Foreword to the First Edition by Sir Michael Wood	XV		
Preface to the Second Edition			
Acknowledgements			
Abbreviations xxi			
Note on Citations	CXV		
Table of Cases XXXX	vii		
Table of Treaties and Legislation xxx			
PART I. OVERVIEW, HISTORY, MATERIALS,			
AND DRAMATIS PERSONAE			
The Vienna Rules			
1. A Single Set of Rules of Interpretation	5		
1. Introduction	5		
1.1 Guide to analytical approach	9		
2. Applicability of the Vienna Rules Generally	13		
2.1 History of recognition by the ICJ of the Vienna rules	14		
2.2 Express endorsement of the Vienna rules by the ICJ	16		
2.3 Endorsement of the Vienna rules by other international courts			
and tribunals	18		
2.4 Endorsement of the Vienna rules by national courts	19		
3. Definitions and Key Concepts	20		
3.1 Treaty	20		
3.2 Party, signatory, etc	23		
3.3 Treaty relations	24		
3.4 Preparatory work	25 26		
3.5 Intertemporal law	26		
3.6 'Interpretation', 'application', and 'construction'			
4. The Process of Interpretation and the Nature of the Rules	30		
4.1 The process of interpretation and the principle	30		
of autonomous interpretation	35		
4.2 A general 'rule' and 'rules' of interpretation	38		
4.3 Are the Vienna rules 'rules'?	41		
5. Five Examples	41		
5.1 Interpretation by the European Court of Human Rights—	42		
a typical approach			
5.2 An arbitral award illustrating the difference between treaty interpretation and application of law	44		
5.3 An interpretation by an arbitral tribunal of the International Centre			
for Settlement of Investment Disputes (ICSID)—	,		
interpretation and application of a treaty	47		

·	
7.4 Interprise application of Vienna rules and domestic precedent	51
5.5 Interpretation within a national legal system— increasing awareness of the Vienna rules in courts in the UK	54
increasing awareness of the	57
2. Development of Rules of Interpretation	57
1 I and discription	60
2. Treaty Interpretation in the Greco-Roman Era	61
 Treaty Interpretation in the Greek Particles Grotius, Pufendorf, Vattel, and Canons of Interpretation 	62
 Grotius, Putendori, vatter, and Canonia. The Harvard Draft Convention on the Law of Treaties 	65
5. The Permanent Court of International Justice	66
6. Restrictive Interpretation and Effectiveness	68
7. Institut de Droit International	
8. The Practice of the International Court of Justice	69
Before the Vienna Convention	71
9. The New Haven School and World Public Order	
9. The New Haven School and Works 10. The Work of the International Law Commission and	74
the Vienna Conference	
1 Congrated in Making Treaties	81
3. Interpretative Material Generated in Making Treaties	81
1. Introduction	82
2. Making Treaties	82
2. Making freatics 2.1 Who initiates and negotiates treaties? 2.2 Negotiating and drawing up a treaty	82
a a 1 Manatidtion and Till Dowers	83 84
2.2.1 Negotiation until fundaments 2.3 Adoption and authentication of a treaty text	85
2.4 Concluded and other instruments	86
the stand protocols	87
- The state of two ditter TVOVIL ULUST VIOLET	07
2.4.2 Distinguishing treates from the state of the state	91
Interpretation of Treaties	91
3.1 Reservations	93
· ladarations	, ,
3.2.1 Interpretative declarations in preparately	94
and at, or after, conclusion	95
3.3 Differentiating between reservations and interpretative search as 3.1. The nature of the difference	95
a a a TVI ! I las iso the distinction	96
16 living distort retative accumulous	97
3 3 3 Confusing terminology: statements and accumulation	98
2 2 / D'A monti dting in Dracille	
3, 3, 5 The scheme for differentiation envisages in	100
the ILC's Guide	101
3.4 Other declarations	101
 3.4 Other declarations 3.5 Procedure relating to interpretative declaration 3.5.1 Approval of an interpretative declaration 	102

