

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

# INDEX<sup>1</sup>

Abuse of judicial authority, **5**, 128  
 Account stated, **4**, 220, 221, 228, 230-234, 236; **8**, 162-168  
 Acquired rights, **6**, 163  
*Acta jure gestionis*, **1**, 419  
*Actio non datur non damnificato*, **13**, 116  
 Act of State, **1**, 421, 422; **4**, 102, 115 n.2; **5**, 12  
 Admission, effect of, **3**, 205 n.2, 235, 288; *see also under* Jurisdiction of Tribunal  
 Agency, **1**, 357, 358, 376-382, 413; **2**, 11, 23, 24, 339; **3**, 205; **4**, 278, 279; **6**, 159, 160, 193-195; **8**, 130, 140; *see also under* Evidence of  
 Aggregation of cases: *see* Procedure, consolidation of cases  
 Airline practice, **9**, 360-375  
 Algeria, duties of, **5**, 49  
 Algiers Declarations: *see* Claims Settlement Declaration and General Declaration  
 Aliens, protection of, **2**, 78, 79, 81-89; **4**, 166, 167; **5**, 384  
*Allegans contraria non audiendus est*, **1**, 318 n.17; *see also* Estoppel  
*Alternativa petitio non est audienda*, **6**, 70  
 Alternative forum, **6**, 49  
 Alternative pleading, **4**, 231, 233, 235, 236  
 American Arbitration Association—  
   Code of Ethics for Arbitrators in Commercial Disputes  
     —Canon III, **2**, 121  
     —Canon IV, **3**, 40, 296; **4**, 181 n.1  
     —Canon VI, **1**, 499 n.2  
     —Canon VII, **2**, 121  
 American Bar Association—  
   Grain Arbitration Rules, **3**, 323  
   Uniform Arbitration Act, **3**, 210, 211, 295  
 American law: *see* United States, law of  
 Appeal, **3**, 128, 364; **5**, 74; *see also* Rehearing

Applicable law, **1**, 241, 251, 377, 422; **2**, 12, 27, 154 n.1, 185, 186, 213, 237, 250, 256; **3**, 14, 19, 48, 56, 58; **4**, 113-116, 174, 234, 267, 270; **5**, 113, 292, 293; **6**, 46, 97, 98; **7**, 99, 102, 113, 115, 130, 191; **8**, 105, 161; **12**, 273; **13**, 88-89, 229-233  
 irrelevant, **12**, 214  
 Tribunal's freedom to determine, **13**, 232  
 Appointing authority, **1**, 114, 115, 117, 513, 514  
 Arbitral award—  
   basis for legal action, **6**, 135-139  
 Arbitral tribunal: *see* Tribunal  
 Arbitration—  
   agreement, **2**, 60  
   failure to comply with, **7**, 202 n.1  
   meaning of, **5**, 183  
   nature of, **7**, 178  
   waiver of right to, **7**, 202 n.1  
 Arbitrator—  
   absence of, **1**, 415-417, 423-441, 453, 454; **2**, 14-16, 28, 344; **3**, 92, 108, 117, 118, 120, 124-146, 155, 168, 209-211, 237, 238, 254, 255, 268, 269, 276, 277, 291-296, 316; **8**, 42  
   appointment, **5**, 277 n.1; *see also* Appointing authority  
   challenge, **1**, 111-118, 509-518; **5**, 277 n.1  
   confidentiality, **1**, 424, 427-430, 441, 449; **2**, 29, 343, 357  
   disqualification, **1**, 111-118, 509-518; **2**, 346, 358; **5**, 266  
   exceeding power, **5**, 366 n.1; **6**, 271  
   failure to sign award, **1**, 204, 415-417, 424-441, 449, 452-454; **2**, 13-16, 27, 28, 170, 177, 227, 343, 344; **3**, 92, 108, 118, 124-129, 137, 141-146, 155, 168, 210, 211, 237, 238, 254, 255, 268, 269, 276, 277, 292-294; **4**, 111; **5**, 348; **6**, 39, 229, 230, 252; **7**, 222

<sup>1</sup>This is a consolidated index identifying the contents of all previous volumes as well as the present volume. The figures in bold type refer to the volume number.

- effect on validity of award: *see*  
 Award, validity of  
 impartiality, 1, 115, 116, 118, 424,  
 427, 433, 514, 516, 518; 2, 21, 28  
 n.1, 346, 357, 358; 3, 129, 299,  
 303, 304, 315  
 independence of, 3, 209  
 resignation, 1, 415-417, 426, 427,  
 433, 434, 436; 2, 14, 15; 3, 41,  
 108, 117, 137-139, 144-146, 155,  
 168, 209-211, 237, 238, 254, 255,  
 268, 269, 276, 277, 291-293, 295,  
 375, 376; 5, 362; 6, 103; 7, 56,  
 183  
 withdrawal, 5, 338  
*A rubro ad nigrum*, 8, 231  
 Attachment, release of, 4, 277  
 Attribution, 2, 89; 3, 153; 4, 143,  
 165-167, 171, 173; 5, 12; 6, 166,  
 201, 203; 7, 152, 173; 10, 75; *see*  
*also* Controlled entity  
 Award—  
 absence of arbitrator, effect on: *see*  
*under Arbitrator and Award, validity of*  
 additional, 5, 74  
 amendment of, 6, 269, 270  
 based on contractual obligations,  
 10, 256, 257  
 basis of to be stated, 4, 180; 6,  
 268-270  
 contrary to fact, 5, 46, 47  
 correction of, 3, 364; 4, 111; 5, 73,  
 74; 6, 270; 8, 133-134; 11, 284,  
 286, 301; 13, 93-94  
 date of receipt, 8, 53, 134; 9, 405  
 delay in making, 4, 3  
 discriminatory, 6, 269  
 enforcement of, 6, 135-139  
 exceeding remedy sought, 6, 232  
 final and binding, 3, 365; 4, 16; 5,  
 74, 252; 6, 109; 8, 107-118; 11,  
 274, 276 n.3  
 form of: *see under Settlement*  
 illegal, 5, 41, 49; 7, 201  
 interpretation of, 3, 364; 5, 74; 8,  
 116; 12, 304-305; 13, 328-330  
 in violation of legal principles, 5,  
 42, 48  
 jurisprudential value of, 6, 115  
 modification of, 2, 283; 4, 81  
 non-legalistic, 7, 17  
 null and void, 6, 271; 7, 201  
 on agreed terms: *see Settlement*
- postponement of, 3, 105  
 recognition of, 2, 59, 60; 7, 219  
 reconsideration of, 3, 364, 365;  
 4, 60; 5, 74, 75; 6, 46; 8,  
 107-118  
 rescission of, 5, 74, 75  
 satisfaction of claim in another  
 forum, 9, 257  
 Tribunal's inherent power, 8, 117,  
 118  
 unenforceable, 6, 271  
 unjust, 7, 17  
 validity of, 1, 415-417, 423-427,  
 430-436, 452-454; 2, 14-16, 27,  
 170, 177, 286, 289, 290, 346; 3,  
 54, 124-129, 140-144, 210, 211,  
 295, 297-299, 302, 315, 324; 6,  
 115; 7, 162, 198  
 violation of, 4, 73
- Bad faith, 5, 266, 300  
 Bailee, 6, 279; 8, 270  
 Balance sheet, preparation of, 6, 244  
 Bank guarantee: *see* Performance  
 guarantee  
 Banking institutions: *see* Undertakings  
 Banking obligations, breach of, 7, 48  
 Banking practices, 1, 170, 191, 198,  
 201, 202, 205, 207, 210, 211,  
 447, 505, 506; 2, 168; 3, 19, 21,  
 25, 27, 30; 5, 29, 38; 6, 167; 7,  
 43; *see also* Cheque  
 Bankruptcy, 2, 151; 8, 257-9; 9, 15;  
*see also* Liquidation  
 Bill of exchange: *see* Negotiable  
 instruments  
 Bill of lading, 5, 31, 32, 39; 6, 291  
 Burden of proof: *see* Proof, burden of  
 Canada, law of, 7, 167  
*Causa proxima non remota inspicitur*, 3,  
 249  
 Causation—  
 foreseeability, 2, 253, 257, 258; 3,  
 266  
 proximate cause, 2, 39, 40, 42, 253,  
 257, 258; 3, 249, 266  
 Changed circumstances, 1, 208, 241,  
 245, 246, 251, 256, 264-266, 277,  
 285, 287-294, 308, 311-315, 446,  
 447; 3, 52, 68, 198, 199, 309,  
 322, 324; 4, 260, 268; 5, 211; 8,  
 441-444; 9, 121-124, 138-147;  
 11, 33

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

375

- Charitable institutions: *see* Corporations, non-profit
- Cheque, **1**, 169-172; **2**, 168, 169, 235-238; **3**, 10-21, 24-27, 30-33, 235 beneficiary of, **3**, 12 burden of proof, **3**, 19, 20 holder in due course, **3**, 20 n.2 signature, **3**, 20 n.1
- Choice of forum: *see* Forum selection clause
- Choice of law—
- clause, **1**, 236-241, 251, 262-264, 281, 282, 286, 299-302, 308, 377; **4**, 267, 268; **5**, 293; **7**, 107; **8**, 156; **10**, 63; **11**, 26; *see also* Forum selection clause
  - doctrine, **4**, 234; **6**, 98
  - general principles of, **7**, 99; **8**, 140 governs substance not procedure, **13**, 68
- Civil action, alternative forum, **4**, 60
- Civil Code of Iran: *see under* Iran, law of
- Claimant: *see* Proper claimant
- Claims, *see also* Statement of Claim—
- abandonment of, **5**, 171
  - aggregation of, **12**, 132; **13**, 335-336
  - ambiguity of, **9**, 296; **11**, 90
  - arising under binding contract, **4**, 230, 231; **10**, 257, 325
  - assignment of, **11**, 84; **13**, 19
  - barred, **7**, 116; **10**, 218
  - based on
    - award of International Chamber of Commerce, **6**, 130, 131
    - bank account, **13**, 336
    - beneficial ownership, **12**, 275-284
    - customs charges, **13**, 157, 160, 163, 166
    - decline in value of dollar, **6**, 287
    - different causes of action, **13**, 115-117
    - funds in bank, **10**, 98, 342
    - government interference with contractual relations, **12**, 351
    - intentional tort, **12**, 261-263
    - letter of guarantee, **13**, 157, 160, 163, 166, 167-172
    - promissory notes, **13**, 21-27
    - standby letters of credit, **5**, 57-61, 66-72; **6**, 222
  - between government entities, **3**, 348; **5**, 113; *see also* Claims, official
  - by banking institutions: *see* Undertakings
  - by Domestic International Sales Corporations, **7**, 186, 188, 200
  - by individuals, **4**, 115; **7**, 121
  - by Iran against U.S. nationals, **1**, 101-110; **2**, 56; **3**, 152; **4**, 75; **5**, 15, 66, 127; **8**, 364, 366, 368, 373
  - by Iranian banks against U.S. banks, **8**, 362, 364, 366, 371; **9**, 36, 97-106; *see also* Undertakings
  - by Iranian nationals against Iran, **7**, 123, 132, 171
  - by non-profit institutions, **3**, 317 n.1
  - collective, **11**, 88
  - continuity of: *see* Nationality of claim
  - date arising, **10**, 48
  - derivative, **4**, 276
  - direct, **5**, 297, 298, 300; **8**, 368-370; **12**, 261-264
  - dismissal of, **7**, 123; **9**, 344
  - duty to examine validity of, **5**, 85
  - effect of amendment to contract, **11**, 233-236, 250-255
  - failure to establish basis for, **6**, 127, 129
  - for customs duty, **5**, 96
  - for expropriation, including lesser claim, **10**, 252
  - for social security premiums, **13**, 340, 342
  - for taxes, **13**, 340
  - frivolous, **2**, 245; **4**, 19; **6**, 129
  - indirect, **4**, 243, 244; **5**, 379; **6**, 28, 65 n.3; **7**, 6, 7, 183, 185-187, 199, 200, 206, 207; **8**, 368-370; **9**, 233, 254-266; **10**, 61-64, 279-281; **11**, 84-89, 212-214, 311-313, 347; **12**, 251-261, 272-287; **13**, 18-19, 298-299
  - effect of expropriation, **9**, 265
  - loss of shareholder status, **9**, 265 n.17
  - on behalf of Iranian companies against Iran, **10**, 85, 279-280; **11**, 311-312, 347
  - requirements for, **7**, 186
  - whether entitled to full recovery, **10**, 63-64, 82-84

insurance contract not a bar, **10**, 258  
 interest-only, **13**, 95-96  
 interstate nature of, **5**, 291, 294-298, 334  
 judgment of municipal court as, **8**, 294-296; **11**, 196  
 liquidated, **8**, 263  
 malicious, **5**, 86, 87  
 multiple causes of action, **7**, 126  
 not previously filed with U.S. courts, **4**, 142  
 of amounts larger than claims in U.S. courts, **4**, 143  
 of corporation indivisible, **11**, 87  
 of less than \$250,000, **3**, 77; **4**, 211; **5**, 83 n.1; **9**, 16  
 —remains claim of owner, **11**, 284, 286, 301  
 official, regarding sales contracts between Iran and U.S., **5**, 96, 99-104; **6**, 13; **12**, 36-37  
 outstanding, **1**, 491, 492, 497, 498, 507; **3**, 65, 103, 151, 312, 313, 315, 348, 358; **4**, 95 n.1; **5**, 82, 373; **6**, 223, 264; **7**, 42, 43, 47, 50, 52, 53, 98, 107, 115; **8**, 261; **10**, 98-101, 104-107, 325, 353; **11**, 315, 357; **12**, 122, 162; **13**, 21-27, 46, 337, 345, 347-349  
*pendente lite*, **5**, 113  
 perfected, **8**, 261  
 proper claimant: *see* Proper claimant  
 proper respondent: *see* Proper respondent  
 refusal to accept, **7**, 275, 276  
 shareholder: *see* Corporations, shareholders  
 statement of accounts not basis, **12**, 155  
 time-barred, **12**, 143-145  
 —effect of arbitration agreement, **12**, 145  
 —purpose, **12**, 144  
 Tribunal not limited to parties' theories, **9**, 56  
 unaffected by recovery of insurance compensation, **10**, 239  
 waiver of, **8**, 67, 81-82  
 —tacit, **11**, 251-255, 330-331, 345-346  
 whether extinguished by Settlement Agreement, **8**, 264

withdrawal of, **1**, 232, 233, 284, 385, 391, 486; **2**, 36, 37, 246, 260; **3**, 205, 332, 333; **4**, 98 n.1; **6**, 5, 7, 8, 11; **7**, 262; **8**, 67, 184, 186, 187, 265, 349, 353; **9**, 9, 38, 43-44  
 Claims of nationals: *see* Nationality of claim  
 Claims Settlement Declaration—  
 Article I, **11**, 290; **12**, 69 n.9  
 Article II, **1**, 149, 245, 255, 264, 266, 276, 288, 290, 295, 349, 494, 497, 504; **2**, 199, 208-210, 212, 313, 315, 318; **3**, 5, 102, 151, 152, 167, 310, 312, 324; **5**, 295, 344 n.1; **6**, 103; **10**, 35; **11**, 7, 8, 36, 215, 279, 311; **12**, 82; **13**, 180-182, 223, 224, 227, 300-301  
 —Paragraph 1, **1**, 103, 106-109, 136, 138, 168, 171, 225, 236-240, 242, 244, 245, 247, 248, 250, 252, 255-258, 260, 261, 263-265, 267-271, 273-277, 279, 280, 282-285, 287, 296, 297, 299-303, 305, 306, 308, 310, 312, 320, 321, 372, 394, 395, 412, 455, 490, 491, 496, 497, 503, 507; **2**, 9, 39-42, 55, 62, 66, 79, 81, 82, 85, 86, 88, 97, 105, 106, 109, 110, 112, 120 n.1, 138, 143, 160, 296, 301, 312, 313, 318, 320, 321, 323, 324, 338, 370, 377, 378, 395, 396, 401; **3**, 3, 59, 61, 65, 66, 104, 113, 115, 116, 198, 199, 201, 231, 235, 243, 251, 252, 259, 260, 273, 286, 314, 315, 319, 320, 323, 335, 348, 384, 387; **4**, 6, 8, 53, 54, 95, 99, 101, 115, 142, 215, 216, 219-221, 224, 225, 229-233, 243, 247; **5**, 2, 14, 15, 69, 82, 92, 119, 120, 125, 126, 171, 173, 181, 182, 184, 194, 195, 233, 253, 268-270, 274, 278, 279, 284, 298, 342, 371, 373, 378, 388; **6**, 5, 27, 77, 79, 80, 83, 93, 100-102, 109, 112-114, 132, 135, 139, 158, 221-223, 231, 232, 235, 236, 250, 251, 255, 263, 264, 268, 270; **7**, 21, 33-35, 42, 47, 53, 66, 82, 107, 122, 132, 134, 188, 195, 218, 275; **8**,

