

Vienna Convention on the Law of Treaties

Oliver Dörr • Kirsten Schmalenbach
Editors

Vienna Convention on the Law of Treaties

A Commentary

Second Edition

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Preface

The law of treaties forms the backbone of the international legal order. There would be no international law without the principle *pacta sunt servanda*, no legal security in international relations without the strict definition of acceptable grounds to render treaties invalid and no effective dispute settlement without universally accepted rules of treaty interpretation. Just as treaties vitally contribute to the peaceful co-operation of States and other international actors, so does the international law of treaties to the legal foundations of international peace and security.

Given the importance of treaties and of the rules governing them within the international legal order, it is hardly surprising that as early as 1949 the International Law Commission gave priority to the codification of these rules. Over the centuries, international practice had developed a set of rules facilitating a fair balance between the sovereign will of States, as expressed in the rule of consent, and the needs of the international community. Those rules were finally compiled in written form in the Vienna Convention on the Law of Treaties in 1969 which, besides codifying recognized rules of customary international law, added significant progressive elements to the international law of treaties. After the adoption and entry into force of the Convention on 27 January 1980, the law of treaties has continued to evolve, and the stability which the Convention, as a codificatory work, has brought to international relations between States still allows for the dynamics of international practice for which the Convention, as a set of mainly residual rules, leaves considerable room. Both elements of the international law of treaties, the traditional rules and dynamic practice, are deliberately reflected in the present Commentary, which undertakes to explain the meaning and effects of the provisions of the Convention in the light of international practice and jurisprudence with regard to the law of treaties.

Due to the sheer length of the Convention and the amount of relevant material on the law of treaties, this volume is the result of a joint effort of twelve scholars. Our sincere thanks go to all the authors for their co-operation, patience and readiness to adapt to the editors' guidelines and deadlines.

Needless to say, this opus could not have been completed without the diligent and tireless work of several support staff in Salzburg and Osnabrück which we happily acknowledge. Our sincere thanks go to the editorial assistant in Osnabrück,

Christina Kamm, who put in endless hours co-ordinating authors and editors, revising texts and tables, as well as to the editing team in Salzburg, *Sandra Hummelbrunner*, *Julia Pleiel* and *Simon Burger*. We are grateful to all of them for their commitment, enthusiasm and patience.

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Abbreviations

ABM	(Treaty on the Limitation of) Anti-Ballistic Missile Systems
AC	Appeals Cases (United Kingdom)
ACHR	American Convention on Human Rights
ACP	African, Caribbean and Pacific Group of States
AD	Annual Digest of Public International Law Cases
Add	Addendum
AEGIS	A European Genebank Integrated System
AFDI	Annuaire français de droit international
AG	Advocate General
AJCL	American Journal of Comparative Law
AJIL	American Journal of International Law
ALR	American Law Reports
AmUILR	American University International Law Review
AnnIDI	Annuaire de l'Institut de droit international
App	Application
ARIEL	Austrian Review of International and European Law
ArizJICL	Arizona Journal of International and Comparative Law
Art(s)	Article(s)
ASEAN	Association of Southeast Asian Nations
Asian JIL	Asian Journal of International Law
ASIL	American Society of International Law
ASILP	American Society of International Law Proceedings
ATCA	Alien Tort Claims Act (United States)
ATF	Arrêts du Tribunal fédéral (Switzerland)
ATS	Australian Treaty Series
AVR	Archiv des Völkerrechts (Germany)
AYIL	Australian Yearbook of International Law
BC	Before Christ

