Interpretation of Acts and Rules is its original exploration of what makes international legal method distinctive, indeed what makes law effective. This insight does not depend on the authority of judicial decisions but on the weight that legal modes of argument carry in the push and pull of international politics. One hopes Orakhelashvili will carry this inquiry forward, extending it to other mechanisms of global governance, affirming the distinctiveness of legal method, while shedding new light on the complex interaction of international law and politics.

IAN JOHNSTONE
Fletcher School of Law and Diplomacy, Tufts University

BRIEFER NOTICE

Making Transnational Law Work in the Global Economy: Essays in Honour of Detlev Vagts. Edited by Pieter H. F. Bekker, Rudolf Dolzer, and Michael Waibel. Cambridge, New York: Cambridge University Press, 2010. Pp. xxxiii, 684. Index. $160, £100.

For five years (1993–98), Detlev Vagts, the Bemis Professor of Law, Emeritus, at Harvard Law School, coedited the *Journal* with Theodor Meron, who is the president of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the Charles L. Denison Professor of Law, Emeritus, at New York University School of Law. Vagts—"Det" to his colleagues—should be most gratified by this Festschrift, which Pieter Bekker, Rudolf Dolzer, and Michael Waibel have edited to honor their teacher and friend.

The volume begins with an affectionate foreword from U.S. Department of State Legal Adviser Harold Hongju Koh, coauthor with Vagts and Henry J. Steiner of the fourth edition of their well-regarded teaching casebook *Transnational Legal Problems*, and coauthor with Vagts and William S. Dodge of the third and subsequent editions of the equally praised *Transnational Business Problems*. Koh describes Vagts as a "complete transnationalist legal scholar" and a "supremely gentle, wise, and gracious man" with "a wry sense of humor and an unshakeable sense of decency" (p. xvi). Koh's foreword captures well the breadth and depth of the substantive chapters in the Festschrift when he says that they "highlight the key leitmotifs of Vagts's career: the critical role of the transnational lawyer, the function of transnational law in the global economy, and transnational law and institutions as tools for the peaceful resolution of disputes" (p. xvii). Many of the other chapters include personal recollections that illustrate the warmth and importance of Vagts's mentorship of students, scholars, and colleagues.

The coeditors follow the foreword with an introduction, which not only explains their relationship with Vagts but also summarizes succinctly the varied career of their former professor. They review how the project began through Bekker's collaboration with Thomas W. Wälde, a renowned scholar whose "characteristic energy and drive" led to persuading over thirty scholars to join in the enterprise (p. 6). Upon Wälde's untimely death, Dolzer and Waibel agreed to join in the coediting.

The introductory essays include an informative overview from William Alford on Vagts's many contributions to Harvard Law School, followed by a chapter by Steiner explaining how he came to collaborate with Vagts in the 1960s on *Transnational Legal Problems*, which was first published in 1968. In the fall of 1966, I had the good fortune to take the course co-taught by Vagts and Steiner with the mimeographed materials that ultimately became this casebook. My strongest recollection remains their enthusiasm and rigor. Both knew that they were shaping a generation of future international law scholars and practitioners who could never go back to seeing the subject in the rigid post-World War II structure that had preceded their seminal work.

The coeditors have organized the substantive chapters in the volume under three categories: international law in general, transnational economic law, and transnational lawyering and dispute resolution. As just a sample of the many interesting and thoughtful contributions, Andrea Bianchi presents a challenging essay on textual interpretation, entitled "Textual Interpretation and (International) Law Reading: The Myth of

(In)Determinacy and the Genealogy of Meaning," that will resonate with every international lawyer regardless of his or her particular focus of scholarship or practice (p. 34). Like so many other contributors, he reminds us of Vagts's concern with this subject, mentioning Vagts's 1993 article "Treaty Interpretation and the New American Ways of Law Reading" (p. 53).[1] Hernán Pérez Loose, drawing on his experience in Ecuador in private practice, government, teaching, and journalism, writes about "Administrative Law and International Law: The Encounter of an Odd Couple," discussing, in particular, recent arbitral cases including those before the International Centre for the Settlement of Investment Disputes (ICSID) to illustrate and illuminate an intersection of these two fields of law—administrative law and international law—that have been "more resistant to the winds of globalisation" (p. 380).