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

377

- 5, 22, 27, 45-46, 51, 77, 86, 221, 224-5, 229-31, 261, 262, 264, 268, 293-7, 306, 405-6; **9**, 31-35, 36, 38 n.18, 40, 50, 51, 88, 115-116, 135, 195, 211-212, 223, 225-226, 245, 252, 257, 293, 333-334, 400, 401; **10**, 44-45, 54, 62-63, 98, 104, 168, 233, 243, 251, 308, 311, 316, 325; **11**, 36, 55, 67, 74, 85-86, 92, 109, 151, 170-172, 188-189, 228, 241, 248, 294, 315, 317, 350, 355, 357; **12**, 100, 142-143, 150, 162, 174, 262, 273, 275, 287 n.49, 291; **13**, 21, 27, 46, 101, 102, 132, 168-172, 203, 225, 263, 307, 322, 337, 345
- Paragraph 2, **1**, 103, 106, 107, 178 n.2, 292; **2**, 53; **3**, 348; **4**, 100; **5**, 14, 15, 96, 99-104, 352; **6**, 13, 141; **8**, 77, 91, 95, 329 n.3; **9**, 136-137; **10**, 83-84, 85, 139-140, 309, 342, 346; **12**, 25, 36, 37; **13**, 156, 159, 162, 165, 168-172, 197, 273, 279, 284
- Paragraph 3, **1**, 102, 103; **5**, 14, 15, 58; **8**, 91, 95, 204, 209; **10**, 46, 126, 325; **12**, 60; **13**, 180
- Article III, **1**, 112, 149; **2**, 314
- Paragraph 1, **1**, 117, 431-433, 436; **2**, 301; **3**, 40, 77, 126, 139, 211, 296, 364; **7**, 204; **9**, 409-410
- Paragraph 2, **1**, 114, 130, 451 n.4, 458, 476, 511, 516; **2**, 301; **3**, 211, 296; **6**, 100; **8**, 275 n.48; **11**, 84, 274, 279
- Paragraph 3 **1**, 176, 177, 230 n.2; **2**, 209, 301; **3**, 77; **4**, 115, 210, 211; **5**, 83 n.1, 297; **7**, 203 n.3, 277; **11**, 283, 285, 301; **12**, 132, 307; **13**, 263
- Paragraph 4, **1**, 127-130, 176, 226-229, 394, 396; **2**, 178, 312, 313, 315-321, 338; **3**, 3, 287; **4**, 99; **5**, 79; **6**, 29, 68, 102; **8**, 369; **9**, 4; **12**, 289; **13**, 278
- Article IV, **8**, 266 n.39
- Paragraph 1, **2**, 56, 63; **3**, 365; **4**, 16; **5**, 74, 252; **6**, 109; **8**, 114; **9**, 406; **11**, 88; **12**, 285 n.45
- Paragraph 2, **8**, 379
- Paragraph 3, **1**, 331, 406, 465; **2**, 56, 63, 94
- Article V, **1**, 198, 200, 201, 291, 294, 308, 374, 377 n.15, 420, 422, 477; **2**, 94, 223, 237; **3**, 58; **4**, 70, 114, 234, 267; **5**, 21, 22, 233, 261, 274, 292-294; **6**, 97, 268; **8**, 132 n.10, 140, 161, 442-3; **9**, 122, 146, 169, 177, 330; **10**, 143, 147, 192, 312; **11**, 26, 30, 32, 50, 142, 351, 358; **12**, 21, 82; **13**, 119, 230
- Article VI, **1**, 198
- Paragraph 2, **2**, 37; **5**, 291; **7**, 221; **8**, 37, 185, 186; **9**, 62
- Paragraph 3, **1**, 106, 195; **5**, 291; **6**, 68; **10**, 35
- Paragraph 4, **1**, 102, 103, 294; **2**, 59, 315, 320; **5**, 58, 252; **8**, 91, 95, 204, 209, 210; **10**, 85; **11**, 274, 275, 277
- Article VII, **1**, 123, 137, 149, 166, 397, 503; **2**, 19, 21, 32, 156, 208, 211, 377, 395; **3**, 2, 160; **4**, 142; **5**, 78, 268, 283, 284, 353; **7**, 221; **11**, 170, 181, 274, 276; **13**, 180, 263
- Paragraph 1, **1**, 136, 139, 223, 392, 417, 455, 456, 458, 463, 477-479, 481; **2**, 16, 17, 19, 33, 105, 160, 209, 210, 212, 248, 301, 303, 304, 335; **3**, 46, 102, 103, 113, 161, 245, 259, 260; **4**, 99, 216, 217, 264, 273; **5**, 1, 2, 18, 21, 22, 92, 126, 163, 254, 267, 269, 279, 282, 284, 338, 339, 341, 342, 352; **6**, 127, 285; **7**, 5, 20, 27-29, 41, 97, 121-123, 127-129, 185; **8**, 128, 154, 234, 261, 294, 307, 326, 370; **9**, 15, 70, 88, 116, 156, 194, 252, 291, 400; **10**, 126, 166, 238, 263 n.9, 278-279; **11**, 86, 151, 188, 212, 271; **12**, 100, 132, 142, 162, 251, 275, 345; **13**, 18, 101, 131, 202, 306, 336
- Paragraph 2, **1**, 136, 139, 381 n.20, 385, 388, 392, 394, 395, 399, 456, 477, 479; **2**, 9, 53-56, 63, 65, 98, 99, 148, 226, 248, 281, 295-299, 363, 378, 396, 401; **3**, 46, 60, 273, 386; **4**, 54, 99, 101, 181, 216, 218, 243; **5**, 6, 92, 93, 129, 153, 154, 196, 271, 365, 377, 379, 388; **6**, 45,

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

378

## INDEX

- 58, 79, 80, 93, 108, 110, 115, 116, 127, 131, 263; **7**, 5, 6, 29, 66, 97, 134, 185-188, 199, 206, 218, 219; **8**, 77, 128, 159, 232-3, 261, 265 n.38, 294, 368; **9**, 38, 132, 253, 254-266, 281, 293, 324, 325, 329 n.12, 379; **10**, 61-63, 178, 279-281; **11**, 84, 86-89, 109, 138-141, 151, 213, 215, 246, 298-299, 311-312; **12**, 162, 174, 251, 257, 262, 273, 275, 276, 278, 283, 285 n.45, 291, 322; **13**, 18, 193 n.1, 300-301, 320, 323
- Paragraph 3, **1**, 349, 350, 356, 372, 381, 412, 413, 419, 427, 504; **2**, 20, 21, 105, 142-144, 146-148, 235, 248, 295, 302, 338; **3**, 47, 102, 103, 259, 260, 273, 281; **4**, 99, 216, 218, 264, 273; **5**, 1-4, 6, 7, 13-18, 48, 135, 136, 148, 150, 164, 237, 239, 242, 378, 389; **6**, 58, 221, 285; **7**, 5, 10, 20, 42, 247, 258; **8**, 11, 13, 79, 83, 154, 221, 351, 360; **9**, 166-167, 238 n.35, 257, 277, 306, 344, 400; **10**, 240, 242, 280-281, 341; **11**, 6, 75, 90, 151, 170, 189, 215, 294; **12**, 6, 142, 149, 162, 174, 291, 345, 346, 350 n.13, 352, 358, 370, 372; **13**, 21, 131, 272, 278, 302, 326
- Paragraph 4, **1**, 381; **2**, 302; **5**, 2, 6, 15, 16, 18; **6**, 27; **8**, 351; **9**, 93-94, 156, 231, 233 n.30, 266, 400; **13**, 272, 278
- Article VIII, **1**, 138
- interpretation of: *see* Jurisdiction of Tribunal, interpretation of Declarations
- Class action, **2**, 300, 301; *see also* Nationality of claim, shareholder claims
- Commercial law, **1**, 374, 377 n.15, 378, 445-447; **2**, 168, 169; **3**, 19, 20; **4**, 101, 268, 270, 276; **5**, 394; *see also under* Iran, law of; U.S., law of; General principles of and International Chamber of Commerce
- banking practices: *see* Banking practices
- Communis opinio juris*, **2**, 197; **5**, 300;
- 10**, 185, 200
- Compensation: *see* Damages
- Concurrent jurisdiction, **1**, 489, 495; **2**, 311, 371; *see also* Forum selection clause, jurisdiction of Tribunal
- Concurring opinion, *see also* Concurring and dissenting opinion; Declaration; Dissenting opinion; Explanatory remarks and Separate opinion—
- Aldrich, **2**, 349; **3**, 348; **5**, 267; **11**, 268, 345
- Ameli, **12**, 364
- Ansari, **10**, 35; **13**, 121
- Bahrami, **10**, 177 n.1
- Bellet, **2**, 316
- Brower, **6**, 32, 110; **8**, 5, 22, 40, 206; **9**, 280-283; **10**, 34, 363; **11**, 150 n.1, 276; **12**, 233
- Holtzmann, **1**, 227, 229, 284; **2**, 57; **3**, 55, 78, 192, 199, 325, 330; **4**, 159; **5**, 111, 144, 267; **6**, 40, 47, 133; **8**, 206; **9**, 284 n.2, 313 n.2, 360 n.2; **10**, 37 n.2, 269 n.2; **12**, 146 n.2; **13**, 3, 124 n.2, 331 n.2
- Kashani, **2**, 65; **3**, 323
- Lagergren, **2**, 317
- Mosk, **1**, 305, 363, 449; **2**, 27, 57, 114, 146, 298, 386; **3**, 277, 293, 387; **4**, 111; **5**, 230, 269; **6**, 64; **7**, 201; **10**, 81; **12**, 108, 126 n.2
- Mostafavi, **8**, 203; **10**, 103; **12**, 30; **13**, 280 n.1
- Riphagen, **5**, 273
- Sani, **2**, 65
- Shafeiei, **2**, 65
- Concurring and dissenting opinion, *see also* Concurring opinion; Declaration; Dissenting opinion; Explanatory remarks and Separate opinion—
- Ameli, **10**, 229 n.1
- Ansari, **8**, 203; **11**, 45, 180 n.1, 184 n.2
- Bahrami, **8**, 203; **11**, 168 n.1; **12**, 82
- Böckstiegel, **8**, 203
- Brower, **9**, 241; **11**, 35, 53 n.1, 184 n.1
- Holtzmann, **9**, 107 n.2; **10**, 229 n.1, 333 n.2
- Mostafavi, **9**, 107 n.1; **10**, 269 n.1; **13**, 329 n.1
- Confiscation: *see* Expropriation

## INDEX

379

- Conflict of laws, **2**, 166, 183, 185, 186, 196, 224; **3**, 48; **6**, 99 n.1; **8**, 136, 140-141; **9**, 178
- Consolidation of cases: *see under* Procedure
- Consumer law, **6**, 99
- Continuity of ownership of claim: *see under* Nationality of claim
- Contract, *see also* Applicable Law; *Force majeure*; Forum selection clause; Lease agreements; Licence; Negotiable instruments and Purchase order—acceleration clause, **13**, 21-27, 46-47  
adhesion, **7**, 192  
adoption of pre-incorporation agreements, **2**, 154  
alleged bribery, **12**, 270-271, 314-315, 326  
ambiguous terms, **5**, 180, 184, 192, 195; **8**, 229-30; 306-7; **9**, 31-35, 215-217, 323-324, 367, 373; **11**, 36, 45; **13**, 235  
amendment of, **11**, 166; **12**, 109-113, 116-118; **13**, 188  
anticipatory breach, **3**, 151; **7**, 42, 53, 107, 115  
assignment of, **6**, 233; **8**, 155-160  
breach, **2**, 116, 117, 382, 386, 387, 399; **3**, 50, 51, 55, 57, 153, 164, 247, 261, 265, 289, 293, 294 n.1; **4**, 232, 233 n.1, 234, 235, 240, 252, 267; **5**, 127, 398; **6**, 63, 64, 136, 137, 139, 189, 199, 200, 203, 206, 216, 222, 285, 286, 290, 293, 294; **7**, 13, 24, 75, 79, 82, 103, 105-107, 109, 110, 113, 114, 202 n.1, 215; **8**, 168-171, 310-312; **9**, 112-118, 157-160; **10**, 254; **12**, 151, 294, 351; **13**, 46-50, 113, 121-123, 133-134, 142, 143, 303  
—justifying suspension of work, **12**, 294  
collateral promises, **6**, 197  
condition precedent, **7**, 109, 114  
*contra proferentem* rule, *see verba ambigua accipiuntur contra proferentem*  
counter offer, **7**, 113  
creation of new agreement, **4**, 221; **5**, 395  
cross-termination clause, **10**, 175  
discharge, **2**, 251, 254  
dispute settlement provisions, **8**, 223  
duty of reasonable efforts, *see good faith, duty of election*, **3**, 289  
enforceability, **2**, 221, 381, 398; **3**, 13, 14, 16, 18, 27-29, 287; **6**, 62, 162; **7**, 192; **8**, 160-162, 223  
error, **8**, 133  
evidence of: *see Evidence of, contract*  
excessively onerous, **9**, 122 n.14  
excuse, **3**, 153, 154, 264; **7**, 67, 75, 110, 193; **9**, 196-197  
exercise of rights under, **7**, 157, 158  
extension of, **6**, 145; **13**, 338-339  
foreseeable consequences: *see Causation*  
formation, **3**, 47, 55, 162; **6**, 162, 176, 189, 191-193, 196, 197; **7**, 107, 109; **9**, 56; **13**, 273-275, 279-281  
—by conduct of parties, **3**, 48, 49; **6**, 17, 145, 191, 192, 197; **7**, 103, 113, 114; **8**, 130-131; **13**, 111-113  
for ownership of land, **7**, 131  
frustration, **2**, 250-253, 256, 258; **3**, 153, 155; **6**, 176, 177, 274, 281; **7**, 17; **8**, 340, 383; **9**, 122 n.13, 196; **13**, 250-251  
good faith, **6**, 197, 198; **7**, 160; **8**, 133, 141-143; **9**, 122 n.13  
governing law clause, **5**, 366  
governing law of, **6**, 236; **8**, 231; **9**, 121, 124, 326; **13**, 26  
guarantee, **8**, 91-92, 95-96; **13**, 157, 160, 163, 166  
illegal, **4**, 249, 250  
implied terms, **9**, 147-149  
—cannot specifically provide, **9**, 216-217  
impossibility: *see frustration*  
independence of, **7**, 66  
inequality of parties, **13**, 245  
intention of parties, **7**, 73, 75, 79, 83; **9**, 392  
interpretation of, **1**, 107 n.1, 108, 209, 213 n.7, 214 n.8; **3**, 251, 261; **4**, 252, 260; **5**, 117, 128, 180, 181, 184, 192, 196, 197, 228; **6**, 114, 115, 161, 227, 237, 262, 277; **7**, 13, 23, 71, 72, 75,

- 76, 78, 79, 86, 87, 192; **8**, 225, 231, 306-7; **9**, 148-149, 323-324, 327-329, 367-373; **10**, 222-223, 329; **11**, 8-11; **12**, 109-113; **13**, 214-215, 235-236  
 —conduct of parties, **2**, 118; **3**, 288; **5**, 232; **6**, 227, 262; **7**, 193; **12**, 103, 200, 212  
 —preparatory works, **11**, 9-11, 45-46  
 —trade usage, **9**, 367, 380-381  
 legal relationship between parties, **5**, 173; **7**, 82; **8**, 130-133, 142; **9**, 326-327  
 letter of credit not a contract, **13**, 102  
 liability limited by, **6**, 89, 90, 94, 97, 98; *see also* Limitation of liability clause  
 liability under collateral contracts, **12**, 37  
 merger of rights under two separate, **7**, 34, 35  
 obligations of parties in absence of, **12**, 134  
 oral, **8**, 160-161  
 part performance, **8**, 160-161  
 performance of, **5**, 393, 398; **6**, 85-89, 94, 274, 290, 292-294; **7**, 110, 161; **9**, 117-118; **12**, 150-151; *see also* excuse  
 —defects, **8**, 164  
 —progress reports, responsibility for, **9**, 218  
 —waiver of defects in, **6**, 87, 88  
 principals bound by, **6**, 72, 159  
 pro forma invoice, **3**, 41, 49, 54; **5**, 25, 38, 43, 46; **7**, 25  
 proper law of: *see* Proper law of the contract  
*quantum meruit*: *see* *Quantum meruit*  
 ratification by conduct of parties, **1**, 413, 414; **2**, 145, 146, 154, 380, 397; **3**, 163, 164, 247, 248; **4**, 249, 250; **5**, 395  
 recovery under, **5**, 172  
 reformation, **2**, 117  
 repudiation, **7**, 107  
 required to be in writing, **7**, 13  
*res inter alios acta*, **13**, 122  
 revenue actually earned, **9**, 372-375  
 sales of goods and services between Iran and U.S., **5**, 96, 99-101, 103,  
**104**; **13**, 156-157, 162-163  
 —educational instruction a service, **13**, 273  
 severability of provisions, **8**, 223  
 stabilization clause, **9**, 178  
 standard of performance, **11**, 110, 114-116  
 subject of, **7**, 25  
 sub-licence, **6**, 163  
 substitution, **3**, 274  
 superseded by Settlement Agreement, **10**, 282-284  
 suspension, **10**, 168-170  
 termination, **2**, 110, 111, 116-118, 388; **3**, 154, 155, 232, 265, 266, 289, 294; **4**, 235, 259, 260; **5**, 210; **6**, 274; **7**, 15, 107; **8**, 313-314, 338-340; **9**, 118-120, 147-150, 196; **10**, 290; **12**, 182-185, 234-236; **13**, 187-188, 213-216, 245-252, 304, 317-319  
 —date of, **9**, 196  
 —distinct from invalidity, **8**, 222  
 —legal consequences of, **9**, 120-133, 196-197  
 —matter of election, **12**, 185  
 —past obligations unaffected, **9**, 201  
 —waiver of right, **13**, 251-252  
 third party beneficiary, **3**, 274, 278; **4**, 276; **6**, 160, 161, 193, 195, 196; **8**, 271; **9**, 401  
 trade usage, **9**, 367  
 translation of, **1**, 317, 318; **9**, 31-35, 212-214; **13**, 181-182  
*ultra vires*, **2**, 24  
 unjust enrichment: *see* Unjust enrichment  
 validity, **1**, 413, 414; **2**, 106, 116, 117, 119, 145, 155, 380-382, 397-399; **3**, 48, 162-164, 231, 245, 246, 251, 252, 278, 286-289; **4**, 249, 250, 260; **6**, 176, 189, 192, 196; **7**, 113; **8**, 160-161, 222-223; **9**, 195, 392-394; **12**, 150, 315  
 value of rights under, **4**, 156  
*verba ambigua accipiuntur contra proferentem*, **9**, 371, 393-394  
 waiver of rights under, **7**, 23  
 Contradictory assertions, **7**, 123-126, 135  
 Controlled entity, *see also* under Evidence of—