BCICLR	Boston College International and Comparative Law Review
BDGVR	Berichte der Deutschen Gesellschaft für Völkerrecht (Germany)
Berkeley JIL	Berkeley Journal of International Law
BFSP	British and Foreign State Papers
BGBI	Bundesgesetzblatt für die Bundesrepublik Deutschland (Federal Law Gazette) (Germany)
BGHSt	Entscheidungen des Bundesgerichtshofs in Strafsachen (Decisions of the Federal Court of Justice in Criminal Matters) (Germany)
BGHZ	Entscheidungen des Bundegerichtshofs in Strafsachen (Decisions of the Federal Court of Justice in Civil Matters)
BIS	Bank for International Settlements
BIT	Bilateral investment treaty
BrookJIL	Brooklyn Journal of International Law
BVerfGE	Entscheidungen des Bundesverfassungsgerichts (Decisions of the Federal Constitutional Court) (Germany)
BYIL	British Yearbook of International Law
CAHDI	Committee of Legal Advisers on Public International Law
CalWILJ	Californian Western International Law Journal
Cambrian LR	Cambrian Law Review
CanYIL	Canadian Yearbook of International Law / Annuaire canadien de droit international
CARICOM	Caribbean Community
CathULR	Catholic University Law Review
CCPR	Covenant on Civil and Political Rights
CCW	Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Convention on Certain Conventional Weapons)
CDL	European Commission for Democracy through Law ("Venice Commission")
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEDROMA	Centre d'études des droits du monde arabe
CEE	Communauté économique européenne, European Economic Community
CERD	Committee on the Elimination of Racial Discrimination / Convention on the Elimination of All Forms of Racial Discriminations
CETA	Comprehensive Economic and Trade Agreement

<i>Cf</i>	<i>confer</i> (compare)
CFE	[Treaty on] Conventional Armed Forces in Europe
CFI	Court of First Instance of the European Communities / General Court of the European Union
CFSP	Common Foreign and Security Policy
ch	Chapter
ChicJIL	Chicago Journal of International Law
ChinJIL	Chinese Journal of International Law
CILSA	Comparative and International Law Journal of Southern Africa
CJ	Court of Justice of the European Union (as part of the ECJ)
CJICL	Cambridge Journal of International and Comparative Law
cl	Clause
CLJ	Cambridge Law Journal
CLR	Commonwealth Law Reports (Australia)
CMATS Treaty	Treaty on Certain Maritime Arrangements in the Timor Sea
CMLR	Common Market Law Review
Cmnd	Command Papers (United Kingdom)
ColJTL	Colombia Journal of Transnational Law
ColLR	Columbia Law Review
ConnJIL	Connecticut Journal of International Law
Contemp Secur Policy	Contemporary Security Policy
COP	Conferences of the Parties
Cornell ILJ	Cornell International Law Journal
COSPAS-SARSAT	International Satellite System for Search and Rescue
CoW	Committee of the Whole [of the Vienna Conference on the Law of Treaties]
CRC	UN Convention on the Rights of the Child
CTBT	Comprehensive Nuclear Test Ban Treaty
CTS	Consolidated Treaty Series, edited by <i>C Parry</i>
CUP	Cambridge University Press
CWC	Convention on the Prohibition of the Development, Pro- duction, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention)
CYELS	Cambridge Yearbook of European Legal Studies
DC	District of Columbia
DickJIL	Dickinson Journal of International Law
Dig	The Digest of Justinian
DJILP	Denver Journal of International Law and Policy
DLR	Dominion Law Reports (Canada)
Doc	Document
DPRK	Democratic People's Republic of Korea

DRC	Democratic Republic of the Congo
DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes, Annex 2 of the WTO Agreement (Dispute Settlement Understanding)
EAC	East African Community
EBRD	European Bank for Reconstruction and Development
EC	European Community
ECFA	Economic Cooperation Framework Agreement
ECHR	[European] Convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	Court of Justice of the European Communities/European Union
ECLI	European Case Law Identifier
ECommHR	European Commission of Human Rights
ECOSOC	United Nations Economic and Social Council
ECOWAS	Economic Community of West African States
ECR	European Court Reports
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
ed	Editor
edn	Edition
eds	Editors
EEC	European Economic Community
EEZ	Exclusive economic zone
EFAR	European Foreign Affairs Review
EFTA	European Free Trade Association
<i>eg</i>	<i>exempli gratia</i> (for example)
EJIL	European Journal of International Law
EJM	Europäisches Journal für Minderheitenfragen (Austria)
ELR	European Law Review
EMEP	European Monitoring and Evaluation Programme
Emory ILR	Emory International Law Review
ENMOD	Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (Environmental Modification Convention)
EPIL	Encyclopedia of Public International Law, edited by <i>R Bernhardt</i> (consolidated library edn), 5 vols (1992–2003)
ESM-Treaty	Treaty Establishing the European Stability Mechanism
<i>et al</i>	<i>et alii</i> (and others)
<i>et seq</i>	<i>et sequens</i> (and the following)
<i>etc</i>	<i>et cetera</i> (and so forth)
ETS	European Treaty Series
EU	European Union
EuGRZ	Europäische Grundrechte-Zeitschrift (Germany)

