

# AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 104

April 2010

NO. 2

CONTENTS

PAGE

<b>Power and Persuasion in Investment Treaty Interpretation: The Dual Role of States</b>	<i>Anthea Roberts</i>	179
States entering into investment treaties establish dual roles for themselves as treaty parties (with an interest in interpretation) and actual or potential respondents in investor-state disputes (with an interest in avoiding liability). By viewing states primarily as respondents rather than also as treaty parties, investment tribunals often ignore the relevance and persuasiveness for interpretation of those parties' subsequent agreements and practice. The approach proposed here seeks to recalibrate interpretive power between states and tribunals by increasing consideration of such evidence.		
<b>Editorial Comment</b>		
Book Reviews and Libel Proceedings	<i>Lori Fisler Damrosch, Bernard H. Oxman, Richard B. Bilder, and David D. Caron</i>	226
<b>Notes and Comments</b>		
Correspondence		228
The Francis Deák Prize		228
Nominations for the Board of Editors		229
<b>Current Developments</b>		
The Copenhagen Climate Change Conference: A Postmortem	<i>Daniel Bodansky</i>	230
<b>International Decisions</b>		
<i>Prosecutor v. Jean-Pierre Bemba Gombo</i> (Johan D. van der Vyver)		241
International Criminal Court pretrial decision on burden of proof and mens rea in prosecutions under the ICC Statute		
<i>Tătar c. Roumanie</i> (Dinah L. Shelton)		247
European Court of Human Rights decision on protections against environmental harms and on proof of causation and damages		
<i>Glamis Gold, Ltd. v. United States</i> (Stephan W. Schill)		253
NAFTA Chapter 11 panel ruling on international minimum standards for investment protection and regulatory takings		
<i>Case Nos. 2 BvE 2/08, 2 BvE 5/08, 2 BvR 1010/08, 2 BvR 1022/08, 2 BvR 1259/08, and 2 BvR 182/09</i> (Frank Schorkopf)		259
German Federal Constitutional Court opinion on the compatibility of the EU Lisbon Treaty with the German Basic Law		
<i>Décision Nos. 07-87362 &amp; 07-87931</i> (Jean-Pierre Cot)		265
French Cour de cassation opinion on pollution enforcement in the exclusive economic zone under the UN Convention on the Law of the Sea		

## Contemporary Practice of the United States Relating to International Law

*Edited by John R. Crook*

State Department Legal Adviser Describes U.S. Approach to International Law	271
D.C. Circuit Finds Status of Jerusalem Poses Nonjusticiable Political Question	278
Second Circuit Finds Convention on Privileges and Immunities of the United Nations Self-Executing, Upholds Immunity of United Nations and of Former UN Officials	281
United States Supports Reform of UN Terrorism Sanctions Procedures	283
International Maritime Organization Approves U.S.-Canadian Proposal for Strengthened Controls on Air Pollution from Ships in North American Waters	287
U.S. Efforts to Gain CITES Protection for Atlantic Bluefin Tuna, Sharks, and Polar Bears Unsuccessful	289
United States Signs MOU on Migratory Sharks	290
Secretary of State Addresses Human Rights and the Internet	291
Supreme Court Declines Review of Noriega Extradition Case	294
JCS Chief Calls for "Precise and Principled" Use of Force	295
Vice President Addresses U.S. Nuclear Weapons Policy, Calls for CTBT Ratification	297
United States Sends Observers to Ottawa Landmine Convention Review Conference	299
Department of State Updates Private International Law Web Site	300
Brief Notes	302

## Recent Books on International Law

*Edited by Richard B. Bilder*

### Book Reviews

Buergenthal, Thomas. <i>A Lucky Child: A Memoir of Surviving Auschwitz as a Young Boy</i> (Lori Fisler Damrosch)	307
Richardson, Henry J., III. <i>The Origins of African-American Interests in International Law</i> (Ruth Gordon)	313
Abtahi, Hirad, and Philippa Webb. <i>The Genocide Convention: The Travaux Préparatoires</i> (William A. Schabas)	318
Pollack, Mark A., and Gregory C. Shaffer. <i>When Cooperation Fails: The International Law and Politics of Genetically Modified Foods</i> (Sungjoon Cho)	324
Gardiner, Richard. <i>Treaty Interpretation</i> ; Linderfalk, Ulf. <i>On the Interpretation of Treaties: The Modern International Law as Expressed in the 1969 Vienna Convention on the Law of Treaties</i> (Malgosia Fitzmaurice)	329
Barton, John H., Judith L. Goldstein, Timothy E. Josling, and Richard H. Steinberg. <i>The Evolution of the Trade Regime: Politics, Law, and Economics of the GATT and the WTO</i> (Donald McRae)	334
Tarullo, Daniel K. <i>Banking on Basel: The Future of International Financial Regulation</i> (Pierre-Hugues Verdier)	338

### Briefer Notice

Kuznetsov, V. I., and B. R. Tuzmukamedov. <i>International Law: A Russian Introduction</i> (William E. Butler, ed. and trans.) (Peter B. Maggs)	342
---	-----

### Books Received

343

**International Legal Materials.** Contents, Vol. XLVIII, No. 6; Vol. XLIX, No. 1

348