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

381

- Iran, **1**, 356, 372, 389, 412, 413, 418-423, 427, 445, 475, 503; **2**, 9, 10, 17-23, 26, 105, 143, 144, 146-152, 165, 258, 259, 302, 338; **3**, 47, 65, 103, 104, 160, 230, 231, 260, 273, 286, 323; **4**, 218; **5**, 1-23, 48-50, 71, 135, 136, 210, 237-239, 242-245, 370, 371, 378-380; **6**, 58, 59, 221, 285; **7**, 5, 10, 20, 42, 97, 188; **8**, 154-155; **9**, 15, 51, 88-96, 324-326, 343, 400; **10**, 24, 46, 62, 142-147, 166, 240-242, 281-282, 341; **11**, 55, 151, 215, 294-295; **12**, 149, 348, 372; **13**, 19, 102, 131-132, 202  
 —Council for the Protection of Industries, **10**, 138-139  
 —Government not automatically responsible for obligations of, **12**, 352, 364, 366  
 —joint-stock company, **5**, 2-23  
 —test for control, **5**, 6-11; **10**, 241-242; **13**, 19-21
- United States, **1**, 106; **2**, 165; **5**, 71; **13**, 273, 278  
 —fiduciary responsibilities, **10**, 84
- Cooperatives, **5**, 238, 239, 244 n.1
- Co-Registrar, exceeding powers, **7**, 275, 276
- Corporate veil, **7**, 205; **12**, 360-361, 365
- Corporations, *see also* Cooperatives and under Evidence of—  
 agency: *see* Agency  
 continuity of ownership: *see under* Nationality of claim  
 control, **1**, 358, 359, 363, 381, 382, 384, 385; **2**, 20-22; **4**, 101; **7**, 5, 6, 123, 134, 135, 200, 206, 207; **9**, 258-264, 281; **11**, 214; *see also* Controlled entity and Nationality of claim, corporations  
 independence of, **6**, 70; **7**, 121, 130, 131; **9**, 378-379  
 juridical personality of, **6**, 70; **7**, 120, 133; **9**, 378  
 nationality: *see* Nationality, corporations and Nationality of claim, corporations  
 nominal ownership of, **7**, 186  
 non-profit, **5**, 345, 348, 350, 352; **6**, 250; **7**, 180 n.1  
 —control, **5**, 349, 350  
 —interest of directors, **5**, 350  
 —jurisdiction of Tribunal, **5**, 338, 341, 343-347, 349, 351  
 ownership of, **6**, 127; **11**, 214, 312-313  
 shareholders, *see also under* Nationality of claim  
 —right to bring claim, **11**, 87  
 —rights of, **2**, 352; **4**, 242, 243; **7**, 120, 122, 130-134  
 succession, **1**, 359-363, 373-376, 382, 387, 389; **13**, 334  
 wholly-owned subsidiary: *see under* Nationality of claim  
*see also under* Evidence of  
 Costs, **1**, 171, 414, 415, 447, 448, 451, 508; **2**, 12, 13, 40, 43, 75, 113, 146, 169, 177, 227, 244, 245, 254, 259, 260, 342, 343, 385, 390, 400; **3**, 17, 33, 58, 66, 72, 107, 108, 117, 206, 236, 253, 254, 267, 268, 275, 276, 279, 291, 294, 332, 333; **4**, 18, 19, 79, 81, 82, 110, 120, 228, 229, 271, 278; **5**, 87, 93, 96, 101, 111, 120, 137, 174, 175, 181, 230, 231, 241, 242, 360, 373, 374, 401; **6**, 18, 64, 68, 69, 129, 175, 217, 229, 283, 287, 288; **7**, 7, 16, 24, 25, 29, 30, 48, 88, 117, 198; **8**, 61, 92, 96, 134, 177, 323-4, 329-336, 384, 403; **9**, 59-60, 150-151, 168, 199, 301, 345, 377; **10**, 33, 34, 35-36, 55, 80, 103, 134, 175, 179, 256, 316, 347; **11**, 33, 34, 43-45, 52, 68, 69, 136, 137, 165, 167, 178, 179, 181, 184 n.1, 206-207, 208, 222, 249, 250, 255, 267, 295, 344; **12**, 16, 30, 36, 38, 107, 137, 138, 145, 158, 159, 169, 231, 264, 297, 322-323, 356, 362; **13**, 35, 117, 145, 157, 160, 163, 166, 191, 269, 276, 281, 285, 309, 323, 344  
 auditors' fees, **9**, 133  
 determination deferred, **9**, 44  
 evidence of: *see* Evidence of, costs experts', **11**, 136, 137, 267  
 for defending malicious claims, **5**, 86, 87  
 in absence of jurisdiction, **12**, 39  
 in claims of less than US \$250,000, **10**, 327; **11**, 167; **13**, 309, 323  
 in official claims, **12**, 30

- legal fees, **3**, 53, 58; **8**, 177, 331-335; **9**, 133, 150-151, 242, 355, 403; **10**, 316  
 non-legal fees, **8**, 330-331, 334; **9**, 150  
 private attorney, **13**, 309, 323  
 reasonable, **9**, 150-151, 202, 338, 377; **10**, 81; **12**, 36, 137  
 result of delays in proceedings, **4**, 81; **8**, 39  
 Counterclaim, **1**, 171, 218, 232, 233, 336, 384, 385, 390, 485, 507, 508; **2**, 338, 384, 400; **4**, 143, 177, 178, 214, 243; **8**, 45-46, 383-384; **10**, 287-288; **11**, 48-50, 108-135, 317, 341-342; **12**, 215-229, 321-322  
 admissibility, **2**, 324-326; **8**, 384; **9**, 223-224; **13**, 227, 229  
 —against indirect claimant, **11**, 110  
 —against third party, **11**, 109  
 amendment of, **7**, 182; **11**, 108; **13**, 228-229  
 arising out of same contract, transaction or occurrence, **2**, 51, 55, 63, 97, 112, 324-326, 378, 379, 396; **3**, 115, 116, 152, 167, 235, 251, 252, 260, 261, 286; **4**, 7, 243, 247; **5**, 173, 233, 400; **6**, 83, 84, 95, 100-103, 109; **7**, 21, 82-84, 195, 196, 207, 208; **8**, 267-269; **9**, 36-37, 135-136, 167, 225; **10**, 53-54, 168; **11**, 315, 316; **12**, 6-7, 291; **13**, 134-135, 284-285, 306-307  
 as defence, **4**, 246; **5**, 173, 233, 400  
 based on tort, **6**, 84  
 based on violation of Iranian law, **6**, 84  
 characterization of, **6**, 46  
 conditional, **8**, 226  
 contractual waiver, **13**, 221-223, 240-244  
 delay in presenting, **7**, 116; **9**, 22; **11**, 135, 137  
 entitlement to file, **10**, 168  
 excluded from jurisdiction of municipal courts, **8**, 77  
 for balance of down payment, **8**, 325  
 for breach of contract, **9**, 41-42, 58; **10**, 174; **11**, 22-26, 38-39; **12**, 156-157; **13**, 144  
 for breach of duty to protect goods, **8**, 271  
 for cancellation of bank guarantee, **9**, 229-230  
 for collection of bank guarantees, **8**, 327-328; **9**, 29  
 for cost of replacing goods, **13**, 142  
 for damages for delay, **13**, 143  
 for damages for expired guarantees, **11**, 316-317, 341-342  
 for damaged property, **11**, 19; **13**, 143  
 for defective performance, **8**, 173-177; **9**, 133, 299; **10**, 305-306; **11**, 18-19, 121-135, 142-143, 145-149, 247-248, 342; **12**, 220-224; **13**, 143-144, 306  
 —defective supervision, **12**, 224  
 —inadequate qualifications, **12**, 220-221  
 —unsatisfactory documents, **12**, 221-223  
 for deliverables, **8**, 325-326, 344-347  
 for expenses, **11**, 192-193  
 for improper estimates, **11**, 120-121  
 for improper payments, **12**, 215-218  
 for income tax, **9**, 37-38, 38 n.18  
 for legal expenses, **3**, 261, 267; **8**, 268; **9**, 230  
 for liquidated damages, **8**, 177  
 for loss of operating capacity, **12**, 137  
 for losses arising out of failure to return items sent for repair, **12**, 137  
 for non-performance, **11**, 67  
 for overcharges, **7**, 191  
 —due to excess vacations and unauthorized absences, **12**, 226  
 for overpayments, **10**, 304-305; **12**, 218-220, 321  
 for payment of good performance bond, **8**, 177  
 for reimbursement of escalation payments, **9**, 227  
 for reimbursement of fees, **8**, 172; **10**, 326-327  
 for reimbursement of overcharges, **13**, 35, 72-77

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

383

- for reimbursement of payments to contractors, **8**, 172-3; **9**, 26-28, 166-167; **11**, 19, 192  
 for relief from bank guarantee, **11**, 193-194  
 for repayment of tax costs, **12**, 224-226  
 for return of documents, **8**, 177; **11**, 19-20  
 for Social Security payments, *see under* Social Security payments  
 for specific performance, **7**, 159; **9**, 26  
 for taxes, *see under* Taxes  
 for unjustifiable collection of funds in Trust Account, **8**, 272-3  
 for value of missing property, **12**, 226  
 for value of spare parts, **9**, 28-29  
 for withdrawal of suit, **12**, 321-322  
 for wrongful expulsion, **9**, 16-18  
 in excess of claim, **3**, 152  
 invalid claim may not give rise to, **12**, 36  
 jurisdiction of Tribunal, **2**, 54-60, 62-67, 97-99, 311, 363, 371; **3**, 60, 61, 151, 152, 201, 235, 251, 261, 322, 335, 386; **4**, 7, 55, 242-245, 246 n.1, 261; **5**, 129, 227, 229; **6**, 82-84, 93, 100-103, 108-110, 115, 116; **7**, 20, 21, 82, 84, 201, 219; **8**, 76-78, 203, 232-233, 265, 364, 366, 368, 371; **9**, 223; **10**, 287-288, 306; **11**, 109; **12**, 6-7, 106, 218, 291; **13**, 72-74, 78-83, 132-133, 144, 221-229, 284, 306-307, 342-343  
 —dependent on jurisdiction over main claim, **9**, 38-39, 87  
 —failure to prove, **9**, 223  
 —unaffected by withdrawal of main claim, **12**, 264  
 limitation on, **6**, 102; **13**, 226-227  
 outstanding, **3**, 115; **10**, 102  
 possibility of separate pursuit, **13**, 244  
 preparation of, **2**, 288  
 proper respondent, **6**, 82, 83; **7**, 126; **11**, 315  
 relation to claim, **4**, 243, 244; **7**, 82; **9**, 312  
 right of, **1**, 103, 108, 219  
 same party, **2**, 324-326, 378; **4**, 75; **5**, 173; **7**, 21  
 third party, **8**, 270-1; **9**, 36-37  
 time limits: *see* Time limits, counterclaims  
 validity of, **7**, 202; **9**, 58-59  
 Course of dealing, **5**, 45, 46  
 Criminal action, alternative forum, **4**, 60  
*Culpa in contrahendo*, **3**, 30; **5**, 248  
 Currency, **10**, 91-94; **11**, 40-42, 50-51, 164, 184 n.1, 206, 230; **13**, 265-266  
 conversion of, **2**, 13; **3**, 233, 250 n.1, 288; **4**, 104 n.1; **5**, 168, 169, 175, 214; **6**, 171; **7**, 73, 74; **8**, 17, 98, 165, 291-292, 403, 420-427; **9**, 163 n.7, 227-228, 247, 336; **10**, 54, 78-79, 91, 345-346, 352-353; **11**, 16-17, 31-33, 35, 93 n.8, 141, 164, 176 n.5, 199, 206, 208, 230-231, 240-242, 340-341, 357-358; **12**, 106, 124; **13**, 190, 304, 343-344  
 —“currency of contract” rule, **11**, 358; **13**, 192  
 —determined by contract, **11**, 32  
 —exchange rate changes, **11**, 32-33, 41, 50, 206, 208; **12**, 304-305  
 Currency exchange controls: *see* Foreign exchange controls  
 Customary international law, **2**, 179, 188, 196, 197, 210; **4**, 105, 116-118, 268; **5**, 269, 279-281, 286, 294, 300; **6**, 177, 178, 208, 209; **8**, 395-403; **9**, 273; **10**, 185, 189; **11**, 358  
 —and treaties, **10**, 192, 202  
 Customary international practice, **3**, 19; **4**, 67, 68  
 Damages, **1**, 387, 388, 445, 448, 452-454; **5**, 248  
 accrued interest, **10**, 345  
 actual benefit, **6**, 213, 215  
 actual use, **6**, 177, 213, 215, 216  
 additional costs, **11**, 231-238, 250-255  
 bank guarantees, **11**, 99, 175-176; **12**, 162-165  
 breach of contract determining factor, **12**, 134-135  
 carrying costs, **7**, 111, 112, 114  
 collection expenses, **3**, 249, 253; **5**, 400

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

384

## INDEX

- compensation, 1, 171, 414, 415, 422, 450, 451; 2, 80, 87, 117, 118, 383, 399; 3, 53, 54, 106, 232-235, 264-266, 278, 279, 288-290, 293, 294; 4, 112, 270, 271, 277; 5, 109, 110, 169, 227, 248, 399, 400; 6, 172, 225, 265, 281, 287, 290; 7, 24, 50, 69, 71, 76, 112, 114, 165, 173; 8, 162, 314-324, 340-342; 10, 4, 133-134, 184-189, 189-206; *see also* Expropriation, compensation rule  
 —full, 6, 265, 266; 10, 184, 187-189, 189-206, 267-268  
 —prompt, 10, 203 n.36  
 —replacement value, 12, 319, 333-334  
 computation of, 6, 169, 170, 177, 204, 206, 215, 269; 9, 163-164, 197-199, 336-338; 10, 64-78; 11, 89-108, 157-163, 174-178, 198-199, 319-341; 12, 104-106; 13, 188; *see also* measure of  
 —need for precise criteria, 12, 20-24  
 conditional on return of goods, 12, 135  
 consequential, 4, 240, 277; 5, 400; 6, 204-206; 7, 75  
 contract as measure of, 2, 106, 110, 116-118, 383, 384, 387, 399; 3, 56, 164, 232-234, 289, 293, 294; 4, 234-236, 251, 260, 270; 5, 110, 111, 234, 359, 360; 6, 63, 227, 275; 7, 24, 192; 8, 164; 9, 124, 147-150, 160; 10, 64-69, 326; 11, 177; 12, 188, 238; 13, 138-139  
 conversion of currency: *see* Currency, conversion of  
 costs arising from unforeseen anomaly, 11, 111-114  
 costs of delay, 9, 160-163, 174-177; 10, 72-74, 89-91  
 damage to financial health, 11, 18  
 damaged effects, 10, 171-172  
*damnum emergens*, 2, 387 n.1; 10, 189  
 deduction for  
 —credit for work performed, 10, 70  
 —debts, 12, 23-24  
 —downpayment, 13, 188  
 —profits from resale, 4, 270  
 —taxes, 13, 304  
 —unauthorized work, 11, 104-105  
 —uncompleted work, 11, 229-230  
 —undelivered equipment, 11, 192  
 —unliquidated advance payment, 9, 164  
 delivered goods, 11, 202-204; 12, 136  
 destroyed leased equipment, 12, 316  
 dissolution value, 6, 226  
 duty to compensate, 6, 169; 9, 219-220  
 escalation payments, 10, 72-77  
 evidence of: *see* Evidence of, damages  
 excess taxes, 10, 290-298  
 exchange losses, 10, 174; 11, 33, 201-202, 339; 12, 16, 29-30  
 exemplary, 10, 205; 11, 44  
 expenses, 9, 35, 198-199, 298  
 expropriated bank account, 12, 213-215  
 extended overhead costs, 10, 72, 77  
 facilities expenditures, 11, 334  
 failure to return leased machinery, 10, 254, 258  
 foreseeable consequences: *see* Causation  
 handling and storage, 3, 52, 53, 56, 57  
 inflation, 4, 270; 8, 168  
 interest, 1, 170-172, 414, 415, 446-448, 450, 451, 453, 454; 2, 12, 27, 111, 169, 239, 240, 342, 343, 385, 390, 400; 3, 33, 53, 54, 56, 57, 72, 106, 116, 117, 206, 235, 236, 251, 253, 267, 275, 279, 290, 291, 294; 4, 110, 118, 120, 224, 228, 229, 247, 270, 271; 5, 48, 110, 111, 169, 174, 175, 219, 226, 227, 230, 367, 374, 395, 399, 401; 6, 18, 19, 62-65, 68, 69, 173, 178, 216, 217, 229, 283, 287; 7, 16, 24, 74, 76, 80, 89, 101, 104, 108, 111, 112, 115, 117, 118, 183, 191, 193, 194, 198; 8, 60-61, 168, 171, 178, 320-322, 342-344, 384; 9, 44, 59, 198; 10, 54, 80, 175, 189 n.29, 252, 254, 255, 256, 257, 304, 316-318,

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. MacGlashan

Index

[More information](#)

