

INDEX

- Aaland Islands, Committee of Jurists' Report, 103, 113
- abuse of rights, 159–60
- Abyssinia, Italian war with, 327
- Aerial Transport, International, Warsaw Convention, error in translation, 290
- aggressive war, legal prohibition of, 274–5
- alien enemies, change of nationality, 10
- aliens, treatment of
 - confiscation of property, 15, 30, 52–66, 73
 - minimum standard, 60
 - property, 23–92
 - unlawful deportation and exclusion of, 14–15
 - wrongful, remedies for, 17–19
- American Law Institute Restatement, Contracts, contract in breach of prior contract by one party, 345–6
- Anglo-Iranian Oil Company
 - 1933 Concession, 30, 40–1, 44, 104; arbitration clause, 47–51
 - draft U.K. submissions, 23–89
- arbitration
 - assumption of obligation to arbitrate, 435
 - clause, breach of, 50–1
 - provision in League Covenant, 435
 - provisions, interpretation of, preparatory work, 489–91, 511
- Atlantic Charter (1941), 110
- Atomic Energy, Agreed Declaration relating to (1945), 110
- Australia, statutes, interpretation of, preparatory work, 464
- Austria, undertaking not to alienate independence, 253
- Balladore Pallieri, on interpretation of treaties, 406
- Belgium, neutralization of, 251*n.*, 252
- breach of promise actions, 366–7
- Calvo Clause, 91
- Canada, statutes, interpretation of, preparatory work, 464
- coercion not amounting to physical force, 279
- 'cold war', U.N. Charter and, 90
- companies, foreign controlled, whether entitled to international standard, 91–2
- concessions to aliens
 - confiscatory breach of, 39–40, 52–66, 73
 - general principles of law, governed by, 104
 - governmental protests at unilateral cancellation of, 36–8
- international arbitrations, 33–6
- nationalization of, 23–89
- renunciation by government of right to terminate, 40–52
- unlawful termination of, *restitutio in integrum*, 78, 81–7
- vested rights under international law, 31–2
- conference communiqués, 110
- constructive trusteeship, doctrine of, 359, 365
- consultation, obligation of, 111
- contra proferentem* principle of interpretation, 414–15, 418, 422–3, 446
- contract claims, awards for loss of profits, 88–9; *see also lucrum cessans*
- contracts
 - anticipatory repudiation of, 360
 - English law, Crown's position under, 45
 - English law, frustration, effect on arbitration clause, 48–9
 - in breach of existing contractual obligations, 309, 334*n.*, 340–75
 - interpretation of, preparatory work, 455–61
 - interpretation of, principle of effectiveness, 427
 - marriage, of, 365–7
 - to commit a tort, 347, 352, 355
 - validity, breach of prior contract by one party, 340–75
 - with aliens, diplomatic protection and, 43
- contractual rights, protection as for property rights, 368
- conventions, private international law, 553–8
- Cuba, limitation of contractual capacity, 1903 Treaty with U.S.A., 252
- customary international law, modified by treaty, 296
- damages as compensation for international wrong, 308, 335, 374, 411–12, 425, 431
- damnum emergens*, 78, 80–1, 86
- Danube Commission, jurisdictional powers of, 438–9, 493
- de La Pradelle, Report on International Effects of Nationalization, 90–2
- dependent or subordinate States, treaty-making power of, 105–7, 245–9

Cambridge University Press

978-0-521-10797-6 - International Law: Being the Collected Papers of Hersch Lauterpacht,

Volume 4 - The Law of Peace

Edited by E. Lauterpacht

Index

[More information](#)