				Contents	vii
			252 0	pposition to an interpretative declaration	103
			25.2 Pa	characterization of an interpretative declaration	104
		26	Effects of	interpretative declarations	105
		5.0	361 Ft	fects of general agreement to	
			dr	interpretative declaration	106
			362 Et	fects of approval by only one state or fewer than all	107
			3.6.3 D	ecisions of courts and tribunals	100
			01	interpretative declarations	109
		37	Conclus	ion on interpretative declarations	111
	4	Drei	naratory	Materials	112
	1.	41	How far	does preparatory work trace history:	112
		1.1	4.1.1 W	That illuminates a common understanding?	113
			4.1.2 T	racing a historical line	113
			413 L	ooking at the main source	114 116
			11/1 I	Icing all material available to negotiators	
		4.2	Whethe	r preparatory work can be differentially admissible	117
		13	Docume	ents associated with treaty negotiations	118
		4.4	Admissi	bility of documents from a unilateral source	119
					123
4.				Vienna Convention to Interpret Treaties?	123
			roductio		125
	2.	Int	ernation	al Organizations	125
		2.1	Genera	interpretative competence in international organizations	126
		2.2	The two	Vienna Conventions on the Law of Treaties	127
		2.3	The Un	ited Nations and other organizations	129
		2.4	The Eu	ropean Community and European Union	129
	3	. In	ternation	al Courts and Tribunals	129
				tional Court of Justice	130
		3.2	2 Arbitra	orld Trade Organization Dispute Settlement Understanding	131
			3 The W	orld Trade Organization Dispute Settlement	
		3.	4 The In	ternational Centre for Settlement	134
			of Inve	estment Disputes (ICSID)	135
		3.	5 The Eu	ropean Court of Human Rights ropean Court of Justice (Court of Justice of	
		3.	6 The Et	ropean Court of Justice (Court of Justice)	136
			the Eu	ropean Union) The treaties founding the Community	136
			3.6.1	Treaties to which the Community is a party	
			3.0.2	with non-Member States	137
			262	Community instruments giving effect to treaties	
			3.0.3	with non-members	140
		2	7 Other	international courts and tribunals	141
					141
	•	4. I	national I	Legal Systems	141
		4	.1 Imple	mentation of treaties al interpretation within national legal systems	143
		4	.2 Judici	Parties to the Vienna Convention generally	143
			122	The common law tradition	144
			422	States which are not parties to the Vienna Convention	150
			1.4.5	Compact statement I	

PART II. INTERPRETATION APPLYING THE VIENNA CONVENTION ON THE LAW OF TREATIES

A. The General Rule

5.	6. The General Rule: (1) The Treaty, its Terms,					
,	and their Ordinary Meaning					
	1. A 'Treaty'	162				
	1.1 The 'treaty' and its 'terms'	164				
	1.2 The sound of silence—absent and implied terms	165				
	2 'Good Faith'	167				
	2.1 History and preparatory work relating to 'good faith'	168				
	2.2 Ordinary meaning of 'good faith'	170				
	2.3 'Good faith' in context and in the light of the Convention's object	171				
	and purpose	171				
	2.4 Issues and practice	172 172				
	2.4.1 'Good faith' generally	176				
	2.4.2 'Good faith' meaning reasonableness	177				
	2.4.3 'Good faith' limiting interpretation of a power	177				
	2.4.4 'Good faith' requiring balancing of treaty elements	1/0				
	2.4.5 'Good faith' and the principle of effectiveness	179				
	(ut res magis valeat quam pereat)	181				
	3. 'Ordinary Meaning'	182				
	3.1 History and preparatory work	102				
	3.2 Ordinary meaning of 'ordinary meaning to be given to	183				
	the terms of the treaty'	184				
	3.3 Issues and practice	184				
	3.3.1 Role of ordinary meaning	186				
	3.3.2 Dictionaries and other sources of definitions	189				
	3.3.3 Literal meanings of single terms	190				
	3.3.4 No ordinary meaning or no single one?	192				
	3.3.5 Generic terms	193				
	3.3.6 'Ordinary' to whom?	194				
	3.3.7 Treaty language and terms	195				
	3.3.8 Terms and concepts	197				
	4. 'Context'	198				
	4.1 Background and context	199				
	4.2 Issues and practice	199				
	4.2.1 Immediate context—grammar and syntax	200				
	4.2.2 Title, headings, and chapeaux	202				
	4.2.3 Context showing structure or scheme	205				
	4.2.4 Related and contrasting provisions	205				
	4.2.5 Preamble	206				
	4.2.6 Punctuation and syntax 4.2.7 Different meanings of same term in a single instrument	209				
	4.2. Different meanings of sum with a size and trurtage	210				
	4.2.8 Link with object and purpose	211				
	 Object and Purpose' History and preparatory work relating to 'object and purpose' 	212				
	5.1 History and preparatory work relating to object and purpose and purpose in context	212				