## INDEX

385

- 327, 346-347; **11**, 26-31, 34, 41-45, 52, 67-68, 69, 75, 105-107, 136, 137, 164, 165, 178, 179, 205-206, 207, 208, 242-244, 250, 254, 266, 267, 343-344; **12**, 16, 28-29, 30-32, 138, 155-157, 168-169, 229-231, 297, 298, 321, 362; **13**, 29-30, 33-35, 89-90, 145, 191, 192, 233-238, 252-253, 268-269, 275, 308-309, 344
- and lawfulness of conduct, **11**, 150 n.1, 164, 167
  - applicable law, **11**, 27
  - irrelevance of, **12**, 28; **13**, 269
  - bad faith not precondition, **13**, 269
  - calculation of, **6**, 217; **7**, 193, 194; **11**, 28-30; **13**, 34
  - compound, **7**, 191, 192; **8**, 320; **13**, 234-235
  - date of commencement, **9**, 44, 59, 129, 338, 377; **10**, 331; **11**, 27-31, 68; **12**, 29, 106, 108, 124, 133, 135, 169, 229-231, 233 n.4, 297, 303, 321; **13**, 34, 145, 191, 237, 248, 269, 308-309
  - effect of Security Account, **8**, 321, 343-344; **11**, 30
  - need for consistency, **8**, 320-322; **10**, 80, 304; **11**, 31; **12**, 28, 32, 156
  - non-contractual basis, **12**, 28; **13**, 237-238, 252
  - principles governing, **11**, 29-31
  - purpose of, **11**, 29, 42; **12**, 28, 229; **13**, 269
  - rate of, **5**, 111; **8**, 61, 320-322; **9**, 129-130, 167, 202, 243, 300, 376-377; **10**, 80, 304; **11**, 27-31, 164, 206, 243; **12**, 28, 31, 137, 155-156, 229, 321; **13**, 236, 269
  - in official claims, **12**, 29, 31
  - stipulated by contract, **7**, 192; **11**, 105-107, 136, 178, 343-344; **12**, 31-32, 106; **13**, 34, 234-237, 252, 308
- interim fee, **13**, 183
- invoice claim, **9**, 19-20; **10**, 70-71, 170-174; **11**, 12-14, 20-21, 228-229, 320-330; **12**, 168, 198-213, 295; **13**, 264-266, 303-304
- late payments, **12**, 165-168
- lawyers' fees, **11**, 238-242, 255-258
- lease payments, **1**, 414, 415; **2**, 259
- letter of credit underfunding, **9**, 20-21
- limited by amount of claim, **3**, 251; **12**, 106
- liquidated, **5**, 103 n.1
- loss of enjoyment of property, **10**, 251
- loss of use of money, **12**, 167
- losses on assets, **12**, 193-194
- lost fees, **8**, 170
- lost goodwill, **12**, 23
- lost profits, **2**, 383, 384, 387, 390, 399; **3**, 233, 234; **4**, 107, 108, 118 n.1, 260 n.1, 268, 270; **6**, 170, 203, 204, 215, 216, 294, 295; **8**, 169-171, 319; **9**, 23-26, 123-124, 127-128, 149-150, 160, 199; **12**, 23
- lost property, **9**, 166, 179-180; **12**, 16
- lucrum cessans*, **2**, 387 n.1
- measure of, **1**, 446, 447, 450, 451, 453, 454; **3**, 56-58, 106, 154, 233; **4**, 106, 107, 269, 271; **5**, 227; **6**, 65, 213-216, 244, 245, 250, 266, 268, 269, 274, 275, 281, 285-287, 294; **7**, 162-171; **8**, 162-171; **9**, 123, 128-130, 247, 338; *see also* Expropriation, compensation rule, valuation
- force majeure* and breach of contract distinguished, **12**, 120-125, 187, 193, 194
  - service companies, **12**, 22-23
  - settling of accounts, **6**, 294
- mental anguish, grief and suffering, **2**, 78, 79, 87
- mitigation, **3**, 52, 56, 289, 293, 294; **7**, 108, 110, 111
- nominal, **9**, 42
- not precluded by termination of contract, **8**, 164-165
- office costs, **11**, 99; **12**, 211-213
- offset, **7**, 114, 115; **10**, 77-78; **12**, 105
- claim for treated as counter-claim, **10**, 309
- on damages, **12**, 24
- out of pocket loss, **12**, 16
- partial to avoid double recovery, **11**, 88-89, 138-141, 313-314

- payments due under Settlement Agreement, **10**, 282-283
- performance costs, **9**, 124-127, 163-164, 201
- performance withhold, **8**, 315-317; **9**, 22, 24, 125-127, 164, 221; **11**, 14-17, 37, 174, 334; **12**, 151-153; **13**, 134-135, 183-184, 305-306
- post-contract expenses, **11**, 17-18, 38
- punitive, **2**, 78, 87; **10**, 205
- quasi-contract: *see* Quasi-contract reasonable, **9**, 162
- recalculation of, **3**, 57, 114, 250, 257, 262, 264, 265, 290
- reduction of, **5**, 220, 232, 234; **11**, 66-67
- relocation costs, **12**, 191-193
- rentals, **10**, 254, 258
- repair charges, **12**, 320-321
- repayment of loan, **13**, 21-27, 30-33
- restitution: *see* Restitution
- royalties, **2**, 340, 342
- salaries, **11**, 96-98; **12**, 16, 190-191
- salaries and allowances, **10**, 256, 343-345; **11**, 157-160, 166; **13**, 218-219
- services, **10**, 172, 284-288; **11**, 330-334; **12**, 168, 197-206
- set-off: *see* offset of *supra*
- stock dividend, **10**, 265 n.12
- supplies, **10**, 172, 255
- tax liability: *see* Taxes
- technical service fee, **13**, 219
- termination costs, **10**, 290; **11**, 160-163; **12**, 153-155, 176-197, 236-237; **13**, 189-190, 219-220, 305, 321-322, 338-339
- accomplishment fee, **12**, 197, 237-238
- cost of residual office, **12**, 194-196
- demobilization expenses, **11**, 336-340
- miscellaneous expenditure, **12**, 196
- repatriation expenses, **10**, 172-174, 256, 288-290; **11**, 176; **13**, 190, 216-218
- termination of apartment leases, **12**, 194
- trademark fees, **10**, 255-256
- travel expenses, **11**, 98-99
- unbilled items, **13**, 139-140
- unjust enrichment: *see* Unjust enrichment
- unjustified attachment, **4**, 277
- unpaid rental payments, **12**, 320
- unreleased deposit, **11**, 196
- value of goods, **10**, 254, 258
- waiver, **8**, 60-61; **12**, 167, 317; **13**, 185
- “warehouseman’s lien”, **8**, 278-280
- withheld dividends, **10**, 252, 257
- withheld taxes, **12**, 296
- work performed, **10**, 70-72; **11**, 101-103, 174-175, 190-192, 199-200, 268-270; **13**, 135-139, 267, 304
- as measure when damages inappropriate, **12**, 134
- work permits, **11**, 99
- wrongful call on bank guarantee, **11**, 196
- wrongful death, **2**, 82-86
- wrongful expulsion, **9**, 43-44
- Debt, **1**, 169-172, 185-188, 411-415, 442-448; **3**, 35, 53, 65, 72, 113, 114, 119, 169, 235, 246, 247, 249, 250; **4**, 221, 228, 231; **7**, 14, 15, 190, 191
- assignment of, **3**, 274, 275
- outstanding, date of becoming, **9**, 40
- waiver of, **5**, 373
- Decision—
- amendment to, **6**, 30-32
- basis of, to be stated, **5**, 129
- contradictory, **5**, 130
- credibility of, **5**, 267
- duty to comply with, **7**, 219
- enforcement of, **5**, 130
- grounds for setting aside, **5**, 128
- null compromise, **5**, 335; **6**, 271
- void, **5**, 336
- ab initio*, **5**, 335
- without prejudice, **5**, 72
- Declaration, *see also* Concurring opinion; Concurring and dissenting opinion; Dissenting opinion; Explanatory remarks and Separate opinion—
- Ameli, **13**, 40
- Bahrami, **13**, 192
- Declaration of the Government of Algeria Concerning the Settlement of Claims by the United

## INDEX

387

- States and Iran (1981): *see* Claims Settlement Declaration
- Declarations of Algiers: *see* Claims Settlement Declaration and General Declaration
- Default: *see* Time limits
- Defence: *see* Statement of defence
- Denial of justice, 1, 396-402; 3, 297
- Deprivation of property, 6, 225, 245, 256
- Diplomatic protection, 1, 465-467, 478-480; 2, 161-165, 180, 196-198, 200, 202, 204, 206, 208, 209, 224; 5, 260, 261, 263, 273, 274, 299, 302, 303, 324, 326, 331, 333, 334; 9, 255, 256; 10, 85
- Discontinuance: *see* Claims, withdrawal of
- Discount, 7, 197
- Discovery, 4, 28, 58, 94, 95
- Dispute settlement provisions: *see under* Jurisdiction of Tribunal, exclusion of claims
- Dissenting opinion, *see also* Concurring opinion; Concurring and dissenting opinion; Declaration; Explanatory remarks and Separate opinion—
- Aldrich, 1, 320, 396; 3, 380; 4, 279; 9, 356; 12, 64
- Ameli, 8, 403; 9, 187 n.1; 10, 110; 13, 45, 351
- Ansari, 5, 193, 275; 8, 228; 10, 5; 12, 306 n.1; 13, 176
- Bahrami, 9, 169-181; 10, 134; 11, 137, 300 n.1, 346; 12, 17, 299; 13, 167, 177
- Brower, 8, 284; 9, 410-413; 10, 224; 12, 64, 265; 13, 118
- Enayat, 1, 104
- Holtzmann, 1, 129, 167, 174, 178, 284, 320, 396; 2, 33, 35, 81, 254; 3, 17, 66, 78, 84, 87, 316, 358, 380; 4, 12, 63, 65, 72, 206; 5, 141; 9, 187 n.2; 10, 219, 259, 351; 11, 250; 12, 64, 356; 13, 345
- Kashani, 1, 104, 241, 250, 463; 2, 317; 5, 1, 85, 115, 121, 275; 7, 119
- Lagergren, 1, 197, 241, 250; 5, 348
- Mosk, 1, 119, 158, 230, 232, 305, 320, 396; 2, 139, 146; 3, 40, 41, 76, 77, 209, 318, 374, 377-380; 4, 3, 4, 28, 58, 76, 80, 93, 229; 5, 181, 242, 374; 7, 48; 8, 134; 10, 103
- Mostafavi, 8, 336; 9, 204 n.1, 377-396; 10, 16, 85, 108, 328, 348; 12, 38, 108, 324; 13, 177, 193 n.1, 310
- Sani, 1, 177, 241, 250; 2, 14, 317; 4, 237
- Shafeiei, 1, 104, 241, 250; 2, 1, 178, 284, 317, 327, 345; 3, 297; 5, 275
- Dollar Account No. 1, 8, 198; 12, 40-93
- Dollar Account No. 2, 5, 67-69, 8, 197-203, 203-206; 12, 51, 54-63; 13, 95
- Domestic International Sales Corporation, character of, 7, 186, 187, 200, 205
- Drafts: *see* Negotiable instruments
- Dual nationality: *see under* Nationality
- Due process, denial of, 3, 365
- Dutch Code of Civil Procedure: *see under* Netherlands, law of
- Earnest money, 5, 359, 360
- Eiusdem generis*, 2, 79, 86, 87; 5, 3
- Election of remedies, 4, 233, 235, 236
- Embassy, competence of, 5, 241
- Enforcement: *see under* Settlement and Time limits
- England, law of: *see* United Kingdom, law of
- Equality: *see* Sovereign equality of States
- Equity, 6, 169, 170, 274, 294; 8, 105, 262-3; 9, 4-5, 197, 199, 332, 402; 10, 173, 240; 11, 41, 111; 12, 197; 13, 119-121
- Escrow Agreement (1981), 1, 189-214; 8, 209
- Paragraph 2, 1, 147
- Paragraph 3, 1, 147
- Paragraph 4, 1, 147, 148, 206, 209, 211, 212, 214; 12, 44, 60, 84
- Paragraph 5, 1, 192
- purpose of, 12, 61
- Technical Clarifications, 12, 56-57, 60, 75-76
- Estoppel, 1, 287, 315 n.15, 318, 375, 376; 2, 149 n.3; 3, 26, 27, 30, 261; 4, 112 n.3, 113, 235; 5, 247, 248, 271, 274; 6, 50, 51; 7, 47, 103, 135, 143, 162, 201; 9, 100; 10, 287; 11, 229, 236; 12, 104,

- 150-151, 174-175, 208-209, 228, 378; **13**, 33, 229, 253, 339
- European Community, **13**, 91-92
- European Convention on International Commercial Arbitration (1961)—
- Article V, paragraph 3, **1**, 292 n.24
- European Court of Human Rights, **8**, 419, 449; **10**, 251, 267
- Evidence, **1**, 155, 215, 226-229, 260, 306, 318, 334-336, 340, 341, 369 n.8, 420, 421, 455-482; **2**, 107, 108, 113, 115, 139; **10**, 87-89, 348-350; *see also* Procedure and Proof, burden of
- absence of, **8**, 202; **9**, 125, 166, 217, 230; **10**, 285; **11**, 18, 130, 156, 160, 175, 177, 178, 205, 295, 327, 333; **12**, 136, 137, 167, 219-220, 223, 224, 226, 351, 352; **13**, 154
  - absence of challenge, **8**, 261-262; **9**, 20, 21, 126, 198, 218
  - adequacy of, **12**, 132-133
  - admissibility, **2**, 121-123; **3**, 67, 68 n.1, 164, 350; **4**, 70, 78, 245; **7**, 70
  - affidavits, **1**, 202, 423, 462, 463, 503; **3**, 247; **5**, 245; **9**, 21
  - authenticity of documents, **2**, 33-37, 118-121; **3**, 206; **4**, 80; **6**, 71; **8**, 107-118
  - availability to other parties, **3**, 350
  - conflicting, **6**, 280
  - contradictory statements, **3**, 26, 69 n.1, 249, 358, 359; **5**, 240
  - contra proferentem*, **1**, 214
  - credibility of, **6**, 200
  - documents, unexplained, **3**, 251
  - duty to consider, **5**, 196
  - duty to submit, **3**, 66, 69-71; **4**, 58; **9**, 110-111
  - evaluation of, **2**, 25, 112, 115, 121, 122, 139, 140; **3**, 381; **4**, 60, 107-109, 119, 120, 245; **11**, 276, 277; **13**, 58
  - exclusion of, **13**, 70-71
  - expert testimony, **1**, 202, 423, 462; **2**, 70-75, 119, 122 n.1; **3**, 165-167; **4**, 60, 119, 120, 261; **8**, 272 n.45; **11**, 5, 111-135, 264-266; **13**, 351, 354
  - need for adversary proceeding, **9**, 34
- opportunity for parties to comment, **9**, 35
- Tribunal's obligations in respect of, **11**, 141-142
- failure to submit, **2**, 115, 152, 153, 300, 304, 355; **3**, 16-18, 20 n.2, 21, 22, 24, 27, 53, 65, 66, 70, 71, 115, 205, 206, 247-249, 252, 382 n.2; **4**, 70, 78, 79, 110, 225, 255, 261; **5**, 23, 33-36, 111, 226, 240, 245, 380, 383, 394; **6**, 65, 92, 96, 127, 145, 173, 178, 212, 282; **7**, 14, 15, 28, 68, 70, 79, 80, 110, 116, 128, 129; **8**, 52; **9**, 29, 37, 40-41, 41-42, 95, 180, 198 n.13, 227; **10**, 175; **11**, 18, 19, 26, 58, 71, 181, 342; **12**, 209, 227; **13**, 189, 266, 269, 302, 322
- hearsay, **3**, 68 n.1; **12**, 371-372
- inconsistent, **6**, 71
- inference, **2**, 11, 33, 115, 121, 142, 297-300, 355, 384; **3**, 21, 22, 69, 82; **4**, 81, 100, 223, 261; **5**, 245; **6**, 17, 18, 80, 145; **7**, 75, 104, 109
- insufficient, **8**, 163-174; **9**, 44, 58, 343, 403; **10**, 49, 50, 53, 54; **11**, 88-89; **12**, 16, 315, 316; **13**, 28-29, 33, 144, 189-190, 197, 214, 216, 217, 267, 307, 342
- interpretation of, **2**, 17
- judicial notice, **1**, 459, 460, 480, 481; **2**, 122 n.1, 300; **5**, 244 n.1
- late submission, **10**, 101, 106, 128; **11**, 304-305; **13**, 131
- law governing, **11**, 279-280
- post-hearing submission: *see under* Procedure
- presumption, **1**, 480; **5**, 196; **6**, 173, 231
- prima facie*: *see under* Proof, burden of
- relevance, **3**, 252, 381; **4**, 95 n.3
- return of, **4**, 60
- standard of in arbitral proceedings, **10**, 34
- subsequent events may cast light, **10**, 263 n.9
- tape-recorded, **8**, 38
- translation of, **1**, 234, 326, 336-338, 341, 484; **2**, 139 n.4, 368; **9**, 31-35; **13**, 54
- unchallenged, **12**, 168
- uncontroverted, **10**, 255; **12**, 295