INDEX

- diplomatic communication, protection of
nationals by, 17
- dualist and monist approaches, 258
- economic war, U.N. Charter and, 90
- effectiveness, principle of interpretation: *see*
under treaties, interpretation of
- English law
interpretation of deeds and contracts,
414, 456–9, 499
interpretation of statutes, preparatory
work, 461–3, 534
- estoppel, challenge to nationality of alien,
10, 11
- ex aequo et bono* provision of P.C.I.J. Statute,
517
- ex injuria jus non oritur*, 276
- exhaustion of legal remedies, exceptions, 17
- expropriation
compensation, fair market value, 87–9
foreign property, of, duty to pay com-
pensation, 52–66, 74–87
lawful and unlawful, compensation for,
74–87
nationalization and, 90–1
- extrinsic evidence for interpretation of
written instruments, 454–61
- favor debitoris*, principle of interpretation,
417
- federal States, treaties by States members
of, 106, 249–51
- finality of adjudication, principle of effec-
tiveness and, 429–30, 439
- force
lawful use of, 280–1
legal limitations on use of, 274–5, 283
- France
Constitution (1946), ratification of
treaties, 162n., 178, 267
exchanges of notes, court decisions on,
136n.
State contracts, unilateral modification
of, 46
- French law
inconsistent contracts, on, 371–2
interpretation of contracts, 413–14, 459–
60
interpretation of statutes, preparatory
work, 465–6
- General Agreement on Tariffs and Trade,
accession clause, 185, 193
- General Assembly resolution on Permanent
Sovereignty over Natural Resources,
23
- general principles of law, 283, 298, 303,
326, 333, 413–19, 422, 427, 444, 501,
553, 554, 556
- General Treaty for the Renunciation of
War (1928), 273, 274, 279, 319, 338
reservation of self-defence, 112–13, 453,
523
- gentlemen's agreements between States,
113
- German law
inconsistent contracts, on, 372–4
interpretation of contracts, 413, 460
interpretation of statutes, preparatory
work, 465
- Germany
Federal Republic, Constitution, treaty-
making power of Länder, 249
Nationality Law (1913), 6
State contracts, unilateral modification
of, 46
- good faith, 111, 120, 122, 125, 140, 156, 158,
159, 208, 229, 261, 265, 270, 300, 303,
318, 413, 433, 434, 437–8, 443, 444
- Great Britain, arbitrations with United
States, 474–80
- Grotius, on interpretation of treaties, 404–
5, 451–2
- Guardianship of Infants, Hague Conven-
tion (1902), 539–63 *passim*
- Guatemala
internment of F. Nottebohm, 12–14
treatment of property of F. Nottebohm,
7–8, 15–16, 18
- Guggenheim, on interpretation of treaties,
406
- Hague Convention on Conclusion of Mar-
riage (1902), 557–8
- Hague Convention on Guardianship of
Infants (1902), 539–63 *passim*
- Hall, on interpretation of treaties, 405, 452
- Harvard Research Draft, State Responsi-
bility, 33, 39
- Hudson, on natural meaning of treaties,
395
- human rights
Art. 2(7) of U.N. Charter and, 442
protection of minorities, 434
U.N. Covenants, discussion on per-
missibility of reservations, 236–8
Universal Declaration of, 110, 434, 435
- Hungarian optants dispute, 68–9
- Hyde, on plain meaning of treaties, 395,
406
on interpretation generally, 452
- in dubio mitius*, principle of interpretation,
417, 421, 446
- in pari delicto potior est conditio defendentis*, 298
- independence of States, 299
- inducing breach of contract, tort of, 346–7,
349–52, 361

Cambridge University Press

978-0-521-10797-6 - International Law: Being the Collected Papers of Hersch Lauterpacht,

Volume 4 - The Law of Peace

Edited by E. Lauterpacht

Index

[More information](#)

