Handbook of International Law

Second Edition

ANTHONY AUST

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Foreword to the First Edition

Tony Aust has already produced Modern Treaty Law and Practice (Cambridge University Press, 2000; Chinese edn, 2005; 2nd English edn, 2007). This was an exercise in the handbook mode which some scholars profess to dislike, and which most of them certainly neglect. In my own case, I confess that that book is often to hand, because it is a place to start looking at problems in the law of treaties on an everyday basis. It does not claim to be definitive, but it succeeds in its task of introducing and of providing initial guidance in a clear and well-informed way. Take for example the short discussion on provisional application (ibid., pp. 172–6), an issue of great practical significance as to which there is little or nothing in the older treatises. What he says is clear, well illustrated – one is pointed to difficulties and prominent instances (e.g. the Energy Charter Treaty) – and one is told that the case of provisional application which everyone knows – GATT 1947 – is 'hugely atypical'.

The clear guidance and practical sense of Modern Treaty Law and Practice is here repeated on the broader canvas of general international law, an area of equal significance but much less accessible than the law of treaties. These days everyone including taxi drivers talks about customary international law, although they probably (and wisely) do not use the term. But there is an awareness that an imminent threat is a condition for action in self-defence; that the Security Council can authorise individual States to use force but may be expected to do so in clear language; that crimes against humanity are punishable and might be punished; and that human rights confront State responsibility with consequences for both. Providing guidance in this much broader frame is a challenge. But non-specialists have to start somewhere and this is a good place to start.

Tony Aust brings to the work a sense of humour, of balance and of British practice – but the work is not parochial. Her Majesty’s Government has a long tradition (back to the 1880s) of a legal adviser in the Foreign Office, and there has been a consistent pattern of consultation on issues perceived as legal. It can be traced in the United Kingdom Materials on International Law (UKMIL), published in the British Yearbook of International Law since 1978 and running now to thousands of pages – but it goes back much further than that. Senior