EURATOM	European Atomic Energy Community
EWHC	High Court of England and Wales (United Kingdom)
F2d	Federal Reporter, Second Series (United States)
F3d	Federal Reporter, Third Series (United States)
FacLR	University of Toronto Faculty Law Review
FAO	Food and Agriculture Organization
FAOP	Framework Agreement for Operational Partnership
FARC	Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia)
FCA	Federal Court of Australia
FCas	Federal Cases (United States)
FCN	[Treaty on] Friendship, Commerce and Navigation
FCR	Federal Court of Australia Report Series
FinnYIL	Finnish Yearbook of International Law
Fordham ILJ	Fordham International Law Journal
FRG	Federal Republic of Germany
FRY	Federal Republic of Yugoslavia
FSupp	Federal Supplement (United States)
FSupp2d	Federal Supplement, Second Series (United States)
GA	General Assembly (United Nations)
GAOR	General Assembly Official Records (United Nations)
GATT	General Agreement on Tariffs and Trade
GC	Grand Chamber (ECtHR/ECJ)
GDR	German Democratic Republic
GeoJIL	Georgetown Journal of International Law
GeoLJ	Georgetown Law Journal
Georgia JICL	Georgia Journal of International and Comparative Law
GoJIL	Goettingen Journal of International Law
GWashILR	George Washington International Law Review
GWashJILE	George Washington Journal of International Law and Economics
GYIL	German Yearbook of International Law
Hague YIL	Hague Yearbook of International Law
Harvard Draft	Harvard Research on International Law, Draft Convention on the Law of Treaties
HarvILJ	Harvard International Law Journal
HarvLR	Harvard Law Review
Hastings ICLR	Hastings International and Comparative Law Review
HousJIL	Houston Journal of International Law
HQ	Headquarters
HRC	Human Rights Committee (United Nations)
HRLR	Human Rights Law Review
HRQ	Human Rights Quarterly
HuV	Humanitäres Völkerrecht (Germany)

IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
IAEA	International Atomic Energy Agency
<i>ibid</i>	<i>ibidem</i> (in the same place)
IBRD	International Bank for Reconstruction and Development
ICAO	International Civil Aviation Organization
ICC	International Criminal Court, International Chamber of Commerce
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICLQ	International and Comparative Law Quarterly
ICLR	International Community Law Review
ICRC	International Committee of the Red Cross
ICrimLR	International Criminal Law Review
ICSID	International Centre for Settlement of Investment Disputes
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
<i>id</i>	<i>idem</i> (the same)
IDI	Institut de droit international
<i>ie</i>	<i>id est</i> (that is to say)
IFAD	International Fund for Agricultural Development
IIC	International Investment Claims
IJHR	International Journal of Human Rights
IJIL	Indian Journal of International Law
IJMCL	International Journal of Marine and Coastal Law
ILA	International Law Association
ILC	International Law Commission (United Nations)
ILM	International Legal Materials
ILO	International Labour Organization
ILR	International Law Reports
IMCO	International Maritime Consultative Committee
IMF	International Monetary Fund
IMO	International Maritime Organization
Int Lawyer	International Lawyer
IntCommLR	International Community Law Review
IO	International Organization
IOLR	International Organizations Law Review
ITLOS	International Tribunal for the Law of the Sea
ITU	International Telecommunication Union
ItYIL	Italian Yearbook of International Law