Several chapters focus on diverse subjects demonstrating Vagts's broad contributions to international law. Noting that Vagts's scholarship was enhanced by his knowledge of German and German legal literature, Juliane Kokott, advocate general to the European Court of Justice, addresses the thorny issue of national or European Union competences in the context of the World Trade Organization and foreign direct investment. In light of the recent Swiss-U.S. agreements and negotiations over disclosure to the U.S. Internal Revenue Service of the names of U.S. taxpayers with secret Swiss bank accounts, there should be considerable interest in Jean Nicolas Druey's contribution, "The Noisy Secrecy: Swiss Banking Law in International Dispute" (p. 285). Bekker and Waibel also contribute particularly interesting chapters to the volume, the former addressing the role of the International Court of Justice in legal diffusion of transnational justice, and the latter focusing on creditor protection in international law that draws heavily upon the issues arising from the current global crisis of financial institutions and the recession. Dodge revisits the later-in-time rule with respect to customary international law in an effort to reconcile the seemingly contradictory case law, commentary, and *Restatement (Third) of Foreign Relations Law of the United States*. Other contributors, including Charles N. Brower and Stephan W. Schill, Peter L. Murray, William W. Park, Andreas L. Paulus, Jeswald W. Salacuse, and Jan Wouters, present solid discussions of a wide range of important subjects.

Finally, let me mention one of my own favorite examples of Vagts's scholarship because it shows that just beneath that kindly demeanor exists a hard core of rigorous analytical capability and intellectual integrity. I refer to his short *Journal* editorial comment, provocatively entitled "Senate Materials and Treaty Interpretation: Some Research Hints for the Supreme Court."[2] In this piece, Vagts literally eviscerates, sentence by sentence, Justice Antonin Scalia's criticism of the *Restatement (Third) of the Foreign Relations Law of the United States* in his concurring opinion in *United States v. Stuart*.[3] Vagts begins by noting that Justice Scalia indicated that he had been "'unable to discover a single case in which this Court has consulted the Senate debates, committee hearings, or committee reports' to interpret a treaty."[4] Vagts further points out that Justice Scalia stated that the relevant provisions of the *Restatement (Third)* "must be regarded as a proposal for change rather than a restatement of existing doctrine."[5] Vagts proceeds to show the six ways in which the justice—and, even more pertinently, his clerks—could have found such authority and why the *Restatement (Third)* is well supported by precedent and scholarship.[6] In his closing paragraph, Vagts explains his reason for deciding to write this public account rather than simply a letter to Justice Scalia:

> First, other researchers may take the opinion at its word and not make investigations they ought to do. Second, the opinion goes on

[1] Detlev F. Vagts, *Treaty Interpretation and the New American Ways of Law Reading*, 4 EUR. J. INT'L L. 472 (1993).

[2] Detlev F. Vagts, *Senate Materials and Treaty Interpretation: Some Research Hints for the Supreme Court*, 83 AJIL 546 (1989).

[3] 109 S.Ct. 1183, 1193 (1989) (Scalia, J., concurring).

[4] Vagts, *supra* note 2, at 546–47 (quoting *Stuart*, 109 S.Ct. at 1195 (Scalia, J., concurring)).

[5] *Id.* at 547 (quoting *Stuart*, 109 S.Ct. at 1196).

