CONTENTS

Table of Cases List of Abbreviations	xvii xlvii
1. Introduction	1
A. Overview	1.01
B. Relevant Treaty Law	1.11
2. Treaty Interpretation: History and Background	15
A. Pre-Vienna Convention Treaty Interpretation Rules	2.02
B. Development of the Convention Rules	2.08
C. Criticism of the Convention Rules	2.14
D. Customary Status and FIAT Use of the Convention Rules	2.22
E. Interpretation and Application Distinguished	2.36
F. Who May Interpret Treaties?	2.39
G. What May be Interpreted by the Convention Rules?	2.52
3. The General Rule of Treaty Interpretation	37
A. Introduction	3.02
B. Article 31(1)	3.11
C. Article 31(2)	3.89
D. Article 31(3)	3.101
E. Article 31(4)	3.150
4. Supplementary Means of Interpretation	99
A. Article 32	4.02
B. Preparatory Work	4.08
C. Circumstances of a Treaty's Conclusion	4.27

	D. Confirming a Meaning	4.30
	E. Determining a Meaning	4.32
5.	Non-Codified Means of Interpretation	115
	A. Introduction	5.02
	B. Use of Prior Awards or Decisions	5.04
	C. Treaties, Instruments, or Materials	5.32
	D. Scholarly Opinion	5.52
	E. Inter-Temporal Aspects	5.62
	F. Principle of Effectiveness	5.74
	G. Legal Maxims	5.86
6	Interpretation Jurisprudence Particular to Investment Arbitration	153
	A. The AAP Rules	6.02
	B. Failure to Apply Convention Rules	6.11
	C. Unilateral Declarations Consenting to Investment Arbitration	6.26
	D. Umbrella Clauses	6.37
	E. Most Favoured Nation Clauses	6.63
	F. Disclosure of Preparatory Work	6.75
	G. Pro-Investor Bias in Interpreting Investment Treaties?	6.98
	H. Restrictive Interpretation	6.107
	I. Pre-Arbitration Waiting Periods	6.113
	J. Interpreting Silence	6.122
7	. Conclusion	205
	A. Conclusions on FIAT Treaty Interpretation Practice	7.02
	B. Suitability of Convention Rules for Investor–State Treaty Disputes	7.08
	C. Contribution of FIAT Practice to International Law	7.25
1	Appendices	
	I. Analytical Tables of FIAT Treaty Interpretation Practice	219
	II. Comparison between Articles 27–29 of the 1966 ILC	
	Draft and Articles 31–33 of the Vienna Convention	223
	III. Comparative Table of Draft Treaty Interpretation Rules	225

Contents

IV. Umbrella Clause Comparative Table	233
V. Selected ICJ Decisions Confirming Customary Status of the Convention Rules	235
VI. Other Selected International Decisions Confirming Customary Status of the Convention Rules	237
VII. Selected Domestic Court Decisions Confirming Customary Status of the Convention Rules	239
Selected Bibliography Index	241 253