IUHEI	Genfer Hochschulinstitut für Internationale Studien / Institut universitaire de hautes études internationales
JAIL	Japanese Annual of International Law
JapYIL	Japanese Yearbook of International Law
JCL&IL	Journal of Comparative Legislation and International Law
JCSL	Journal of Conflict and Security Law
JDI	Journal du droit international ('Clunet')
JHIL	Journal of the History of International Law
JIA	Journal of International Arbitration
JICJ	Journal of International Criminal Justice
JIDS	Journal of International Dispute Settlement
JIEL	Journal of International Economic Law
JLS	Journal of Legal Studies
JPol	Journal of Politics
JSpaceL	Journal of Space Law
JT	Journal des Tribunaux
JWT	Journal of World Trade
JZ	JuristenZeitung (Germany)
KB	King's Bench Division (United Kingdom)
KFOR	Kosovo Force
LIEI	Legal Issues of European Integration
lit	littera (letter, subparagraph)
LJIL	Leiden Journal of International Law
LNTS	League of Nations Treaty Series
LoN	League of Nations
LQR	Law Quarterly Review
Ltd	Limited
m	Metre
Maine LR	Maine Law Review
MARPOL	International Convention for the Prevention of Pollution from Ships
MEA	Multilateral environmental agreements
MERCOSUR	Mercado Común del Sur (Southern Common Market)
MFN	Most-favoured nation
MichJIL	Michigan Journal of International Law
MIGA	Multinational Investment Guarantee Agency
MLR	Modern Law Review
MN	Margin number
MOP	Meetings of the Parties
MPEPIL	Max Planck Encyclopedia of Public International Law, edited by R. Wolfrum (2008) <i>et seq</i>
MPYUNL	Max Planck Yearbook of United Nations Law
MS	Motor ship
n	Note

NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
NILR	Netherlands International Law Review
NJW	Neue Juristische Wochenschrift (Germany)
NMFT	No more favourable treatment
No	Number
Nordic JIL	Nordic Journal of International Law
NPT	Treaty on the Non-Proliferation of Nuclear Weapons (Non-Proliferation Treaty)
NVwZ	Neue Zeitschrift für Verwaltungsrecht (Germany)
NYIL	Netherlands Yearbook of International Law
NYJICL	New York Law School Journal of International and Com- parative Law
NYUJILP	New York University Journal of International Law and Politics
NZLR	New Zealand Law Reports
OAS	Organization of American States
OASTS	Organization of American States Treaty Series
öBGBI	Bundesgesetzblatt für die Republik Österreich (Federal Law Gazette for the Republic of Austria)
ODIL	Ocean Development and International Law
OECD	Organization for Economic Co-operation and Develop- ment
OIV	Organization of Vine and Wine
OJ	Official Journal of the European Union
OPEC	Organization of the Petroleum Exporting Countries
OSCE	Organization for Security and Cooperation in Europe
OUP	Oxford University Press
ÖZöRV	Österreichische Zeitschrift für öffentliches Recht und Völkerrecht (Austria)
P3d	Pacific Reporter, Third Series (United States)
para(s)	Paragraph(s)
PAULTS	Pan-American Union Law and Treaty Series
PCA	Permanent Court of Arbitration
PCIJ	Permanent Court of International Justice
PhilLJ	Philippine Law Journal
PLO	Palestine Liberation Organization
POLISARIO	Popular Front for the Liberation of Saguia el-Hamra and Río de Oro (Western Sahara)
PolYIL	Polish Yearbook of International Law
PV	Minutes of Committee of Ministers' Sessions (Council of Europe)
Queen's LJ	Queen's Law Journal
RBDI	Revue belge de droit international