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

389

- validity of, **12**, 380  
 weight of, **3**, 66, 68 n.1, 71, 72, 381; **4**, 80, 119, 120, 245, 261; **5**, 23, 231, 375, 376; **6**, 207; **7**, 80  
 witnesses, **2**, 115, 119, 153  
 —credibility of, **3**, 23, 24, 68
- Evidence of—  
 acceptance of services, **9**, 40  
 agency, **1**, 357, 358, 378-380; **2**, 11, 325, 326; **9**, 57, 343-344; **13**, 111  
 amendment of contract, **12**, 102-103  
 amendment of Settlement Agreement, **9**, 62  
 amounts claimed, **13**, 27  
 approval of plans, **9**, 335  
 bribery, **12**, 270-272, 314-315  
 capital transfer, **3**, 15, 16  
 continuity of ownership, **11**, 7  
 contract, **1**, 413, 414; **3**, 48, 162, 231, 289; **5**, 43; **6**, 193, 292; **7**, 13; **8**, 160-161; **10**, 26-33; **11**, 56-57; **12**, 102; **13**, 112-113, 138-139  
 —breach of, **13**, 22-25  
 —letter of credit as, **13**, 111-112  
 —notice under, **13**, 25-27  
 —oral evidence, **9**, 368-371, 382-387; **11**, 237  
 —ratification of, **2**, 145, 146; **3**, 163, 164  
 contractor relationship, **13**, 121-122  
 contractual practice, **13**, 305-306  
 control of corporation, **1**, 359-361; **7**; **6**; **11**, 312-313  
 controlled entity, **1**, 413, 419-421; **2**, 150-152, 302; **3**, 47, 160, 230, 231, 286; **5**, 135, 242-245; **6**, 59; **7**, **10**; **8**, 155; **9**, 400; **10**, 167; **11**, 215; **12**, 373-375  
 costs, **4**, 81; **10**, 34  
 —absence of, **9**, 60, 133, 242; **10**, 102  
 custom and usage, **6**, 97  
 damages, **2**, 384, 388-390; **3**, 56, 57, 164, 231, 233, 234, 250; **4**, 269, 271; **6**, 172, 173, 205, 213, 214  
 excess freight charges, **2**, 11, 12, 25  
 expropriation, **1**, 420, 428 n.6, 504-507; **4**, 105, 154, 167-169, 222, 223; **6**, 164-166, 238, 240; **10**, 303; **11**, 178, 221-222; **12**, 345-351; **13**, 302, 337-338
- Iran's exclusive jurisdiction, **5**, 116  
 mitigation of damages, **3**, 56, 294  
 nationality of claim, **1**, 389, 455-482; **2**, 396; **5**, 22; **11**, 151, 188-189  
 nationality of corporation, **1**, 223, 224, 334, 335, 384, 385, 418, 427, 428, 455-482, 503; **2**, 9, 16, 17, 22, 31-34, 297, 298, 377, 378, 395; **3**, 1, 2, 46, 47, 103, 113, 205 n.2, 245, 272; **4**, 141, 142, 216, 217, 273; **5**, 22, 23, 209, 237, 343; **6**, 127; **7**, 27-29, 65, 66, 97; **8**, 234; **9**, 13-15, 87-88, 116, 252-253, 292; **10**, 23-24, 60-61, 278-279; **11**, 7, 212, 227, 274-276, 277-282; **12**, 132, 142, 149, 161, 251, 290; **13**, 180, 202, 336  
 —absence of challenge, **8**, 262  
 nationality of person, **2**; **81**; **3**, 23 n.1; **9**, 14-15, 353-355, 356; **12**, 6; **13**, 300  
 nature of loan, **13**, 31-32, 86-88  
 ownership, **9**, 233; **13**, 320  
 payment, **8**, 19; **12**, 296-297  
 proper respondent, **9**, 323-324  
 request for transfer of funds, **10**, 100, 104-106, 342; **13**, 346-349  
 satisfactory performance, **9**, 221, 375, 403; **11**, 62-67, 198, 199, 204, 247; **12**, 105, 150-151, 294-295; **13**, 136-137, 303  
 service of notice, **13**, 64-67  
 shipment, **10**, 216-217, 221; **13**, 114  
 subcontractor relationship, **3**, 273  
 succession, **1**, 360-363, 373-375  
 sums expended, **13**, 267  
 taxes due, **3**, 107, 236  
 undertaking to refund unincurred costs, **12**, 225  
 valuation, **12**, 14  
 value of nationalized company, **4**, 106-109, 118-120, 157  
 waiver of contractual entitlement, **9**, 162; **11**, 233-238, 250-254, 330-331, 345-346  
 Exchange rates, *see* Currency  
 Exclusive jurisdiction: *see* Counter-claim, jurisdiction of Tribunal and Forum selection clause, jurisdiction of Tribunal  
*Ex malo ius non oritur*, **8**, 444-447  
 Experts, *see also under* Evidence—

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

390

## INDEX

- appointment of, 1, 235, 390; 2, 71-75, 355; 3, 107, 164, 167; 4, 91-95, 157; 5, 185; 8, 272 n.45, 276 n.51; 13, 16, 40, 142, 149-150, 175  
 —not in proportion to resultant delays, 12, 228  
 —prerequisites for, 4, 94  
 necessity for, 6, 267, 269  
 payment of, 2, 75-77; 3, 166, 167; 4, 59, 92, 95, 158; 5, 186; 8, 41; 10, 21; 11, 136, 137  
 terms of reference for, 4, 95, 159, 173, 175-178; 6, 30-32; 7, 172-177  
 —amendment of, 6, 31  
 timetable, 10, 110-120  
 Tribunal's responsibility, 10, 117  
 Explanatory remarks, *see also*  
     Concurring opinion; Concurring and dissenting opinion;  
     Dissenting opinion and Separate opinion—  
 Ansari, 8, 30  
 Export license, 7, 213  
*Expressio unius est exclusio alterius*, 5, 268; 8, 264  
 Expropriation, 1, 287, 375 n.14, 387, 389, 422, 504-507; 2, 10, 18-22, 79, 86, 87, 151 n.2, 175-177, 207, 350; 3, 290; 4, 105-112, 115-118, 143, 154-156, 159, 162-179, 223; 5, 227, 371; 6, 164-168, 178, 189, 200-203, 206, 207, 209, 215 n.6, 216, 225, 231, 241, 250, 251, 256, 257, 260, 268; 7, 6, 7, 47, 48, 50, 51, 123, 125, 126, 129, 133, 134, 146, 152, 153-155, 164, 165, 168-170, 173, 256; 8, 380-384, 385-390, 391-403, 403-450; 9, 230-241, 266-283; 10, 130-131, 136, 170, 259-268, 302-304; 12, 7-16, 214-215, 346-351, 370-375; *see also* Damages and Deprivation of property and under Evidence of  
 by decision of court, 12, 318  
 coercion and duress, 4, 171  
 compensation rule, 2, 353, 354; 4, 105-109, 111, 112, 116-118, 155-157, 173-177, 223; 8, 378-380, 393-405; 9, 273  
 —currency, 8, 425-426  
 —customary international law,
- 10, 195-203, 267-268  
 —Hull doctrine, 8, 385-390  
 —interest, 8, 384, 402  
 —law of nationalizing State, 8, 415-419  
 —negotiated settlements not precedent, 8, 399-400; 10, 185, 196  
 —standard of compensation, 10, 132, 192-195; 12, 11-13  
 —valuation, 2, 354, 355; 4, 105-109, 111, 112, 116-118, 173-177; 7, 172-175, 177; 8, 380-383, 387-392; 10, 132-133, 268; 12, 12-16  
 constructive, 12, 261-264, 287 n.49  
 contract rights, 4, 163; 6, 237, 243, 250  
 control of corporation, 2, 176, 349, 351, 352; 7, 154, 159, 162; 9, 257  
 creeping, 10, 206  
 date of taking, 4, 156, 159, 164, 165, 171, 173; 9, 240-241, 246, 265 n.18, 278; 10, 249-250; 12, 11  
 decision reserved, 9, 42-43  
 denial of access to funds, 4, 172  
 effect on indirect claim, 9, 265  
 effective taking, 10, 131, 147-152; 12, 11  
 elements of, 6, 256; 9, 238-239, 275-279; 10, 261-262  
 —insurance company's assessment, 10, 264  
 formal act not required, 9, 224-227; 10, 259, 267  
 forced sale, 9, 240  
 intent of government, 6, 225, 256  
 interference with internal management, 6, 165, 166, 199, 201, 238, 240; 7, 162-167, 179 n.1, 180 n.1  
 interference with use or enjoyment of property, 6, 225; 10, 243-252; 12, 9, 319  
 involvement of government required, 9, 238-239; 12, 349  
 jurisdiction of Tribunal, 4, 101, 115; 5, 210; 6, 223  
 survival of rights and contract obligations, 6, 242  
 unlawful taking  
 —criteria, 10, 204-205  
 —effect on remedies, 10, 204-205

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

391

- unlimited responsibility, **6**, 265
- Expulsion**—  
  criteria for wrongful, **9**, 16-18  
  in cases involving claims less than \$250,000, **9**, 18 n.8
- Faute quasi-delictuelle*, **3**, 30
- Filing of claims, *see also* Time limits—  
  meaning of, **1**, 127, 128, 130, 132, 226, 228
- FOB (free on board), **7**, 103
- Force majeure*, **1**, 387, 452; **2**, 69, 103, 106, 116, 310, 369, 386, 388, 389; **3**, 52, 106, 152-154, 231; **4**, 13, 161, 165, 174, 179, 253 n.2, 259 n.5; **5**, 210; **7**, 13, 15, 110; **8**, 306-310, 312; **9**, 22-26, 27, 116-125, 149-150, 157-160, 171-174, 196, 201, 294-298; **10**, 74-75, 82, 173, 174, 289; **11**, 126, 149, 338-339; **12**, 103-106, 112-115, 119, 120-125, 184-186, 205, 210-211, 235, 237; **13**, 92, 133-134, 142, 143, 147, 150, 153-154, 211-216, 245-250, 363
- continuing obligations, **9**, 298; **12**, 205, 211
- contractual provision, **13**, 211-212, 246-248
- liability for: *see* Attribution
- Foreign exchange controls, **2**, 219, 220, 221, 239, 245, 340; **3**, 13, 32, 68 n.2; **5**, 376 n.1, 380, 381; **6**, 167, 178, 208-211; **7**, 44-53; **10**, 106-107, 298-302; *see also* International Monetary Fund Agreement
- capital transfers, **3**, 13, 15-18, 28 n.1, 29; **7**, 45, 46, 51, 52
- current transactions, **7**, 45, 46, 51, 52
- effect on contract, **3**, 13, 14, 16, 18, 27-29
- in violation of treaty, **5**, 381, 383; **7**, 51, 53
- justification of, **5**, 382
- validity of, **3**, 13, 28, 29, 32; **5**, 383; **7**, 49, 50, 52
- Form of award: *see under* Settlement
- Forum non conveniens*, **7**, 137; **8**, 266
- Forum selection clause—  
  jurisdiction of Tribunal, **1**, 236-319, 490, 491, 496, 497; **2**, 4, 5, 54, 55, 66, 67, 105, 106, 138,
- 370, 378, 396; **3**, 61, 98, 99, 104, 113, 161, 198, 199, 246, 260, 321-325, 335, 384, 386, 387, 388 n.2; **4**, 7, 8, 55, 143, 181, 220, 225, 230; **5**, 115-117, 119, 120, 126, 127, 130, 171, 180-184, 191-197, 210, 365, 388, 389; **6**, 5, 80-82, 93, 109, 112, 113, 115-117, 221, 222, 236, 250, 251, 255, 263, 268, 270; **7**, 33-35, 188, 218, 219; **8**, 3 n.2, 51-52, 220-225, 228-231, 264-265, 306-307, 405-407; **9**, 31-35, 88, 115-116, 156, 170-171, 211, 293, 333; **10**, 44-45, 242-243, 277-278; **11**, 7, 35-37, 45-47, 151, 170-171, 197; **12**, 100-101, 142-143, 149-150; **13**, 21, 44, 180-182, 192, 225
- separability, **1**, 292, 308, 309; **8**, 432; **9**, 170-171
- whether binding, **1**, 241, 245-247, 251, 254-257, 263-267, 270, 276, 277, 285-297, 302, 305-315; **3**, 160, 198; **5**, 120
- whether reference to Iranian courts may be implied, **9**, 216-217
- Forum shopping, **12**, 285
- France, law of, **5**, 19; **7**, 166
- Civil Code  
  —Article 524, **7**, 175 n.1  
  —Article 1131, **11**, 356  
  —Article 1135, **1**, 108  
  —Article 1156, **1**, 108  
  —Article 1157, **1**, 107 n.1  
  —Article 1162, **1**, 213 n.7, 214 n.8  
  —Article 1184, **8**, 165  
  —Article 1315, **1**, 209  
  —Articles 1372-1375, **7**, 164 n.1
- Code of Civil Procedure  
  —Article 384, **1**, 233  
  —Article 385, **1**, 233  
  —Article 394, **1**, 233  
  —Article 395, **1**, 233
- Fraud, **3**, 30; **7**, 25
- Full Tribunal: *see* Tribunal
- General Assembly Resolutions—  
  as source of law, **8**, 408-413  
  Resolution 2625 (XXVIII), **8**, 445  
  Resolution 3171 (XXVIII), **8**, 445
- General Declaration—  
  distinguished, **5**, 284

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

392

## INDEX

- equitable claims not excluded, **8**, 263
- General Principle A, **5**, 61, 130; **12**, 45-52, 62, 64-73, 87, 89-93  
—requirement to negotiate, **12**, 62-63
- General Principle B, **1**, 101, 103, 105, 106, 108, 293, 294, 309, 310, 386, 399; **2**, 53, 55, 56, 61, 62, 97, 160, 401; **3**, 304, 305, 307, 310-313, 315; **4**, 115 n.2, 142; **5**, 61, 153, 154, 268, 271, 284, 295, 343; **6**, 45; **7**, 122; **8**, 263, 295; **9**, 137, 255; **12**, 67-70, 274-275, 322; **13**, 223, 225
- General Principles A and B, **8**, 211
- interpretation of: *see* Jurisdiction of Tribunal, interpretation of Declarations
- Paragraph 1, **5**, 14
- Paragraph 2, **2**, 147 n.1, 209; **12**, 50
- Paragraph 3, **12**, 49-50
- Paragraph 4, **1**, 208; **5**, 61; **12**, 64 n.4
- Paragraphs 4-9, **12**, 48, 70-71, 73 n.14
- Paragraph 5, **1**, 208; **5**, 61-68, 206; **12**, 64 n.4
- Paragraph 6, **1**, 146, 203, 208; **5**, 61, 68; **8**, 206; **12**, 50, 55, 64 n.4, 71 n.12
- Paragraph 7, **1**, 124, 136, 141, 146, 157, 161, 164, 172, 182, 188, 190, 199-201, 203, 205, 206, 208, 210, 211, 213, 217, 221, 328, 331, 343, 346, 404, 407, 410, 415, 427, 448; **2**, 13, 45, 91, 114, 127, 133, 147 n.1, 169, 229, 231, 240, 262, 269, 270, 278-280, 292, 306, 307, 333, 342, 349, 359, 365, 367, 386, 400; **3**, 35, 37, 54, 74, 79, 92, 108, 117, 120, 142, 170, 177, 182, 187, 192, 207, 213, 219, 236, 254, 268, 276, 291, 327, 340, 352, 368, 369, 391; **4**, 21, 22, 29, 30, 34, 35, 40, 48, 84, 86, 110, 184, 185, 193, 198, 200, 202, 206, 207, 229, 271, 281; **5**, 61, 69, 77, 81, 89, 149, 151, 230, 250, 355, 374; **6**, 2, 5, 19, 21, 34, 35, 39, 64, 66, 119, 121, 124, 132, 148, 175; **7**, 7, 16, 22, 24, 88, 117, 118, 198, 210, 221, 224, 228, 236, 242, 245, 248, 251, 253, 259, 263, 264, 270; **8**, 3, 14, 16, 43, 62, 74, 80, 84, 98, 178, 188, 215, 237, 279, 328, 354, 361, 384, 425; **9**, 8, 45, 60, 63, 71, 137, 168, 186, 200, 243, 301, 307, 309, 312, 339, 348, 358, 377; **10**, 55, 81, 134, 176, 258, 318, 328, 347, 358, 361, 363, 365, 366; **11**, 30, 34-35, 69, 75, 137, 165, 179, 208, 250, 267, 345, 365; **12**, 17, 38, 50, 55, 64 n.4, 71, 77, 107, 138, 159, 169, 233, 285, 298, 324, 389, 392; **13**, 39, 40, 43, 45, 118, 146, 191, 276, 310, 345, 361
- Paragraph 8, **1**, 208; **5**, 61; **12**, 65 n.4
- Paragraph 9, **1**, 208; **5**, 61; **12**, 50, 65 n.4
- Paragraph 10, **2**, 208
- Paragraph 11, **1**, 136, 305, 490, 496; **2**, 39, 40, 79, 88, 109, 110, 120 n.1, 208; **5**, 47, 268; **7**, 153, 276; **8**, 27, 432; **9**, 195, 201 n.2; **10**, 144, 168
- Paragraph 16, **2**, 313, 315, 318, 320; **13**, 177
- Paragraph 17, **1**, 102, 117, 190; **2**, 59, 313, 315, 318, 320; **5**, 58, 61, 112, 204, 209, 210; **12**, 43-45, 60, 66, 82
- Point IV, **8**, 269 n.42
- whether constitutes a Treaty, **5**, 259
- General principles of—  
accounting, **6**, 244, 251, 269  
adjudication, **7**, 125, 126  
commercial arbitration, **6**, 135  
commercial law, **5**, 233, 394; **6**, 98; **11**, 30; **13**, 239  
constitutional law, **1**, 423  
contract law, **7**, 192  
equity, **1**, 130, 133, 232, 233; **2**, 80, 237, 254; **3**, 58, 279; **4**, 259, 268; **5**, 248, 293; **6**, 294; **11**, 41  
evidence, **13**, 71-72  
fairness, **3**, 30  
international arbitration practice, **11**, 274  
international law, **1**, 109, 114, 180, 207, 212, 213, 232, 233, 289, 290-292, 294, 361, 374, 376, 377 n.15, 402, 450, 458, 464, 475, 476, 478, 482; **2**, 54, 59-61, 80-