INDEX

- injunction to restrain breach of contract, 356–8, 363
- Inter-American Treaty of Reciprocal Assistance, 275, 320
- interest rei publicae ut sit finis litium*, 439
- international adjudication, special importance of use of preparatory work in treaty interpretation, 509–12, 531
- International Civil Aviation Convention, accession clause, 184, 193
- International Court of Justice
 declarations accepting optional clause, 111, 129, 132, 180, 211, 435
 error in conclusion of treaties, proposed jurisdiction, 289, 291
 failure of party to supply information, 563
 fraud in conclusion of treaties, proposed jurisdiction, 287
Genocide Convention, advisory opinion, 203, 205–6, 216, 228, 235
 interim measures of protection, 19, 23, 285
 interpretation of treaties. practice in, 397, 407–8, 412, 413
 interpretation of treaties. restrictive, 421
 invalidity of treaties, proposed jurisdiction, 281–2, 283, 284–5
ius cogens and treaties, proposed jurisdiction, 296, 299
 municipal laws, competence to examine, 552–3, 561–2
 provisional measures, 19, 23, 285
 review, jurisdiction of, 562–3
 special agreement defining legal issues, 550
 Statute, Art. 34, need for revision of, 432
 Statute, Art. 49, 563
 submissions of parties, whether Court confined to, 550
- International Labour Organization
 conventions to be submitted to national authorities, 154
 invitation to membership of, 196
 ratification of conventions, 160, 163
- international law
 completeness of, 439, 443
 dualist and monist approaches, 258
ius cogens, 141–2, 295–300
ius dispositivum, 141
 overriding principles of, 141, 297–8
 subjects of, 104
 treaties, consistency with, 295–300
- International Law Commission
 functions of, 117, 159, 206, 230, 234–5, 386
 work on Law of Treaties, 95–7
 international legislation, 324; *see also* treaties, legislation, as
- international legislative drafting bureau, 150–1
- international morality, 298, 300
- international obligations, acts other than treaties, 381
- international organization
 admission of members, 193–4
 competence, extension of by interpretation, 416, 427, 428, 440
 effectiveness of, 431–2
 international personality of, 116
 treaties concluded by, 108–10, 114–18, 184
 treaty-making power, 117, 184, 245–6, 254–5
- international personality and right to bring claims, 432
- international public policy, 197, 300, 303, 388
- international tribunals
 declarations by agents of parties, 381
 interpretation of treaties, practice in, plain meaning, 398–400, 401; restrictive, 419–26; rules of, 407, 450–1, 527
 judicial function, nature and limits of, 444, 445, 509–12
 jurisdiction, provisions conferring, interpretation of, 423–5, 431, 435
 preparatory work, use of, in interpretation of treaties, 473–91, 529
 quasi-legislative function of, 433–4, 441, 443, 445
- intervention, 299, 402
- Iran, Oil Nationalization Law (1951), compensation provisions, 62–5
- Iraq, boundary of, 438, 516
- Italian law on interpretation of contracts, 414
- Italy, League of Nations sanctions against, 327–9
- Jay Treaty Commission, use of preparatory work in treaty interpretation, 474–6
- justice, international relations, in, 510
- Kellog–Briand Pact: *see* General Treaty for the Renunciation of War
- Lausanne, Treaty of, jurisdiction over aliens, 438, 515–16, 530
- Lawrence, on interpretation of treaties, 452
- League of Nations
 Codification Conference (1930), State responsibility, 37–8, 84–5
 Council Report on Hungarian optants dispute, 68–9
 minorities, declarations on protection of, 129–30

Cambridge University Press

978-0-521-10797-6 - International Law: Being the Collected Papers of Hersch Lauterpacht,

Volume 4 - The Law of Peace

Edited by E. Lauterpacht

Index

[More information](#)

