmentation of international treaties and new challenges such as the need of coordination between different treaties and the need of introducing external values including human rights into a treaty through treaty interpretation process The book further argues that there is a need to have a second round of codification so as to incorporate new rules into the VCLT to be followed by treaty interpreters to make treaty interpretation more consistent and transparent and more in line with the shared value of international community The book proposes the contents of certain new rules to be considered as the new codified rules for treaty interpretation *Treaty Interpretation* E. S. Yambrusic,1987-03-26 **Evolutionary Interpretation and Other Developments of the Vienna Convention on the Law of Treaties** Laura Sophie Thimm-Braun,2019-04-11 Essay from the year 2019 in the subject Law European and International Law Intellectual Properties grade 1 0 University of Vienna Institut f r Europa und V lkerrecht language English abstract This essay is concerned with the ramifications of the interpretation of the Vienna Convention on the Law of Treaties The Vienna Convention on the Law of Treaties from now on referred to as VCLT constitutes the bible of international practitioners Like the United Nations Charter the widespread clarity and intelligence of its drafting have enabled States to comply with the rules and adapt their practice without distorting or departing from the VCLT The rules provide an important framework which is flexible enough for States to accommodate alternatives variations and even developments in their state practice The provisions of the VCLT leave the states room for individual concretisation Some commentators say the VCLT has had its day and is incapable of dealing with the challenges of the 21st century However the VCLT has proved itself to be a most adaptable tool as it was able to deal with challenges of the past decades In order to do so the provisions of the VCLT were clarified modified developed or amended This paper aims at discussing the development of several selected provisions of the VCLT as well as analysing the new types of interpretation such as the

evolutionary interpretation The difference between the original provisions and the present state of the law will be outlined in this paper

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

The Interpretation of Treaties Tsune-Chi Yü, 1927

Treaty Interpretation Richard K. Gardiner, 2008 Richard Gardiner explains the rules of treaty interpretation as codified in the Vienna Convention on the Law of Treaties and gives examples of their national and international application Source inconnue

Treaties and Subsequent Practice Georg Nolte, 2013-06-13 Subsequent practice by states is crucial to the interpretation of treaties This book examines its potential to serve as a substitute for formal treaty amendments It combines both practical and theoretical contributions on the subject and includes the reports of the International Law Commission s Treaties over Time programme

The Interpretation of International Law by Domestic Courts Helmut Philipp Aust, Georg Nolte, 2016 The Interpretation of International Law by Domestic Courts assesses the growing role of domestic courts in the interpretation of international law It asks whether and if so to what extent domestic courts make use of the international rules of interpretation set forth in the Vienna Convention on the Law of Treaties Given the expectation that rules of international law are to have a uniform interpretation and application throughout the world the practice of domestic courts is considerably more diverse The contributions to this book analyze three key questions first whether international law requires a coherent interpretive approach by domestic courts Second whether a common or convergent methodological outlook can be found in domestic court practice Third whether a common interpretive approach is desirable from a normative perspective The book identifies a considerable tension between international law s ambition for universal and uniform application and a plurality of different approaches This tension between unity and diversity is analyzed by a group of leading international lawyers from a wide range of geographical disciplinary and methodological approaches Drawing on domestic practice of number of jurisdictions including among others Colombia France Japan India Israel Mexico South Africa the United Kingdom and the United States the book puts the interpretative practice of domestic courts in a wider context Its chapters offer doctrinal practical as well as theoretical perspectives on a central question for international law

Static and Evolutive

Treaty Interpretation Christian Djeffal, 2015 How should international treaties be interpreted over time This book offers fresh insights on this age old question The Vienna Convention on the Law of Treaties VCLT sets out the rules for interpretation stipulating that treaties should be interpreted inter alia according to the ordinary meaning of the text Evolutive interpretation has been considered since the times of Gentili and Grotius but this is the first book to systematically address what evolutive interpretation looks like in reality It sets out to address how and under what circumstances it can be said that the interpretation of a treaty evolves and under what circumstances it remains static With the VCLT as its point of departure this study develops a functional reconstruction of the rules of treaty interpretation and explores and analyses how the International Court of Justice and the European Court of Human Rights have approached the issue *Static and Evolutive Treaty Interpretation* Christian Djeffal, 2016 How should international treaties be interpreted over time This book offers fresh insights on this age old question The Vienna Convention on the Law of Treaties VCLT sets out the rules for interpretation stipulating that treaties should be interpreted inter alia according to the ordinary meaning of the text Evolutive interpretation has been considered since the times of Gentili and Grotius but this is the first book to systematically address what evolutive interpretation looks like in reality It sets out to address how and under what circumstances it can be said that the interpretation of a treaty evolves and under what circumstances it remains static With the VCLT as its point of departure this study develops a functional reconstruction of the rules of treaty interpretation and explores and analyses how the International Court of Justice and the European Court of Human Rights have approached the issue Publisher description

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