

Book Review

Richard K. Gardiner, *Treaty Interpretation* • 2nd Edition, Oxford University Press, Oxford 2015, pp 576 (£95)

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“Treaty Interpretation” is a superb reference that includes valuable materials and up-to-date examples. It is a classic bible for international law researchers, practitioners and academics, since it goes to the heart of the law of treaties. The author, Richard Gardiner, puts great effort into collecting and analysing materials that cover the entire concept of the interpretation of treaties under the 1969 Vienna Convention on the Law of Treaties, as well as identifying important issues for future study. Gardiner worked as a legal adviser at the UK Foreign and Commonwealth Office for more than ten years and he also has twenty years plus teaching experience, along with his present role as visiting professor at University College London.

This is Gardiner’s second edition, in which he upholds the rules of treaty interpretation in the Vienna Rules and highlights the more modern decisions of international courts and tribunals to support their misconception in applying these rules, which are the opening reference of the ordinary meaning principle as the complete rule for interpretation and *travaux préparatoires* under the same restrictive preconditions. In this edition, Gardiner adds a considerable number of cases and descriptions of the practicalities of treaty interpretation, including specific cases interpreted without reference to the Vienna Rules. There are also more thorough studies of cases related to specific topics, namely, international trade, investment, human rights and international tax issues. In addition, this new edition includes two important works of the International Law Commission, one of which is its Guide to Practice on Reservations to Treaties, which covers the complete guidelines and commentaries on interpretative declarations, while the other refers to subsequent agreements and subsequent practice with regard to the interpretation of treaties and deals with the clarification of these rules as interpretative elements under the Vienna Rules (however, this is still an ILC working draft). The remaining amendments in this edition constitute a new chapter on specific trends in the interpretation of treaties and the flow of the chapters’ structure with concluding summaries.

In terms of the main text, the first part of this book begins with an overview, history, materials and dramatis personae of treaty interpretation under the Vienna Rules. It systematically consists of four subsections, namely, a single set of rules of interpretation, development of rules of interpretation, interpretative material generated in making treaties, and who uses the Vienna Convention to interpret treaties?

In the single set of rules, Gardiner introduces the applicability of the interpretation of the Vienna Rules and the recognition of it by international courts and tribunals, as well as national courts, such as the UK House of Lords and the US Supreme Court. He then provides preliminary relevant definitions and key concepts of specific terms, including the process and nature of interpretation. He finishes his first sub-part with examples of treaty interpretation from both international and domestic courts, including the new lesson from the *ad hoc*

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arbitration of the Permanent Court of Arbitration that characterises the treaty interpretation and the application of law. Gardiner attempts to cover all possible trends of applying the Vienna Rules, going further than the scope of the International Court of Justice. In the second sub-part, he explores the development of the rules of interpretation from the Roman era to the current work of the ILC, which is extremely significant because this issue is still unsettled, causing much academic debate. Following this with interpretative material generated in making treaties, Gardiner puts his efforts into presenting the treaty-making process and the interpretative declarations and its effect under the rule of reservation in international law exacted from Alain Pellet's ILC work on Guide to Practice on Reservation to Treaties, which contains more than 600 pages. The persons or bodies who can modify treaties are identified in the final sub-part and, although this is a difficult task, Gardiner undertakes it in a productive way.

The second main part consists of an examination of the interpretation applying the Vienna Rules by focusing on three main articles on the rules of interpretation in order. The general rule establishes the terms, ordinary meaning, context, subsequent agreements, subsequent practice, relevant rules of international law and special meanings in accordance with Article 31 of the Vienna Rules, resulting in a clear citation for all readers. What is new here in the second edition is that Gardiner has included new cases to support his findings, especially in terms of the evolutive interpretation and its role in treaty interpretation, which is still a controversial issue among legal scholars. The structure of the second sub-part regarding the supplementary means of interpretation remains the same apart from the expansion of the number of cases dealing with these rules. The last sub-part, which is devoted to languages derived from Article 33 of the Vienna Rules, is no different from the first edition because it is a complete part with established issues.

The last main part, the conclusion, is new to this edition. It consists of contemporary and unsettled issues related to interpretation, such as the notion of the rules of interpretation, the distinction between ambiguity and vagueness, the important approaches for interpretation (such as textual, teleological and seeking intention), the evolutionary interpretation, particular regimes and inconsistent interpretation. This is an intriguing part because it includes an analysis of modern decisions, namely, the interpretation of investment treaties, decisions of international criminal courts or even international human rights treaties. This part is useful for research students, early-stage scholars and practitioners to explore the field of treaty interpretation in the modern world.

In summary, this book is a remarkable chef-d'oeuvre of legal academia as a reference for the classic research of the subject of the interpretation of treaties. The book is systematically written in a friendly manner so that all readers can easily locate specific issues. It will be more than useful for students and junior scholars who are looking for cumulative research topics, as well as others who are involved in the interpretation of treaties.