			Contents	ix
		5.3	Issues and practice	215
			5.3.1 Singular object and purpose	215
			5.3.2 Finding object and purpose from preamble	24.6
			and substantive provisions	216
			5.3.3 Can the object and purpose be used to counter clear	210
			substantive provisions?	218
			5.3.4 Object and purpose identifying general scope of treaty	219
			5.3.5 Object and purpose in a particular provision	220
			5.3.6 Principle of effectiveness (general)	221
	6.	Con	nclusions	222
6.			eneral Rule: (2) Agreements as Context, Subsequent	222
	Ag	green	nents, and Subsequent Practice	223
	1.	Intr	oduction	223
		1.1	The linking notion of agreement	223
		1.2		220
			on interpretation as of those at time of conclusion	228
		1.3		231
	2.	Agr	eements and Instruments Made in Connection	
		with	h Conclusion of a Treaty	232
		2.1	Meaning of 'Conclusion' of a treaty	232
			2.1.1 Issues arising as to 'in connection with conclusion'	225
			of a treaty	235
		2.2	Interpretative role of agreements connected	0.07
			with conclusion of a treaty	237
		2.3		239
			2.3.1 Instruments covered by article 31(2)(b) of	220
			the Vienna Convention	239
			2.3.2 Role of unilateral instruments covered by article 31(2)(b)	241
	3.		osequent Agreements	242
		3.1	Fact of agreement, not form, is the key factor	243
			3.1.1 History and analysis	244 246
			3.1.2 ICJ looks for fact of agreement, not form	246
			Less formal or informal agreement	250
		3.3	Formal amendment and changed wording	250
			3.3.1 Effect of amending agreements	253
	,	0 1	3.3.2 Changed wording in related or comparable agreements	253
	4.		osequent Practice	254
		4.1	Elements of subsequent practice	254
			4.1.1 History and development of the provision	254
			4.1.2 Meaning of 'subsequent practice'	256
			4.1.3 Frequency and uniformity of practice	2)0
			4.1.4 Practice may consist of executive, legislative,	257
			and judicial acts	259
			4.1.5 'Subsequent practice' and 'subsequent conduct' distinguished	261
		4.0	4.1.6 Practice 'in the application of the treaty'	262
		4.2	Deduction from absence of subsequent practice	262
			4.2.1 Absence of action	264
			4.2.2 Combining action with absence of reaction	201

	43	Parties participating in the practice	266
	1.5	431 Practice must be attributable to parties	266
		4.3.2 Agreement, not practice, of all parties is required	266
		4.3.3 Practice of some parties only does not interpret a treaty	- /
		'inter se' unless so agreed	267
		4.3.4 Practice of some parties in absence of that of others	268
	44	'Establishing' agreement	269
	4.5	. 1. 1 1 1 1 Compal agreement	
		understandings, or other instruments	273
	46	Subsequent practice and 'evolutive' interpretation distinguished	274
	4.7	Subsequent practice and amendment differentiated	275
	4.8		280
	1.0	481 Whose practice in the organization?	280
		4.8.2 Practice in relation to a treaty establishing an organization	281
		4.8.3 Practice in relation to treaty provisions other than	
		in constitutions of international organizations	285
		4.8.4 Does practice of courts and tribunals constitute precedent?	285
	49	Possible overlap with relevant rules of international law	287
		nclusions	288
7.	The G	eneral Rule (3): Relevant Rules of International Law	289
	and S	pecial Meanings	
	1. Int	roduction	289
	1.1	The intertemporal rule in general international law	291
	1.2	Time factors in treaty interpretation	292
	2 Hi	story and Preparatory Work of Article 31(3)(c)	295
	3 Or	dinary Meaning of Article 31(3)(c) in Context, etc	298
	3.1	There shall be taken into account, together with the context	298
	3.1	Relevant rules of international law	299
	0.2	3.2.1 Relevance	299
		3.2.2 Rules of international law	299
	3 3	Which are 'the parties'?	302
		ues and Practice	304
	4. 188		305
	4.	4.1.1 Extent of relevant 'international law'	305
		4.1.2 'Rules'	307
		4.1.3 Applicable in the relations between which 'parties'?	310
		4.1.4 Conclusion as to 'parties'	317
	6	2 Intertemporal and temporal issues	317
	4	3 Clarifying meaning by reference to international law	320
	4.	4 Reference to other treaties	323
	4.	4.4.1 Reference to other iteaties 4.4.1 Reference to international law stated in common	
		form treaties	324
		4.4.2 Reference to the same word as used in other treaties	325
		4.4.2 Reference to the same word as used in treaties on	
		4.4.) Reference to terms of printing which the reserved of	325
		the same subject 4.4.4 Requirement to take into account another treaty	320
	,	5 Filling gaps by reference to general international law	328
	4.	5 Filling gaps by reference to general international and	