## INDEX

393

- 85, 194, 195, 201, 205, 207, 210, 212, 213, 223, 225, 255, 257, 353, 354, 358; **3**, 58, 69-71, 298, 312, 313, 316 n.3; **4**, 105, 114, 155, 162, 165, 167, 172, 175, 177, 247; **5**, 3, 11, 20, 21, 48, 95, 99, 227, 233, 260, 265, 269, 270, 277, 281, 283, 286, 289, 290, 292-294, 300-304, 310, 313, 321, 322, 325, 331-335, 341, 346, 371; **6**, 98, 201 n.1, 209, 225, 228, 243, 251, 257, 265, 270; **7**, 51 n.3, 52, 130, 135, 153, 159, 173, 191, 192; **8**, 393-403; **10**, 155; **11**, 30; **12**, 273; **13**, 239  
—implementation of, **10**, 149  
—Vienna Convention on the Law of Treaties, codification, **12**, 61  
judicial procedure, **5**, 36  
jurisprudence, **5**, 11, 37, 40, 46, 49  
justice, **1**, 114, 158, 374, 375, 396, 400; **2**, 320, 329, 330, 356; **3**, 32, 54, 298, 302, 362; **4**, 268; **6**, 294  
law, **1**, 209, 212, 232, 233, 361, 362, 374, 415, 416, 420, 421, 464, 475; **2**, 14, 154 n.1, 185, 186, 237, 380, 397; **3**, 32, 54, 58, 66, 278, 293, 307; **4**, 221, 231, 242, 261, 268, 270; **5**, 18, 41, 42, 129, 233, 248, 261, 293, 294, 373, 398; **6**, 90, 97, 98, 168, 225, 269, 271; **7**, 75, 120, 121, 131, 158, 163, 197; **8**, 140, 161, 162, 427; **9**, 122, 176, 402; **10**, 308; **11**, 32; **13**, 33, 211  
municipal law, **5**, 3, 21, 48, 261; **6**, 228, 243; **7**, 130; **10**, 143; **11**, 139  
private international law, **2**, 185, 186, 205; **3**, 47; **5**, 292, 325  
synthesis of civil and common law, **13**, 59  
trusteeship, **6**, 293  
Germany, Federal Republic of—  
Constitutional Court of, **7**, 168  
law of, **7**, 167  
—Civil Code, **8**, 141  
—Rules of Civil Procedure, **8**, 134  
*Gestion d'affaire*, **7**, 164  
Good faith, **1**, 109, 206, 376, 378; **2**, 209, 223; **3**, 308; **5**, 26, 273, 277, 290; **6**, 209, 251, 270, 295; **7**, 159, 160, 178, 215; **8**, 141; **11**, 11  
Governing law, **7**, 99, 109, 115 n.1; **10**, 239, 277; **12**, 143; *see also* Applicable law  
Guarantee, **5**, 241  
Guarantor, **7**, 115  
  
Hague Convention on—  
Choice of Court (1964)  
—Article 5, **1**, 269  
Conflict of Nationality Laws (1930), **2**, 181, 196; **5**, 260, 262, 265, 266, 291  
—Article 1, **2**, 161, 224; **5**, 260, 302  
—Article 2, **5**, 302  
—Article 3, **5**, 302  
—Article 4, **2**, 161, 162, 164, 189, 195-199, 201, 202, 205, 207, 214, 223, 224; **5**, 260, 261, 299, 300-304, 322, 323, 325-327, 331  
—Article 5, **2**, 162, 189, 195, 198, 199, 203, 205; **5**, 262, 299, 322, 325, 326  
Law Applicable to Trusts and Their Recognition, **12**, 274  
Pacific Settlement of International Disputes (1907), **5**, 293  
Hardship, **1**, 127, 128, 130, 132, 133, 175, 399, 400; **3**, 209, 375  
Hearing, postponement of: *see* Postponement of hearing  
Holder in due course, **7**, 99, 100, 102  
Husbands, value of, **2**, 81-86  
  
Immovable property: *see* Real estate  
*In jure, non remota causa, sed proxima spectatur*, **11**, 48  
Indemnity, **13**, 120  
Institute of International Law, **2**, 162, 163, 187, 199; **5**, 326, 328, 335  
Resolution of 10 September 1965, **2**, 196, 197, 200-202, 204, 207, 208, 214, 223; **5**, 266, 301, 303, 322, 324, 328, 331, 333  
Interest: *see under* Damages  
Interim measures—  
attachment of goods, withdrawal of, **3**, 7  
certificate of insurance, **8**, 281  
conservation of goods, **3**, 173-175, 331; **5**, 128; **8**, 46, 275-282; **13**, 257-258  
conservation of rights of parties, **6**

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. MacGlashan

Index

[More information](#)

394

## INDEX

- 50; **8**, 46, 77, 227; **9**, 304; **13**, 258  
 expert's expenses, **8**, 46-48  
 expiry of, **11**, 246  
 export licence, **13**, 259-260  
 full relief not admissible, **8**, 46  
 inapplicable, **8**, 182  
 indemnity against third party vendor claims, **8**, 280-281  
 inherent power of international tribunal, **8**, 275 n.49  
 International Court of Justice and, **8**, 7 n.4; **13**, 258  
 irreparable prejudice, **8**, 7, 276 n.50  
 justification for, **5**, 113; **6**, 51; **8**, 6-7, 109  
 legal standards for granting, **6**, 134, 135  
 obligation to comply, **8**, 78, 87, 227  
 payment of fees, **1**, 154  
*prima facie* evidence of jurisdiction required, **8**, 220  
 protection of property, **5**, 112-114, 131-133  
 re-exportation of goods, **1**, 121  
 rendered inapplicable, **8**, 64  
 restraint of misuse of trademark, **1**, 122  
 return of goods, **13**, 173-175  
 revision, **8**, 48  
 stay of attachment, **6**, 131-133, 140  
 stay of proceedings, **1**, 222, 225; **2**, 55-67, 98, 99, 281, 282, 311, 363, 371, 402; **3**, 8, 9, 60, 61, 201, 336, 349, 385-388; **4**, 7, 8, 12-14, 17, 55, 72, 73; **5**, 121, 126-128, 130, 154; **6**, 46-51, 108-111, 115-117; **7**, 219, 277, 278; **8**, 3 n.2, 5, 78, 85-88, 225-227, 232-234; **9**, 304; **11**, 297-299; **13**, 194-198  
 storage costs, **13**, 259  
 substantive jurisdiction, in advance of decision on, **6**, 131, **8**, 45, 77  
 to avoid aggravation of dispute, **8**, 277  
 withdrawal of bank guarantee, **13**, 197-198  
 International Chamber of Commerce, **2**, 401, 402; **5**, 388; **6**, 130, 138; **13**, 52 n.8  
 Court of Arbitration, **6**, 135, 137  
 Internal Rules of the Court of Arbitration, Rule 2(2), **1**, 449 n.2  
 Rules of Conciliation and Arbitration, **1**, 278  
 Rules of the Court of Arbitration —Article 6, **1**, 130  
 Uniform Customs and Practice for Documentary Credits, **1**, 170; **5**, 28, 29, 39, 46  
 —Article 3, **5**, 28  
 —Article 11, **1**, 170  
 —Article 47, **7**, 22  
 Uniform Rules for the Collection of Commercial Papers (1967), **1**, 443  
 —Article 4, **1**, 446, 447  
 —Article 6, **1**, 446, 447  
 —Article 12, **1**, 447  
 International Court of Justice, **1**, 104, 110 n.5, 290, 293, 307, 308, 313, 374, 402, 449 n.2, 450, 457, 458, 466, 467, 475; **2**, 61, 84, 88, 162, 163, 189, 196, 202-204, 208, 210, 214, 223, 245, 253, 257, 258 n.1, 299, 352, 353, 355; **3**, 20, 28, 32 n.1, 210, 295, 298, 299 n.1, 302, 305 n.1, 310 n.2, 311 n.4, 376; **4**, 113, 114, 116 n.1, 173, 174; **5**, 20, 21, 113, 263, 266, 288, 309, 322-324, 329, 331-333; **6**, 108, 131, 134, 135, 211; **7**, 51 n.3, 122, 133, 135 n.1, 151, 152, 203; **8**, 213 n.21, 405, 434, 449; **9**, 353; **10**, 132 n.7, 143, 185, 191; **11**, 144; **12**, 366  
 Statute of  
 —Article 37, **5**, 274  
 —Article 38, **8**, 407-408  
 —Article 54(3), **1**, 424  
 —Article 62, **3**, 298  
 —Article 75, **5**, 114; **6**, 46  
 —Article 89, **1**, 233  
 International Law Commission, **2**, 206  
 Draft Articles on State Responsibility, **9**, 238  
 International law: *see* General principles of; international law; Customary international law; Customary international practice and Sources of international law  
 International Monetary Fund, **2**, 220; **3**, 12 n.1, 13, 14; **5**, 376 n.1, 382, 383; **6**, 178, 211; **7**, 52, 73; **10**, 353 n.4  
 Agreement, **3**, 14, 16, 18, 19, 28, 29; **5**, 381, 383; **6**, 178 n.1, 208,

## INDEX

395

- 210; **7**, 40, 51; **10**, 106  
 —Article VI, 2, 221; **3**, 13, 15, 29;  
 7, 44-46, 51  
 —Article VII, **3**, 13 n.1; **7**, 45  
 —Article VIII, **2**, 220, 221; **3**, 13,  
 14, 16, 27-30, 32; **5**, 383; **6**,  
 210, 211; **7**, 44  
 —Article XIV, **3**, 13 n.1, 14; **6**,  
 210; **7**, 44, 45 n.1  
 —Article XIX, **5**, 383 n.1; **7**, 45,  
 46, 51, 52  
 —Article XXX, **3**, 29 n.1; **6**, 211  
 —violation of, **5**, 383
- International responsibility, extension of, **6**, 168
- International tribunals—  
 American-British Claims Commission, 1, 132  
 Aminoil Arbitration, **12**, 187 n.7, 234  
 Anglo-German Commission, **5**, 308, 318  
 Anglo-Greek Commission of Arbitration, 1, 202  
 Anglo-Italian Conciliation Commission (1952), **3**, 70  
 Anglo-Mexican Arbitral Commission, **2**, 194  
 Arbitral Commission against the German Government, **5**, 298  
 Arbitral Commission on Property, Rights and Interests in Germany (1957), **2**, 59  
 —Rules of procedure, 1, 233  
 British-American Civil War Commission (1872), **2**, 181, 190; **5**, 305  
 British-Mexican Commission, **2**, 187, 188; **5**, 302, 308, 309; **9**, 331  
 British-U.S. Claims Commission, **5**, 309 n.1  
 British-Venezuelan Commission, **5**, 307, 313  
 Central American Court of Justice, **5**, 298  
 European Commission of Human Rights, **5**, 262 n.1  
 European Court of Human Rights, **5**, 298  
 Franco-German Mixed Arbitral Tribunal, **2**, 148; **3**, 70  
 Franco-Italian Conciliation Commission (1948), **2**, 60; **5**, 263, 310; **12**, 318
- French-German Commission, **5**, 308, 319  
 French-Mexican Claims Commission (1928), **2**, 188; **3**, 210, 294; **5**, 316  
 French-Turkish Commission, **5**, 319, 320  
 French-U.S. Commission, **5**, 309 n.1  
 French-Venezuelan Mixed Commission (1902-1905), **2**, 184; **5**, 307  
 German-Mexican Claims Commission, **5**, 349  
 German-Polish Mixed Arbitral Tribunal, **10**, 251  
 Great Britain/Spain, Spanish Moroccan Claim, **9**, 331  
 Greco-Bulgarian Commission, **5**, 308, 319  
 Greco-Bulgarian Mixed Arbitral Tribunal, **3**, 311  
 Hungarian/Serbo-Croatian-Slovene Commission, **5**, 308  
 Hungaro-Belgian Mixed Arbitral Tribunal, **6**, 214  
 International Chamber of Commerce: *see* International Chamber of Commerce  
 International Court of Justice: *see* International Court of Justice  
 Italian-U.S. Conciliation Commissions, **2**, 163, 189, 197; **5**, 263, 300, 303, 310, 321, 322, 324, 325, 327  
 Italian-Venezuelan Commission, **5**, 307, 315  
 London Court of Arbitration  
 —International Arbitration Rules, 1, 130  
 Mexican Arbitral Commissions, **2**, 194  
 Mexican Claims Commissions, **1**, 158, 180, 401, 402, 457, 475; **2**, 82, 83, 301; **3**, 70, 376; **7**, 204  
 Mexican-U.S. Claims Commission, **5**, 309 n.1; **6**, 165, 257  
 Mixed arbitral tribunals, **2**, 163, 185, 189, 191, 194, 209, 214; **5**, 298, 308, 318, 321  
 Mixed Claims Commission, **2**, 187; **5**, 306, 308  
 Mixed United States/Colombia Commission, **7**, 135 n.2

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

396

## INDEX

- Permanent Court of Arbitration, **1**, 117, 509-511, 513, 518; **2**, 64 n.2, 184, 190; **3**, 70; **5**, 307, 332; **7**, 135 n.2; **10**, 197
- Permanent Court of International Justice: *see* Permanent Court of International Justice
- Tripartite Claims Commission (U.S., Austria, Hungary, 1928), **5**, 307
- Upper Silesian Arbitral Tribunal, **5**, 272
- U.S.-France Arbitral Tribunal, **2**, 257
- U.S.-Italian Conciliation Commission (1958), **5**, 272
- U.S.-Peru Arbitral Commission, **6**, 169
- U.S.-Venezuelan Mixed Claims Commission, **2**, 184, 215; **5**, 306, 317
- Venezuelan Arbitral Commissions (1903-1905), **2**, 162, 182, 189, 190; **3**, 70, 311 n.1; **5**, 307
- International tribunals, practice of, **3**, 14, 20, 28, 31, 32, 66, 70, 85, 249, 287, 298, 302; **4**, 237; **5**, 129, 287, 293, 297, 298, 304, 331, 346, 351; **7**, 135; **10**, 149, 185; **11**, 27-30, 32, 43, 50; **12**, 275-277; **13**, 58-59
- Iran**—  
 claims against U.S. nationals, **1**, 101-110, 475; **4**, 75; **8**, 364, 366, 368  
 controlled entity: *see* Controlled entity, Iran  
 duties under international law, **6**, 111; **9**, 151-152  
 duty to secure stay of proceedings, **6**, 111; **8**, 74-77  
 Foundation for the Oppressed, **9**, 88-96  
 liability for controlled entity, **2**, 114, 147 n.1 and **2**, 165, 258, 259; **4**, 72 n.4, 248, 249; **5**, 227, 368, 371; **6**, 66; **10**, 258, 303  
   —*proprio moto* measures, **5**, 371  
 misappropriation of assets, **6**, 252  
 responsibility for compliance with treaty obligations, **4**, 15  
 Workers' Councils, **5**, 369, 370, 379, 380  
*see also* Changed circumstances
- Iran, law of, **1**, 108, 266, 282, 291, 293, 294, 314, 315, 362, 374, 419-421, 489, 490, 495; **4**, 247; **5**, 126, 127, 333, 334, 367, 384; **6**, 160
- Act Governing the Issuance of Cheques (Tir, 2535), **3**, 19
- Act on Permission to Establish the Ports and Shipping Organization (1960), **5**, 3
- Administrative Regulations Pertaining to the Registration of Companies Act, **3**, 22
- agency, **1**, 266, 378-380; **2**, 23, 24
- Apartment Purchasers Bill (1980), **4**, 146, 152
- arbitration, **3**, 210, 295
- authorizing Claims Settlement Declaration, **6**, 236
- Banking and Monetary Law (1972), **7**, 44
- bankruptcy, **7**, 131, 132
- Banks Nationalization Law (1979), **4**, 151; **8**, 378
- Bill Concerning Provisional Appointment of Directors (1979), **2**, 150-152, 350
- Bill for Appointment of Temporary Managers (1979), **4**, 147, 153, 154; **7**, 162, 163, 165
- By-law Concerning Landed Property Ownership by Foreign Nationals (1949), **4**, 160; **6**, 183 n.1
- Civil Code, **5**, 147; **9**, 329  
   —Article 5, **1**, 249, 250; **5**, 182  
   —Article 9, **3**, 388; **4**, 114  
   —Article 10, **6**, 98  
   —Article 18, **7**, 175 n.1  
   —Article 138, **9**, 393 n.6  
   —Article 193, **3**, 163; **8**, 161  
   —Article 196, **6**, 72, 159, 160, 195 n.3, 196  
   —Article 198, **6**, 194  
   —Article 220, **6**, 99  
   —Article 223, **2**, 119  
   —Article 227, **9**, 119 n.11  
   —Article 230, **6**, 99  
   —Article 231, **1**, 375 n.13; **6**, 72, 159  
   —Article 239, **8**, 223  
   —Article 240, **8**, 223  
   —Article 247, **2**, 154, 380; **13**, 33  
   —Article 248, **2**, 154, 380; **13**, 33

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. MacGlashan

Index

[More information](#)

