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In deciding whether federal statutes reach outside the United States, the Supreme Court employs a presumption against extraterritoriality. Its jurisprudence construing the canon has been inconsistent, however, and lower courts have amplified the confusion. This article proposes that the Court look for guidance to the international law of legislative jurisdiction. A presumption against extrajurisdictional, rather than extraterritorial, application of federal statutes would be more predictable and would better comport with reasonable assumptions of congressional intent.

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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.

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