				Coni	tents	xi
		4.6	Parallel a	nd conflicting obligation	ons	331
				count of international		332
	5		cial Mean		1	334
).		Introduc			334
				and preparatory work		335
			Issues and			337
).)			nary meaning distinguished	337
				ectul meuning und ordin ırden of establishing a sp		338
				vidence required to estab		339
				pecial meanings and spec		341
	1	Car	clusions	ectui meunings una spec	uu regimes	342
	6.	Con	iciusions			J-12
				B. Supplementary M	leans of Interpretation	
8.	Su	ipple	mentary	Means of Interpreta	tion	347
			oduction			347
	2	His	tory and	Preparatory Work		349
	2.	2.1	Separatir	ng supplementary mear	ns from the general rule	349
		2.1	Ready re	ference to preparatory	work distinguished	
		2.2		ing interpretations on		352
		2.3	Distincti	on between use of supi	plementary means 'to confirm'	
		2.0		etermine' the meaning		353
	2	Ma		Recourse' and 'Supp		356
	٦.	3.1	'Recours		ionicary	356
		-	'Supplen			356
		3.3		supplementary means		357
			Dolation	ship between suppleme	entary means and the general rule	358
	/		es and Pi		intary means and the general rate	359
	4.				ystematic use, and by-passing them	360
		4.1				360
				xplicit reference to the qu		361
				eaching the preparatory		363
				icidental use of suppleme		363
		/ 2			ork introduced by parties	364
		4.2		ing meaning	in a	364
				Confirming a clear mean		304
			4.2.2 R	ole of confirming when	preparatory work contradicts	366
			(22 I	neaning afforded by appl	ication of general rule	373
			4.2.3	ising supplementary mea	ens to confirm 'intention'	375
					ens to 'reinforce' an interpretation	376
			4.2.5 C	Ising preparatory work a	s general support	376
		/ 0		eciting and using prepar	atory work contrasted	377
		4.3		ning meaning	which are an about of	3//
			4.3.1 Q	Qualifying conditions: 'ar	noiguous or ooscure	377
			622	r 'manifestly absurd or u	annewsonuou	3//
					o availability of another word	381
		, ,		aving one of the claimed		382
		4.4		ies of use of supplemen		
			4.4.1 L	Ising and construing pre	paratory work	382

4.4.2 Reading preparatory work to show agreement to exclude	385		
4.4.2 Redaing preparatory work to show agreement 4.4.3 Deduction from absence from preparatory work	389		
4.4.4 Change of word or words during negotiation of treaty	391		
4.4.5 Exclusion of preparatory work from consideration	391		
4.4.5 Exclusion of preparation work from context?	393		
4.4.6 May preparatory work be deployed as context? 4.4.7 Using preparatory work to identify or confirm object			
4.4./ Using preparatory work to turnily or confirm especially	394		
and purpose 4.4.8 Effect of interpretation recorded in preparatory work	395		
4.4.9 Reading preparatory work in combination			
with other supplementary means	397		
4.5 Circumstances of conclusion and other supplementary means	398		
4.5.1 Meaning of 'circumstances of conclusion'	398		
452 Comparison with provisions in other treaties			
or associated material as a circumstance of conclusion	400		
4.5.3 Commentaries, explanatory reports, academic writing, etc	401		
4.5.4 Other supplementary means	404		
5. Conclusions	409		
). Conclusions			
C. Languages			
0. I	413		
9. Languages	413		
1. Introduction	414		
2. History and Preparatory Work	419		
3. Ordinary Meaning of Terms in Afficie 33			
4. Issues and Practice	420 420		
4.1 Interpretation by reference first to only one of several languages	421		
4.2 Use of 'versions', 'official', and other texts	423		
4.3 Presumption of the same meaning in all authentic texts			
4.4 How many languages must be considered if there is a need	424		
to reconcile texts?			
4.5 Is the 'original' language of a treaty particularly significant	426		
for interpretation? 4.6 Translation of terms and legal concepts in different languages	429		
	435		
is ambiguous	440		
4.8 Different punctuation in different languages4.9 Reconciliation of language differences by reference to object			
	442		
and purpose 4.10 Using preparatory work in reconciling differences between languages	446		
4.10 Using preparatory work in recommend	447		
5. Conclusions			
PART III. CONCLUSION			
10. Criticism, Themes, Issues, and Conclusions	451		
1. The notion of 'rules' of interpretation	453		
1.1 Reviewing 'interpretation'	453		
1.2 What can 'rules' achieve?	454		

Contents	xiii
2. Ambiguity and vagueness distinguished	457
3. 'Textual', 'teleological', 'seeking intention', and other approaches	460
3.1 'Textual' does not mean 'literal' and is an unhelpful label 3.2 'Teleological' is not warranted as a description of	463
the general approach	464
3.3 Seeking intention	465
4. Evolutionary Interpretation	467
4.1 The International Court of Justice	468
4.2 The European Court of Human Rights	471
5. Particular Regimes	474
5.1 International Human Rights Law	474
5.2 International Criminal Law	479
6. Inconsistent Interpretations	483
6.1 Is there always a single interpretation that is correct?	483
6.2 Divergence over the same terms or from preparatory work:	
investment disputes	486
6.2.1 Meaning of 'investment'	487
6.2.2 'Umbrella' clauses	491
6.2.3 'Most Favoured Nation' clauses	492
7. Conclusion	495
Dibliography	497
Bibliography	511
Index	<i>)</i> 11