INDEX

- League of Nations Covenant, 273, 274, 279, 319
 Art. 11, 430
 Art. 12, 435
 Arts. 16 and 20, 327–32, 336, 337
 Art. 18, 522
 ‘higher law’, as, 326–36
 interpretation of, *nemo iudex in re sua*, 430
 neutrality provisions in other treaties and, 321
 non-member States and, 331–2
 ‘resort to war’, 519
lex posterior derogat priori, 312n.
lex specialis derogat generali, 318
 Liechtenstein, Nationality Law (1934), 6
 Lima Declaration, non-recognition of acquisition of territory by force, 277
lucrum cessans, 78, 80–1, 86
 Luxembourg, neutralization of, 251n., 252
- Marriage, Hague Convention on Conclusion of (1902), 557–8
 marriage, promises of, breach of, 365–7
 Mexico, expropriation of foreign properties, 52–4, 91
 minorities, declarations to League Council on protection of, 129–30
 mixed arbitral tribunals, use of preparatory work in interpretation of treaties, 483–7
modus et conventio vincunt legem, 296
 most-favoured-nation clause, 323, 329
 municipal courts, interpretation of treaties, preparatory work, 466–73
- nationality, renunciation of, in time of war, 10
 nationality of claims, 11
 nationalization, property of aliens, 23–92
 compensation, 29, 30–1, 52–66; ability of State to pay, 65–6; postponement of payment of, 61
 contrary to express undertaking by State, 29, 40–52
 directed exclusively against aliens, 68–72
 discrimination against aliens, 29, 32–3, 60, 68–72
 expropriation and, 90–1
 local remedies, 30, 73–4
 N.A.T.O. Treaty
 accession clause, 184
 U.N. Charter and, 320
 naturalization
 genuine link, notion of, 5
in fraudem legis, 11–12
 recognition of validity of, 5, 9–12
 negotiate, undertaking to, 111, 122
nemo iudex in re sua, 430
- Netherlands
 Civil Code, guardianship, provisions on, 545–6, 549
 Constitution, provision on ratification of treaties, 178
 neutral nationals, internment of, 12–14
 neutralized States, treaties made by, 245, 251–2
 non-recognition, situations resulting from unlawful use of force, 276, 333
Nottebohm case, 5–20
 Nuremberg Judgment, 275
- Oppenheim, on interpretation of treaties, 406
ordre international public, 297
ordre public, effect on operation of treaties, 539–63 *passim*
- Pact of Paris, 273, 274, 279, 319, 338
pacta tertiis nec prosunt nec nocent, 297
pactum de contrahendo, 112n., 123
 Pan-American Convention on Treaties, provision on ratification, 177
 Panama Canal tolls dispute, 303, 306
 Peace Treaties (1947), reparation claims, 16
 Permanent Court of Arbitration, use of preparatory work in treaty interpretation, 481–3
 Permanent Court of International Justice
 interpretation of treaties, plain meaning, 398, 400–2
 interpretation of treaties, preparatory work, 453–4, 491–9, 528, 532–4; restrictive, 419–22
 Statute, *ex aequo et bono* provision, 517
 Peru, Constitution, provision on ratification of treaties, 162n.
- Podestá Costa, on interpretation of treaties, 406
 private international law conventions, 553–8
ordre public exception, 553–8, 562
 purpose of, 556
 private law and public law, classifications, guardianship, 544–5
 ‘property’, concessions as, 31
 protection of nationals, diplomatic communication, by, 17
 protecting and protected States, agreements between, 105, 247
 protectorates, treaties made by, 245, 246–9
 public policy, effect on operation of treaties, 539–63 *passim*
- recognition of State or government, conditional on fulfilment of international obligations, 91