## INDEX

397

- Article 292, **2**, 116; **4**, 232; **8**, 157
- Article 301, **2**, 236
- Articles 301-306, **2**, 155; **4**, 231
- Article 303, **2**, 236, 237
- Article 306, **7**, 163
- Articles 328-331, **6**, 99 n.2
- Article 336, **4**, 231; **7**, 76; **9**, 402
- Articles 336-337, **2**, 155; **9**, 402; **12**, 375
- Article 377, **5**, 40
- Articles 416-421, **13**, 74-75
- Articles 571-606, **5**, 147; **9**, 327
- Article 575, **3**, 161
- Article 656, **1**, 379
- Article 658, **1**, 378; **6**, 194
- Article 662, **6**, 159, 160
- Article 684, **9**, 223, 224
- Article 744, **13**, 75
- Article 968, **1**, 378 n.16
- Article 976, **5**, 272 n.1
- Articles 976-991, **9**, 354
- Article 988, **5**, 272 n.1, 334; **9**, 354
- Article 989, **5**, 334; **9**, 354
- Article 998, **9**, 223, 224
- Articles 1106-1107, **2**, 85
- Article 1111, **2**, 85
- Article 1127, **2**, 85
- Article 1306, **5**, 43; **6**, 192, 196; **8**, 161
- Article 1310, **6**, 192; **8**, 161
- Article 1324, **6**, 196
- Civil Procedure Code, **8**, 77-78
  - Article 23, **7**, 131
  - Article 35, **7**, 131, 132
  - Article 36, **7**, 131, 171
  - Article 48, **2**, 64
  - Article 57, **2**, 64
  - Article 72, **7**, 125
  - Article 127, **2**, 64; **3**, 388
  - Article 146, **2**, 64
  - Article 147, **2**, 64
  - Article 225, **1**, 390
  - Article 284, **6**, 102 n.1
  - Articles 290-298, **2**, 67; **6**, 116; **8**, 233
  - Article 298, **1**, 233; **2**, 64; **3**, 388
  - Article 300, **2**, 115
  - Article 301, **2**, 115
  - Article 302, **2**, 115
  - Article 322, **8**, 174
- Article 356, **1**, 209
- Article 564, **5**, 46
- Article 629, **1**, 329 n.2, 405 n.2
- Article 630, **1**, 329 n.2, 405 n.2
- Articles 632-676, **2**, 105
- Article 635, **1**, 240
- Article 641, **3**, 40, 296; **7**, 204
- Article 649, **3**, 210, 295
- Article 657, **1**, 240, 282
- Article 660, **1**, 425, 432; **3**, 210, 295
- Article 662, **1**, 240
- Article 665, **1**, 240, 282; **5**, 128; **7**, 164 n.2
- Article 713, **12**, 24; **13**, 252
- Article 740, **3**, 287
- Article 988, **2**, 218, 224
- Article 989, **2**, 218, 224
- Civil Responsibility Law, **6**, 99
- Commercial Code, **5**, 17, 147; **7**, 171; **9**, 327; **10**, 136
  - Article 6, **3**, 22
  - Article 20, **5**, 237
  - Articles 20-194, **5**, 147
  - Article 40, **10**, 239
  - Article 45, **2**, 176
  - Article 74, **2**, 176
  - Article 94, **5**, 18
  - Article 103, **11**, 347-348
  - Article 118, **2**, 154 n.2; **3**, 287
  - Article 119, **3**, 161
  - Article 126, **2**, 23 n.1; **13**, 69
  - Article 129, **2**, 24 n.1
  - Article 134, **13**, 68
  - Article 135, **2**, 154 n.2; **3**, 287
  - Articles 199-231, **2**, 150
  - Article 313, **3**, 19
  - Article 357, **2**, 24 n.2
  - Article 382, **5**, 39
  - Article 383, **5**, 39
  - Articles 412-550, **2**, 150
  - Article 583, **5**, 237
  - Article 587, **5**, 4
  - Article 589, **5**, 237
  - Article 590, **5**, 2, 18; **7**, 130
  - Article 591, **5**, 2, 18; **7**, 130
  - conformity to international standards, **5**, 273 n.1
  - Constitution, **1**, 413, 423; **3**, 308; **6**, 201; **8**, 77-78
    - Articles 1-5, **5**, 378
    - Article 31, **5**, 243

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

398

## INDEX

- Article 44, **2**, 144, 150
- Article 80, **5**, 243
- Article 94, **5**, 378; **9**, 94
- Article 96, **5**, 378; **9**, 94
- Article 104, **5**, 379
- Article 107, **5**, 378; **9**, 93
- Article 139, **5**, 334 n.1
- Article 143, **5**, 245
- Article 166, **5**, 129
- Principle 104, **5**, 369
- Principle 139, **3**, 305-309; **8**, 222-223
- Construction Completion Bill, **4**, 146, 153
- contract, **3**, 163, 286, 287; **5**, 43; **6**, 192, 195, 196; **8**, 161
- corporations, **7**, 132, 136
- Decree of Imam Concerning Confiscation of the Pahlavi Properties (1979), **4**, 168
- Decrees on Appointment of Provisional Managers, **2**, 150 n.1, 350, 351; **12**, 7 n.5
- Direct Taxation Act (Esfand 1345), **3**, 241; **9**, 179; **10**, 283, 287; **11**, 349, 354 n.12
- enforcement of, **5**, 234; **9**, 177-178
- foreign currency regulations, **5**, 375 n.1; **7**, 45, 46, 52
- Foreign Investments Law: *see* Law on Attraction and Protection of Foreign Investments *below*
- Foreign Nationals Immovable Properties Act (1931), **4**, 160; **6**, 183 n.1
- Foreign Technical Experts Employment Law (1970), **3**, 287
- General Public Code of Iran, **7**, 161
- government agencies, **5**, 4, 5, 12
- Government Transaction Regulations, **9**, 103 n.8
- immovable property, **7**, 131, 132, 175
- Joint Stock Companies Act (1969), **5**, 12, 17, 18, 21; **7**, 130, 131, 171
- Labour Code, **3**, 286
- Law Concerning the Appointment of Temporary Managers: *see* Bill for Appointment of Temporary Managers *above*
- Law for the Formation of the Social Security Organization (1979), **3**, 103, 104
- Law of Nationalization of Banks, **10**, 241
- Law of Nationalization of Insurance Corporations (1979), **4**, 117, 120; **8**, 378, 417; **9**, 265 n.17; **10**, 241
- Law on Attraction and Protection of Foreign Investments, **2**, 220, 337, 339, 340; **6**, 54, 57, 62; **7**, 40, 44; **10**, 141 n.8, 243
- Law on Joint Stock Companies: *see* Joint Stock Companies Act *above*
- Law on National Divisions and the Duties of Province Governors and District Governors (1937), **5**, 3
- Law on Wider Share Ownership, **10**, 242
- Law 6738 (1979), **11**, 215
- Legal Act of Holding and Management of Stocks in Contracting and Consulting Engineering Firms and Institutes (1979), **3**, 230
- Legal Bill concerning the Articles of Association of the Foundation for the Oppressed, **5**, 378; **9**, 88-89
- Legal Bill Establishing Islamic Workers' Councils for Manufacturing, Industrial, Agricultural and Service Units, **5**, 379
- Legal Bill for the Determination of the Limits of the Duties and Authority of Temporary Director or Directors for the Supervision of Manufacturing, Industrial, Commercial, Agricultural and Service Units Whether in the Public or the Private Sectors (1980), **12**, 9
- Maritime Act, **5**, 39; **12**, 145
- Mining Law of Iran (1957), **7**, 4
- Monetary and Banking Law (1972), **2**, 220; **3**, 13, 27; **13**, 88
- nationality, **2**, 167, 168, 174, 218, 224; **5**, 272, 334; **9**, 354
- Nationalization Act (1951), **3**, 309
- Organization of Guilds Act (1971), **13**, 76 n.26
- Organizing the Distribution of Public Necessity Goods and Punishment of Hoarders and Overchargers, Act and Executive

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

399

- Regulation (1973), **13**, 76 n.26
- Penal Code, **12**, 218; **13**, 76
- Prevention of Hoarding Act (1942), **13**, 76 n.26
- Protection and Development of Iranian Industries Act (1979), **2**, 152 n.1, 302, 349, 350; **5**, 244; **6**, 55, 58, 224, 241; **7**, 50 n.2; **9**, 265, 273-274; **10**, 205
- Protection of Industries and Prevention of the Closure of the Country's Factories (1964) (also referred to as Protection of Industry and Prevention of Shutdowns at the Nation's Factories, 1964), **4**, 154; **7**, 164; **9**, 129-130, 144-146
- Public Accounting Law, **9**, 103 n.8
- Punishment of Merchants and Sellers Hoarding or Overcharging Act (1943), **13**, 76 n.26
- Punishment of Violators of the Organization of Guilds Act (1973), **13**, 76 n.26
- Registration of Deeds and Realty Act, **9**, 239, 241, 246
- Registration of Properties Code, **7**, 164
- Regulation of the Ports and Shipping Organization (1970), **6**, 195 n.1
- Single Article Act (1980), **1**, 489, 495, 496; **3**, 61, 201, 303-306, 308, 309, 313, 314, 323, 324; **4**, 8; **5**, 298, 333, 334; **13**, 168, 170
- Social Insurance Act, (also referred to as Social Security Act), **4**, 227, 10, 313
- State Employment Law (1967), **5**, 4
- statute of limitations, **3**, 287; **5**, 128
- stay of proceedings, **2**, 67; **3**, 388; **4**, 12, 15
- taxation, **3**, 115
- Treaty of Amity as part of, **4**, 114
- unjust enrichment, **6**, 168 n.2
- violation of, **5**, 19, 21
- wives, property rights of, **2**, 85, 86
- Iranian Courts—
- bound by Tribunal orders, **4**, 15
  - competence of, **5**, 130
  - effect of forum selection clause: *see* Forum selection clause
  - enforcement of judgments, **9**, 152
  - inherent and general jurisdiction, **5**, 128
  - jurisdiction of, **7**, 130-132, 137; **9**, 132, 293-294; **11**, 246, 250
  - absence of forum selection clause, **9**, 194-195
  - right of resort to, **5**, 127-129
  - stay of proceedings, **1**, 222, 225; **2**, 57, 67, 98, 99, 281, 282, 311, 363, 371; **3**, 8, 9, 60, 61, 201, 298, 337, 349, 385-388; **4**, 15, 55, 56, 72, 73; **5**, 127-129; **7**, 219; **9**, 131-132, 152, 305
- Iran-United States Claims Tribunal Reports, **6**, 108 n.1
- Irreparable prejudice, *see under* Interim measures
- Ius imperii*, **10**, 313
- Joint and several liability, **5**, 220-222; **7**, 82
- Joint Stock company: *see under* Controlled entity, Iran
- Judgment—
- in absentia*, **4**, 15
  - quashed, **5**, 46
- Judicial independence, **8**, 78
- Judicial proceeding—
- de novo*, **5**, 183
  - final and binding, **5**, 183
- Jurisdiction of Tribunal, *see also* Nationality and Nationality of claim—
- absence of objection non-conclusive, **13**, 263
  - admission, effect of, **1**, 266, 318; **2**, 144, 302
  - advisory opinions not authorized, **12**, 82
  - aggregation of claims not a matter of, **13**, 336
  - applicable law, **9**, 330; **11**, 30, 142
  - assets in domestic branches of U.S. banks, **8**, 201-202, 205-206
  - availability of local remedy, **2**, 10, 165, 320; **3**, 151; **4**, 102, 115 n.2; **7**, 10
  - claims arising out of seizure of hostages, **2**, 39, 40, 79, 80, 88
  - Claims Settlement Declaration basis, **9**, 157; **10**, 62, 142, 281; **12**, 273, 275; **13**, 223-226
  - consent of States, **2**, 210, 213; **3**, 298, 303, 304; **5**, 287, 288; **7**, 200
  - contested by claimant, **8**, 259-266

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

400

## INDEX

- counterclaims: *see* Counterclaim, jurisdiction of Tribunal determined by Tribunal, 8, 6, 265; 9, 4; 12, 66 enforcement of another tribunal's awards, 6, 131-133; 8, 296; 11, 195, 197 equitable discretion, 12, 186-187, 196 *ex aequo et bono*, 12, 82 *ex officio* determination of, 5, 99 exceeded, 13, 145-147 excluded issues, 6, 227, 228 exclusion of claims, 1, 103, 489, 490, 495; 2, 56, 57, 62-64, 66, 67, 80, 81, 86, 88, 97-99, 105, 110, 120 n.1, 338; 3, 60, 61, 99, 151, 198, 199, 201, 246, 260, 286, 313, 314, 321-325, 335, 348; 4, 8, 12, 16, 55, 75, 101, 102, 142, 220, 221, 225, 230-232, 244-246; 5, 1, 2, 15, 16, 47, 67, 96, 100, 101, 103, 116, 117, 119, 120, 126-130, 171, 182, 192-194, 196, 197, 268, 270, 388, 389; 6, 231, 250, 255, 263, 270; 7, 7, 33-35, 47, 124, 127, 131, 132, 135, 136, 153, 218; 8, 224-225, 229-233, 264-266; 9, 355; 10, 179; 11, 197, 201; 12, 16, 35-36, 100-101, 142-143, 149-150, 263; 13, 157, 160, 163, 182, 183; *see also* Iran, claims against U.S. nationals; Iranian banks, claims against U.S. banks and Forum selection clause —wording of settlement agreement, 7, 33 exclusive, 8, 266; 11, 47; 12, 322; 13, 306 extension of, 5, 13, 16 in absence of agreement on implementation of General Declaration, 12, 63 interpretation of Declarations, 1, 101-110, 117, 189, 190, 509-518; 2, 19, 21, 22, 55-59, 62, 63, 65, 66, 80, 85-87; 5, 113; 7, 33; 9, 253-257; 11, 274; 12, 43-45, 65-70, 83; 13, 78 —exclusive jurisdiction, 7, 275, 276 —Undertakings as aid, 12, 51 interpretation of Undertakings, 8, 206-213; 9, 104-106; 12, 74 n.15 Iranian nationality of respondent not *ipso facto* a bar, 9, 40 mediation not authorized, 12, 82 municipal law, 8, 258-259, 280 over non-government party, 5, 66, 67; 12, 35-36 over partnership, 9, 191; 10, 43-44 parity between governments, 5, 15-17 parties' power to amend, 8, 212-213, 297 performance guarantees, 9, 222 political claims, 2, 42, 43 *proprio moto* consideration, 3, 298; 9, 333 restricted, 5, 6, 13, 70; 8, 3 n.2, 231; 9, 378; 10, 139; 11, 47, 281, 349; 13, 168-169 settlement: *see* Settlement Social Security payments: *see* Social Security payments taxes: *see* Taxes to grant interim measures: *see* Interim measures
- Laches, 9, 176 Language: *see* Evidence, translation Lease agreements, 1, 411-415; 2, 154, 250-259; *see also* Contract discharge, 2, 251, 254 frustration, 2, 250-253, 256, 258 —attributability, 2, 251, 253, 256, 258 —foreseeability, 2, 251, 253 impossibility: *see* frustration above Legal presumption, 6, 72 Lender, liability of, 5, 245 n.1 Letters of credit, 1, 507; 5, 28, 29, 31, 38-40, 58, 67, 68; 6, 288; 9, 298-299; *see also* Claims, based on standby letters of credit, and Jurisdiction of Tribunal creation of special account, 2, 127 Letters of guarantee, 5, 96 *Lex specialis*, 8, 378, 428-429 Licence, *see also* Contract— anticipatory breach, 2, 340, 341 breach, 2, 340, 341 ratification, 2, 339 termination, 2, 341 validity, 2, 339, 340 Limitation of liability clause, 6, 90, 95-100

## INDEX

401

- enforceability, **6**, 98  
 exceptions to, **6**, 97, 99, 100  
 validity, **6**, 97, 99
- Liquidation, **2**, 10
- Locum tenens*, **6**, 6, 72, 239, 240; **7**, 172
- Locus standi*, **7**, 120, 123, 124, 135, 198, 199; **9**, 326-333; **10**, 45-46, 148, 325; **11**, 86, 213, 311-313
- Luxembourg Declaration, **13**, 91-92
- Majlis position, **1**, 236, 237, 242, 243, 246, 248, 252, 253, 255, 261, 261, 265, 268, 269, 271, 272, 274, 275, 280, 281, 284, 291, 296, 306 n.3, 310, 488, 490, 491, 494, 496, 497; **3**, 198, 304-309, 311, 313, 314; **5**, 119, 182 n.1, 298; **7**, 153, 218
- Measures affecting property rights: *see* Property rights, measures affecting and Expropriation
- Military property, **4**, 28
- Misrepresentation, **5**, 247
- Municipal institutions, respect for, **7**, 171
- Municipal law, **1**, 108, 421, 422, 451, 464-466, 480, 481; **5**, 16, 19-21, 269, 270, 286, 292, 294, 302; **7**, 124, 160; **8**, 8-10, 258-259, 281-282
- analogy to, **1**, 362, 374, 432  
 effect of bribery on contract in, **12**, 270 n.18
- incorporation of Treaty provisions in, **12**, 144-145
- not defence to non-compliance with international obligations, **13**, 177
- responsibilities under, cannot be affected by Tribunal, **8**, 281-282
- Mutuality of commitments by Iran and U.S., **5**, 16
- Mutually agreeable arbitration, principle of, **5**, 49
- Naples Declaration, **13**, 92
- Nationality—  
 basis of diplomatic protection, **12**, 284-286  
 corporations, **1**, 135-139, 223, 224, 384, 385, 392-402, 412, 417, 418, 455-482, 503; **2**, 9, 10, 16, 17, 20, 21, 33, 143, 156, 248, 296, 304; **3**, 46, 47, 63, 103, 113, 161, 202;
- 205 n.2, 230, 245, 260, 272, 273; **4**, 100, 273; **5**, 2, 18, 23, 237, 342-344; **6**, 57, 80, 93; **7**, 20, 27-29, 124, 127-130, 185; **8**, 156, 220-221 n.4, 234, 307; **9**, 194, 252-254, 258-264, 291-292, 366-367; **10**, 166; **11**, 83-84; **12**, 251; **13**, 17-18 *see also* Evidence of, nationality of corporation  
 —absence of challenge, **9**, 50
- dual nationality, **2**, 160-168, 173-175, 178-225; **5**, 251-336; **9**, 354, 356; **13**, 300  
 —citizenship, **5**, 267, 269, 270, 283, 285  
 —dominant and effective, **2**, 161-165, 168, 173, 174, 178-182, 185-191, 195, 198, 199, 201-205, 208, 211, 212, 214, 223-225; **5**, 260, 262-266, 273-275, 283, 290, 291, 299, 304, 305, 310, 311, 315-317, 321-326, 331-333, 335  
 —fraudulent use of, **2**, 166, 167, 225; **5**, 272  
 —*jus sanguinis*, **2**, 181, 184, 185; **5**, 274, 305  
 —*jus soli*, **2**, 181, 184; **5**, 274, 305  
 —link theory, **5**, 263
- natural persons, **1**, 168, 479, 480; **2**, 16, 17, 226, 227; **3**, 286; **5**, 92, 279, 282, 292; **6**, 57; **7**, 5  
 —uncertainty over, **9**, 3-5
- non-responsibility, principle of, **2**, 162-164, 178, 180, 181, 184, 187-191, 194-204, 207, 208, 212, 214, 215, 223; **5**, 265, 266, 290, 291, 304, 305, 309 n.1, 310, 311, 315-317, 321, 323, 324, 326-328, 331, 333; **7**, 171
- partnership, **6**, 221; **10**, 43-44
- Nationality of claim, *see also* Evidence of, nationality of claim—  
 beneficial ownership, **7**, 29; **11**, 85-89
- continuity of nationality, not identity, **11**, 84
- continuity of ownership, **2**, 227, 234, 235; **4**, 101; **5**, 92, 93, 377; **8**, 262, 293-294; **9**, 38, 264-266; **10**, 126-127, 140-141, 239, 325, 342; **11**, 55, 188-189, 220; **12**, 100, 257-261, 313-314; **13**, 18, 180, 202