[6] *Id.*

> from these research errors to attack my longtime collaborator, Louis Henkin. I cannot let that attack on him and, by application of the principles of the Uniform Partnership Act, on myself go unanswered. Under the engraving of the porcupine in a French book on animals appears the legend "cet animal est bien méchant; quand on l'attaque il se défend:" Loosely translated, that means that this very nasty animal, when attacked, has a tendency to defend itself.[7]

And, indeed, if the foregoing leaves any doubt about Vagts's reaction to the justice's opinion, one should look at footnote 14 of Vagts's editorial comment, noting the justice's punctuation error in citing the "Reporter's Note" (the justice's "misplacement of the apostrophe" when there were multiple reporters for the *Restatement (Third)*).[8]

No short review can do justice to the rich content and fine craftsmanship found in each contribution to this Festschrift, and apologies are due to those contributors who are not mentioned here or whose chapters are not discussed in sufficient detail. Each has ably demonstrated the full measure of his or her devotion to Vagts as professor, mentor, coauthor, colleague, and friend.

PETER D. TROOBOFF
Covington & Burling LLP

BOOKS RECEIVED

International Law—General

Académie de droit international. *Recueil des Cours: Collected Courses of the Hague Academy of International Law 2009* (Tome 345). Leiden, Boston: Martinus Nijhoff Publishers, 2011. Pp. 530.

Académie de droit international. *Recueil des Cours: Collected Courses of the Hague Academy of International Law 2010* (Tome 348). Leiden, Boston: Martinus Nijhoff Publishers, 2011. Pp. 499.

Académie de droit international. *Recueil des Cours: Collected Courses of the Hague Academy of International Law 2010* (Tome 349). Leiden, Boston: Martinus Nijhoff Publishers, 2011. Pp. 535.

Académie de droit international. *Recueil des Cours: Collected Courses of the Hague Academy of International Law 2010* (Tome 350). Leiden, Boston: Martinus Nijhoff Publishers, 2011. Pp. 439.

Arsanjani, Mahnoush H., Jacob Katz Cogan, Robert D. Sloane, and Siegfried Wiessner (Eds.). *Looking to the Future: Essays on International Law in Honor of W. Michael Reisman.* Leiden, Boston: Martin Nijhoff Publishers, 2011. Pp. liii, 1100.

Aust, Helmut Philipp. *Complicity and the Law of State Responsibility.* Cambridge, New York, Melbourne: Cambridge University Press, 2011. Pp. xxv, 487. Index.

Childress III, Donald Earl. *The Role of Ethics in International Law.* Cambridge, New York, Melbourne: Cambridge University Press, 2012. Pp. xi, 278. Index.

D'Aspremont, Jean. *Formalism and the Sources of International Law: A Theory of the Ascertainment of Legal Rules.* Oxford, New York: Oxford University Press, 2011. Pp. xviii, 266. Index.

Fastenrath, Urlich, Rudolf Geiger, Daniel-Erasmus Khan, Andreas Paulus, Sabine von Schorlemer, and Christoph Vedder (eds.). *From Bilateralism to Community Interest: Essays in Honour of Judge Bruno Simma.* Oxford, New York: Oxford University Press, 2011. Pp. xxvi, 1346. Index.

Jacovides, Andrew. *International Law and Diplomacy: Selected Writings by Ambassador Andrew Jacovides.* Leiden, Boston: Martinus Nijhoff Publishers, 2011. Pp. xi, 390.

Orakhelashvili, Alexander (ed.). *Research Handbook on the Theory and History of International Law.* Cheltenham: Edward Elgar Publishing, 2011. Pp. xi, 543. Index.

Rieter, Eva, and Henri de Waele (eds.). *Evolving Principles of International Law: Studies in Honour of Karel C. Wellens.* Leiden, Boston: Martinus Nijhoff Publishers, 2011. Pp. xxvii, 319. Index.

Roth, Brad R. *Sovereign Equality and Moral Disagreement: Premises of a Pluralist International*

[7] *Id.* at 550 (footnote omitted).

[8] *Id.* at 550 n.14 (citing *Stuart*, 109 S.Ct. at 1196).