INDEX

- regional agreements and general international treaties, 316
- Renunciation of War, General Treaty for the (1928), 273, 274, 279, 319, 338
- reparation for international wrong, 75–87; *see also under* damages
- restrictive interpretation: *see under* treaties, interpretation of
- Rights and Duties of States, I.L.C. draft Declaration, 277
- Rousseau, on interpretation of treaties, 406
- Security Council, recommendations under chap vi of Charter, 430–1
- self-defence, reservation of, General Treaty for the Renunciation of War, 112–13, 453, 523
- sovereignty, restrictions on, not to be presumed, 415–22
- specific performance, 358–9, 361–3
- State succession, concessions, 32
- statutes, interpretation of, preparatory work, 461–6, 534
- Stimson doctrine of non-recognition, 276, 333
- Sweden, Law on Protective Upbringing, 540–1, 544, 546, 547, 554, 559, 561–3
- Switzerland, Constitution (1848), treaty-making power of cantons, 249–50
- limitations on, 251
- tort, inducing breach of contract, 346–7, 349–52, 361
- trading with the enemy, ‘black lists’, 13
- traités-lois*, 114
- treaties
- abrogation as between parties by later treaty, 312n.
 - acceptance of, 149, 158, 195–9
 - accession, 149, 150, 157, 182–94; limits to right of, 184–5; prior to entry into force, 187–90; subject to confirmation, 190; unanimous consent of parties, 186–7, 190, 192; writing, need for, 191
 - administrative agreements, 123, 126, 169
 - assumption of treaty obligations, 147–51
 - authentication of text of, 148, 154
 - binding character of obligations, 120–5
 - binding force, basis of, 140–1
 - capacity of parties, 245–56
 - capacity of States limited by particular obligations, 252–4
 - codifying, treaties in derogation of, 310, 313–16
 - coercion of a State, 273
 - coercion of State’s representative, 273, 279
 - colonial clause, 239
 - compatibility with other treaties, clauses affirming, 320–2, 331
 - compliance with national laws on ratification, 162, 179
 - compulsion, absence of, 273–85
 - conclusion of, 143–99; capacity of agents, 257–70; fraud, 286–8, 437; procedure, 137
 - consistency with international law, 295–300; prior treaty obligations, 301–75
 - constitutional limitations on capacity of agents, 257–70
 - contractual type, 114, 326, 455, 500–1
 - co-operation agreements, 126
 - declarations of parliamentary bodies before ratification, effect of, 524
 - definition, 102, 119
 - dependent States, made by, 105–7, 245
 - effects on non-parties, 113–14, 296, 331–2
 - entry into force, 165–7, 173, 180, 215–21
 - error, 289–92, 437; of law, 292
 - equal status of, 326, 339
 - essential requirements of, 101–27
 - exchanges of notes, 111, 130, 131, 133–8, 167–8, 180
 - federal clause, 239
 - federal States, need for municipal legislation, 265
 - form and designation of, 128–39
 - fraud in conclusion of, 286–8, 437
 - Heads of States form, 131, 169
 - ‘high contracting party’, 173
 - illegality, 295–300, 303
 - implementation, municipal legislation, need for, 265–6
 - intention to create legal rights and obligations, 110–12, 119, 128
 - international law, governed by, 118, 140
 - international legislative drafting bureau, 150–1
 - international organizations, concluded by, 108–10, 114–18, 184
 - jus cogens* and, 141–2
 - Lauterpacht’s work on law of, 95–7
 - law governing, 140–2
 - legislation, as, 102–3, 114, 304, 305, 315, 324, 326, 339, 455, 500–1
 - maps, discrepancy with text, 290
 - multilateral, conflict of, 312–22, 374; constitutional limitations on States parties, 268; contractual nature of, 211; modification by some parties *inter se*, 337–40; revision of, 307, 311, 312–13, 324–5, 339; termination of, 316
 - municipal law, governed by, 119
 - municipal legislation, need for, 265–6
 - neutralized States, made by, 245, 251–2
 - non-parties, position of, 113, 296, 331–2