RCDIP	Revue critique de droit international privé
RdC	Recueil des Cours de l'Académie de droit international
RDI	Rivista di diritto internazionale
RDISDP	Revue de droit international, des sciences diplomatiques et politiques
RECIEL	Review of European Community & International Environmental Law
REIO	Regional economic integration organization
Rep	Report(s)
Res	Resolution
RGBI	Reichsgesetzblatt (Germany)
RGDIP	Revue générale de droit international public (France)
RHDI	Revue Hellénique de droit international
RIAA	Reports of International Arbitral Awards
RIO	Regional integration organization
RoP	Repertory of Practice of United Nations Organs
RTDH	Revue trimestrielle des droits de l'homme
RUF	Revolutionary United Front (Sierra Leone)
Rutgers LR	Rutgers Law Review
SADC	South African Development Community
SC	Security Council (United Nations)
SCR	Supreme Court Reports (Canada)
SCSL	Special Court for Sierra Leone
Sec	Section
Ser	Series
SFRY	Socialist Federal Republic of Yugoslavia
SIPRI	Stockholm International Peace Research Institute
SLULJ	Saint Louis University Law Journal
SOLAS	International Convention for the Safety of Life at Sea
SR	Special Rapporteur
SS	Steam ship
SSR	[...] Soviet Socialist Republic
SSSR	Gazette of the Supreme Soviet of the USSR
St. Thomas LR	St. Thomas Law Review
StanJIL	Stanford Journal of International Law
StanLR	Stanford Law Review
START II	Treaty on Further Reduction and Limitation of Strategic Offensive Arms (Strategic Arms Reduction Treaty II)
StGBI	Staatsgesetzblatt (State Gazette) (Austria)
subpara	subparagraph
Supp	Supplement
SWAPO	South West African People's Organization (Namibia)
SZIER	Schweizerische Zeitschrift für internationales und europäisches Recht

TAM	Tribunaux Arbitraux Mixtes
TEC	Treaty Establishing the European Community
TEU	Treaty on European Union
TexLR	Texas Law Review
TFEU	Treaty on the Functioning of the European Union
TGS	Transactions of the Grotius Society
TIAS	Treaties and Other International Acts Series (United States)
TJOGL	Texas Journal of Oil, Gas, and Energy Law
trans	Translation
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
TRNC	Turkish Republic of Northern Cyprus
TulJICL	Tulane Journal of International and Comparative Law
TulLR	Tulane Law Review
UCLR	University of Chicago Law Review
UDHR	Universal Declaration of Human Rights
UJIEL	Utrecht Journal of International and European Law
UK	United Kingdom [of Great Britain and Northern Ireland]
UKHL	United Kingdom House of Lords
UKTS	United Kingdom Treaty Series
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNCLOS	United Nations Convention on the Law of the Sea
UNCLOT	Official Records of the United Nations Conference on the Law of Treaties (3 volumes)
UNCLOTIO	Official Records of the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (2 volumes)
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Emergency Fund
UNIDO	United Nations Industrial Development Organization
UNIDROIT	International Institute for the Unification of Private Law
UNITA	United Front for the Total Liberation of Angola
UNJYB	United Nations Juridical Yearbook
UNMIK	United Nations Interim Administration Mission in Kosovo

UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
UNTS	United Nations Treaty Series
UPaLR	University of Pennsylvania Law Review
US	United States [of America], United States Reports
USC	United States Code
USSR	Union of Soviet Socialist Republics
UST	United States Treaties and Other International Agree- ments
USTJLPP	University of St. Thomas Journal of Law & Public Policy
UTLJ	University of Toronto Law Journal
v	versus
VaJIL	Virginia Journal of International Law
VaLR	Virginia Law Review
VandJTL	Vanderbilt Journal of Transnational Law
VCCR	Vienna Convention on Consular Relations
VCDR	Vienna Convention on Diplomatic Relations
VCLT	Vienna Convention on the Law of Treaties
VCLT II	Vienna Convention on the Law of Treaties between States and International Organizations or between Inter- national Organizations
VN	Zeitschrift für die Vereinten Nationen (Germany)
Vol(s)	Volume(s)
WashCC	Washington's United States Circuit Court Reports
WEU	Western European Union
WFP	[United Nations] World Food Programme
WHO	World Health Organization
WisILJ	Wisconsin International Law Journal
WTO	World Trade Organization
Yale JIL	Yale Journal of International Law
Yale LJ	Yale Law Journal
YbECHR	Yearbook of the European Commission on Human Rights
YbILC	Yearbook of the International Law Commission
YbWA	Yearbook of World Affairs
YEL	Yearbook of European Law
ZaöRV	Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (Germany)
ZÖR	Zeitschrift für öffentliches Recht (Austria)
ZVöR	Zeitschrift für Völkerrecht (Germany)
ZVR	Zeitschrift für Völkerrecht

General Bibliography

This table shows the general works that are frequently cited throughout the commentary. Reports of ILC Special Rapporteurs on the law of treaties are cited by the name of the rapporteur, followed by a Roman numeral indicating the sequence of the reports.

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