INDEX

- treaties (*cont.*)
- non-recognition of, 277
 - nullity of, 267, 270, 273, 275, 277, 282, 283-4, 303-4, 307, 308, 335
 - obligation implied by signature, 156, 159, 163
 - operation of, municipal legislation and, 541-3, 547-8; *ordre public*, effect of, 539-63 *passim*
 - oral agreements, 379-80; written form, 379-82
 - Pan-American Convention on, provision on ratification, 177
 - policy declarations, 110, 123
 - protecting and protected States, between, 105
 - protectorates, made by, 245, 246
 - purpose of, in relation to sovereignty, 418
 - ratification, British practice, 266-7; competent organ, 161-2; form of, 174; in national law sense, 162n.; Pan-American Convention provision on, 177; refusal of, 160; requirement of, 131, 135-6, 138, 150, 152, 164-81; British practice, 168, 178, French practice, 177, multilateral treaties, 170-1; time limits for, 182-3
 - rebus sic stantibus*, preparatory work and, 525-6
 - registration of, 108, 113, 120, 125, 180, 253, 303, 381, 383-8
 - repudiation of, disregard of constitutional limitation, for, 261-2, 264
 - reservations, 200-39; acceptance or rejection of, 221-4; 'American system', 203, 206, 214, 224, 231-2, 239; depositary, functions of, 233; entry into force, effect on, 215-21, 225; *Genocide Convention*, advisory opinion, 203, 205-6; justification of, 207-8; multilateral treaties, 103; principle of unanimous consent, 202-12, 230-1, 236; right to object to, 215-18, 222-4, 225, 227; unlimited right to make 212-14
 - revision of, multilateral treaties, 307, 311, 312-13, 324-5, 339
 - scope of application and obligations, discretion of parties, 120-5
 - severability of provisions, 284, 288, 291, 298, 311, 322
 - signatories, right to object to reservations by other States, 215-16
 - signature of, 147-8, 152-60
 - States members of a federation, 106, 249-51
 - successive on same subject, 312-22
 - suspension of, 330
 - termination of, later inconsistent treaty, 335; multilateral, 316
 - treaty-making power, capacity of agents, 257-70
 - unilateral assumption of obligations and its acceptance, 130, 132-3
 - unrecognized States as parties, 211
 - validity, conditions of, 243-340
 - 'verbal notes', 381
 - voidable, 267-8, 284, 287, 289, 290
 - treaties, interpretation of, 393-535
 - Anglo-American school, 453, 471, 500, 534-5
 - authentic interpretation prior to signature, 522-4
 - common intention of treaty, 437, 440, 475
 - contemporanea expositio*, 411
 - Continental school, 453, 500, 534-5
 - declarations after signature and before ratification, 524
 - deliberate ambiguity, 437
 - 'golden rule', 410
 - inconsistent provisions, 442
 - intention of parties, 395, 397, 400, 409, 429, 433, 435, 436-43, 444-5, 446, 455, 474-5, 477, 478, 485-6, 488, 501, 504-5, 510, 512, 518, 522-3, 529, 531, 534
 - maps, discrepancy with text, 290
 - merger, doctrine of, 501-5, 530
 - municipal courts, use of preparatory work by, 466-73
 - plain meaning, doctrine of, 393-403, 410, 444-5; preparatory work and, 506-9
 - preparatory work, 103, 411, 449-535, 558; categories of, 520-5; clear meaning and, 506-9, 533, 534, 535; examination of whole of, 514-20, 530; municipal courts and, 466-73; objections to use of, 512-14; *rebus sic stantibus* and, 525-6
 - principle of effectiveness, 426-36; finality of adjudication and, 429-30
 - private international law conventions, 553-8
 - restrictive, as general principle of law, 413-19; principle of effectiveness and, 404-46
 - subsequent conduct of parties, 412
 - technical terms, 402-3, 511-12
 - treaty as a whole, 442
 - undertakings given before signature, 502-4
 - see also* good faith
 - Union of Soviet Socialist Republics, Constitution (1944), treaty-making power of the Republics, 249

Cambridge University Press

978-0-521-10797-6 - International Law: Being the Collected Papers of Hersch Lauterpacht,

Volume 4 - The Law of Peace

Edited by E. Lauterpacht

Index

[More information](#)

INDEX

- United Nations
 E.C.O.S.O.C., treaties concluded by, 115
 international personality of, 117, 531n.
 specialized agencies, admission of members, 193–4; Committee on Co-ordination, 318; treaties concluded by, 115–16, 126–7
- United Nations Charter
 amendment of, 445
 Art. 2(4), 273, 274, 279, 280
 Art. 2(6), 299
 Art. 2(7), 402, 442
 Art. 79, 439
 Art. 100, 432
 Art. 102, 253, 383–8
 Art. 103, 304–5
 ‘cold war’ and, 90
 economic war and, 90
 enforcement action, 280
 general international law and, 281
 interpretation of, preparatory work, 532–3
 recommendations of S.C. under chapter VI, 430–1
 withdrawal clause, absence of 531
- United States of America
 arbitrations with Great Britain, 474–80
 correspondence with Mexico on expropriation of foreign properties, 52–4
 exchanges of notes, court decisions on, 136n.
 Mutual Defence Assistance Agreements 122
 State contracts, police power and, 45
 states of, treaty-making power, 250n.
 statutes, interpretation of, preparatory work, 463–4
 unrecognized States or governments, parties to treaties, 211
ut res magis valeat quam pereat, 427, 429
- Vatican City, status of, 251n.
 Vattel, on plain meaning of treaties, 394, 405, 450–1
verba ambigua accipiuntur contra proferentem, 414
 Verzijl, on interpretation of treaties, 408–9
 vested rights, concessions as, 31–2
 Vienna Convention on Law of Treaties, 97, 101, 140, 143–5, 200–2, 243–4, 273, 286, 289, 295, 301, 379, 383, 393–4, 450
- war criminals, Moscow Declaration (1943), 110
 war, legal prohibition of, 274–5, 283, 319
 Warsaw Convention on International Aerial Transport, error in translation, 290
 Westlake, on interpretation of treaties, 452