- corporations, **1**, 135-139, 455-482; **2**, 9, 10, 16, 17, 105, 301, 353, 395, 396; **3**, 205; **4**, 100, 101, 141, 142, 181, 216-218; **5**, 21, 163, 210, 237, 341, 342, 348, 353, 364, 365, 388; **7**, 5, 6, 9, 41, 66, 97, 122, 123, 127, 129, 134, 185, 206, 207; **8**, 156; **9**, 194, 252-254, 366-367; **10**, 126; **13**, 101; *see also* Corporations  
—control of, **1**, 384, 385; **2**, 9, 10, 105, 297-300, 378; **4**, 101, 142, 217, 218  
—Government agency, **10**, 126  
—potential future interest insufficient, **12**, 259, 272-284  
—wholly-owned subsidiary, **1**, 392-402; **3**, 39, 245, 246, 272; **4**, 101; **5**, 209, 365; **6**, 80, 285; **7**, 97, 185, 206, 207; **9**, 255-256, 366-367  
determination of, prerequisite for Decision, **5**, 126  
government presentation raised presumption, **13**, 263  
shareholder claims, **2**, 297-300, 377, 378  
transfer of claim to non-US nationals, **11**, 138  
Nationalization: *see* Expropriation  
Naturalization, **2**, 192-194, 203; **9**, 353-355, 356  
Negligence, **3**, 30; **5**, 398; **6**, 100; **7**, 43  
Negotiable instruments, **1**, 185-188, 445-447; **5**, 373; **7**, 115; *see also* Cheques  
guarantor, **5**, 373  
Netherlands, law of—  
application to Tribunal, **8**, 335 n.8  
Code of Civil Procedure  
—Article 642, **1**, 331, 406  
—Article 649, **5**, 128  
enforcement of arbitral award, **1**, 331, 406  
Nominalism, **8**, 421, 426  
Non-responsibility, principle of: *see under* Nationality  
*Note en délibéré*, **4**, 61  
November Resolution: *see* Majlis position  
Nullification of claims: *see* Settlement  
Nullified oil agreements, *see also* Iran, law of, Single Article Act—jurisdiction of Tribunal, **1**, 487-498; **2**, 284-287; **3**, 298-301, 303-305, 309, 313-315; **5**, 51-53  
*Nullus commodum capere de sua injuria propria*, **6**, 228  
Odious debt, **8**, 446-447  
Offset, **2**, 324; **10**, 77-78, 309  
*Opinio juris*: *see* *Communis opinio juris*  
Order—  
by President, distinguished, **3**, 316  
disregard of, **4**, 13-16, 73  
of *exequatur*, **6**, 133, 135, 138, 139  
validity of, **2**, 346  
*Ordre public*, **2**, 221; **3**, 14  
Outstanding claims: *see* Claims, outstanding  
*Pacta sunt servanda*: *see under* Treaties, interpretation of  
Partnership, **3**, 161, 208; **9**, 327-333  
equitable discretion of courts, **9**, 332  
Patent rights, **2**, 339, 341; *see also* Licence  
Performance guarantee, **2**, 241-245; **3**, 267; **7**, 42, 53, 121; **8**, 327-328; **9**, 22, 26, 29, 35; **12**, 151-153  
cancellation, **8**, 322; **9**, 130-131, 164-165, 220-222, 242-243, 299; **12**, 106-107  
Permanent Court of International Justice, **1**, 210, 212, 213, 312, 329 n.1, 402, 405 n.1; **2**, 61, 147, 149, 210, 354; **3**, 20, 21, 32 n.1, 298 n.1, 302 n.4, 305 n.1, 308 n.2, 310 n.1, 313 n.1, 314 n.1, 315 n.3; **4**, 115, 118, 163; **5**, 261, 287, 292-295, 316, 342, 346 n.1, 351; **6**, 126, 163, 166 n.3; **7**, 135 n.2, 152 n.4; **8**, 207 n.8, 208 n.9, 211 n.19, 213, 278 n.54, 449; **10**, 197; **11**, 27 n.14  
Revised Rules (1936), Article 69, **1**, 233  
*Persona standi*, **5**, 273, 274  
Political acts, as proximate cause, **2**, 39, 40, 253, 254, 256-258  
Post-hearing submissions: *see under* Procedure  
Postponement of hearing, **2**, 124; **3**, 209-211, 316-318, 362, 375, 377, 378; **8**, 30, 284-289; **11**, 227, 289-291

## INDEX

403

- Power of attorney: *see* Representation  
 Precedent, **1**, 287; **2**, 185, 186, 189,  
     191, 301; **12**, 233 n.5  
 Prescription, **1**, 132  
 Presidential direction, **9**, 409-413  
 Presidential Order—  
     No. 1, **1**, 321, 398; **3**, 365; **7**, 205  
     No. 9, **3**, 141  
     No. 10, **3**, 126, 141  
     No. 12, **3**, 175  
     No. 17, **5**, 112  
     No. 27, **8**, 64  
     No. 28, **8**, 64  
     No. 29, **7**, 226, 236, 240, 245, 248,  
         250; **8**, 64  
     No. 33, **7**, 259, 262, 269; **8**, 2, 14, 16  
     No. 36, **7**, 262  
     No. 49, **12**, 389  
     No. 50, **12**, 389  
 Principles of law: *see* General  
     principles of law  
 Procedure, *see also* Time Limits—  
     abuse of, **3**, 380  
     acceleration of proceedings, **3**, 7  
     alteration of captions, **11**, 165  
     case resolution techniques, **2**, 301,  
         302; **3**, 77; **5**, 298  
     consolidation of cases, **2**, 379, 396;  
         **3**, 213; **4**, 239-241; **12**, 99, 109,  
         345, 366-367  
     consolidation of issues, **3**, 154, 155  
     date of receipt of documents, **8**, 52  
     delays, **3**, 40, 41, 55, 77, 87-89, 129,  
         296, 317, 318, 376, 383; **4**, 3, 4,  
         46, 71, 72, 81; **5**, 140-143, 146; **7**,  
         203, 204; **8**, 30-34, 34-40, 134,  
         284-289; **9**, 167; **10**, 15, 210  
     dissipation of judicial resources, **10**,  
         227  
     duplicate proceedings, need to  
         avoid, **8**, 363, 365, 367, 372  
     duty to abide by commitments, **8**,  
         29-30  
     equality of parties, **9**, 172  
     error in description of party, **9**, 50  
     excessive formality, **8**, 139  
     *ex parte* motion, **3**, 387  
     failure to appear, **8**, 40  
     failure to provide translation, **10**,  
         272  
     fairness to parties, **2**, **9**, 123, 284,  
         288, 289, 346, 356; **3**, 23, 31, 85,  
         88, 89, 129, 130, 257, 281, 296,  
         298, 301, 302, 362, 365, 374-376,  
         383, 388, 389; **4**, 58, 64, 65, 67,  
         70-72, 93-95, 214, 241, 242, 261,  
         279; **5**, 140; **7**, 70, 119, 120, 126,  
         137, 204; **9**, 322, 342, 344; **10**, 4,  
         5, 108, 128, 210, 324, 341; **12**, 6,  
         131, 225, 228, 345; **13**, 16, 101,  
         189, 228, 298, 317  
     joinder of claims, **3**, 99, 105, 112  
     joinder of parties, **3**, 161  
     joint filing of submissions, **3**, 373  
     judicial notice, **10**, 106  
     late submissions, **9**, 343; **10**, 5, 128,  
         272-273, 324-325, 341; **12**, 324;  
         **13**, 101, 131  
     minutes, **13**, 326 n.4  
     need for adversary process, **10**,  
         224-225  
     need for simplification of pro-  
         ceedings, **10**, 219-222  
     notice, **1**, 232, 233, 418, 421  
     post-Award review, **8**, 116  
     post-Award submissions, **8**, 115  
     post-hearing submissions, **2**, **9**, 122,  
         123, 139, 345; **3**, 39, 40, 76,  
         87-90, 99, 116, 226, 257, 281,  
         302, 303, 365, 380-383; **5**,  
         139; **7**, 70, 74, 88; **9**, 300; **10**,  
         272-273  
     postponement of hearing: *see*  
         Postponement of hearing  
     pre-hearing conference, **2**, 327; **3**,  
         377, 378; **8**, 5, 133  
     preliminary issues and merits  
         frequently decided together, **10**,  
         15  
     preliminary objection, **3**, 298  
     procedural safeguards, **1**, 215  
     proper party: *see* Proper claimant  
         and Proper respondent  
     reliance on defence not included in  
         Statement of Defence, **10**, 210  
     reliance on written record, **11**, 73  
     reply and rejoinder, **3**, 98; **9**, 322  
     request for hearing, **3**, 387, 388  
     request for further hearing, **9**, 300  
     request for production of  
         documents, **12**, 345, 367; **13**, 17  
     request to stay decisions, **13**, 16  
     request to submit further  
         statement, **3**, 362, 363  
     *res judicata*, **12**, 174, 367  
     stay of proceedings: *see under*  
         Interim measures  
     stay of Tribunal proceedings, **7**,

- 237; **9**, 254; *see also* Interim measures, stay of proceedings submission of evidence, **9**, 109-111 submission of Memorials, **5**, 144, 146, 147 surprise submissions, **3**, 31, 365, 381; **8**, 341 suspension of proceedings, **3**, 298 validity of, **2**, 345-347 violation of, **5**, 2, 335
- Pro forma invoice:** *see* Contract, pro forma invoice
- Promissory notes:** *see* Negotiable instruments
- Proof**, burden of, **1**, 420, 421, 428, 457, 458, 464, 467, 475-477, 481, 482; **2**, 108, 115, 119, 121, 153, 155, 382, 389, 390, 399; **3**, 16-18, 20, 29, 65, 66, 68, 71, 107, 108, 114, 115, 252, 294, 308 n.2; **4**, 80, 232, 251, 268, 276; **5**, 22, 23, 36, 43, 47, 173, 176, 219, 229, 231, 368, 375, 376; **6**, 66, 178, 210-212; **7**, 28, 29, 68, 80, 88, 106, 107, 116, 117, 128, 129, 190-192; **9**, 42, 57, 119, 244, 355; **10**, 216, 217, 221, 344; **11**, 275, 278, 281-282, 336-337; **12**, 153, 224, 297, 314; **13**, 23, 54-55, 58-59, 72, 112, 136, 139, 141, 153, 197  
*actori incumbit onus probandi*, **1**, 209, 420, 464 allocation of, **3**, 18, 20, 70, 71; **5**, 245; **9**, 172  
*prima facie* case, **2**, 238, 239, 382, 399; **3**, 69, 71, 72, 288; **5**, 245, 376; **7**, 11; **9**, 28-29 to support defence, **3**, 18, 20, 27 n.2, 70, 71; **4**, 80
- Proper claimant**, **1**, 176, 177; **2**, 9, 82-85, 105; **3**, 161, 246; **4**, 101, 143, 181, 210, 211; **5**, 70, 78, 79, 377; **6**, 265; **7**, 35, 120-124, 127, 129, 134-136, 171, 174, 199, 205-207; **8**, 21-22, 23; **9**, 378-379; **10**, 127; **13**, 96; *see also* *Locus standi* existence of counterclaim, **9**, 87
- Proper law of the contract**, **1**, 171, 377, 378 n.16, 422; **3**, 48, 56; **4**, 267; **7**, 131; **8**, 162, 232; **10**, 216
- Proper respondent**, **1**, 134, 219, 389, 412, 413, 418, 427, 484, 503; **2**, 24-26, 147 n.1, 338; **3**, 53, 103, 230, 250, 275, 286, 351; **4**, 1, 75, 143; **5**, 138; **6**, 27-29, 70, 129, 174, 208 n.1; **7**, 121, 124-126; **8**, 133-138; **9**, 244 n.2, 324-326, 367; **10**, 242, 281; **11**, 55, 215, 247; **12**, 290; **13**, 35, 42-43, 97-98, 101, 121-122, 130, 326, 341; *see also* Corporations, succession; Controlled entity and Evidence of
- Property rights**—  
 beneficial ownership, **9**, 230-233  
 in persons, **2**, 80-86; **8**, 22, 23  
 measures affecting, **2**, 39-41, 79, 81-88, 207; **3**, 65, 66; **4**, 154-156, 162-165; 167-172; **6**, 260  
 —proximate cause, **2**, 42  
 —unlawful conduct, **2**, 42
- Protection of goods**, claimant's duty, **8**, 271
- Protection of parties**, **6**, 40, 41  
 of claimants' own position, **9**, 5
- Public order**, **5**, 384; *see also* *Ordre public*  
 protection of, **7**, 165, 166, 169, 170
- Purchase order**, as contract, **4**, 266, 267, 276; **7**, 108, 109, 113; *see also* Contract
- Quantum meruit**, **1**, 287, 309 n.9; **2**, 111; **4**, 220, 221, 228, 230-236; **5**, 171; **6**, 169; **7**, 76; **8**, 162; **9**, 218, 402; **11**, 17-18  
 distinguished from contract, **4**, 232, 234; **8**, 224, 234
- Quantum valebat**, **4**, 234
- Quasi-contract**, **3**, 278, 279; **4**, 231, 235
- Ratione materiae**, **5**, 278
- Ratione personae**, **5**, 278
- Ratione temporis**, **5**, 278
- Real estate**—  
 contracts relating to, **7**, 131, 132
- Rebus sic stantibus**: *see* Changed circumstances
- Recognition of nationality**, **5**, 260, 334
- Regular course of dealing**, **7**, 113
- Rehearing**, **3**, 364, 365; **5**, 74
- Representation**, **1**, 176, 177  
 power of attorney, **1**, 167, 388

## INDEX

405

- not needed, **9**, 15  
 proof of authority, **2**, 30, 35-37  
 Representative case, **2**, 285, 286, 301; **3**, 300; *see also* Nationality of claim, shareholder claims  
 Request, meaning of, **3**, 175, 388, 389; **4**, 15 n.1  
*Res derelicta*, **6**, 173  
*Res judicata*, **1**, 170, 171, 287; **2**, 56-59, 61, 63, 64 n.2, 66, 98, 311, 371; **4**, 16, 73 n.1, 233 n.1; **6**, 227 n.2; **11**, 141  
 Respondent: *see* Proper respondent  
*Restitutio in integrum*, **6**, 157, 170; **8**, 385, 395-398; **10**, 201, 204 n.39  
 Restitution, **1**, 287, 309 n.9, 422, 423; **2**, 236; **3**, 57 n.2, 293; **4**, 231; **5**, 112; **6**, 294, 295; **9**, 402; **10**, 204-205; **12**, 138, 379; *see also* Damages  
 Rial Account, **8**, 188, 350  
 Rights of parties, **3**, 300-303, 387; **4**, 115  
 argument to Tribunal, **3**, 19, 28, 29, 299-303, 315; **4**, 242  
 defence, right of, **2**, **3**, 288, 327, 330; **3**, 87, 127, 128, 130, 315; **4**, 70, 71, 241; **7**, 124-126  
 prejudice to, **6**, 70  
 Roman law, **6**, 168  
 Rules of international law: *see* General principles of, international law  
 Rules of procedure: *see* Tribunal Rules  
 Sales contract, **5**, 38, 40  
 Security Account, **12**, 50, 54-55; **13**, 118, 119-120, 276, 345, 360, 361  
 abuse of, **4**, 207, 208; **13**, 116-117  
 currency of, **8**, 425-426; **11**, 32, 340  
 disposition of interest, **1**, 189-192, 197-214  
 effect on costs, **8**, 334 n.7  
 effect on liability, **9**, 367  
 effect on rate of interest, **8**, 321, 343-344  
 indemnification of depositary, **1**, 196, 197; **8**, 279 n.56  
 nature of, **12**, 285  
 payment of bank fees, **1**, 192-196  
 payments from, **3**, 128, 195, 196; **5**, 49; **8**, 14, 16, 43, 62, 98, 178, 188, 237, 327, 354, 361; **9**, 8, 45, 60, 63, 71, 137, 168, 186, 200, **243**, 301, 307, 309, 312, 339, 348, 358, 377; **10**, 55, 81, 134, 175, 257, 258, 317-318, 328, 347, 358, 359, 361; **11**, 30, 34-35, 69, 137, 179, 207, 250, 267, 344, 365; **12**, 16, 17, 38, 72, 107, 138, 159, 169, 231, 232, 233, 298, 323, 389, 392; **13**, 36, 37, 38, 39, 40, 41, 44, 145, 191, 310  
 —deemed to be by principal debtor, **7**, 115  
 —deferment, **13**, 242  
 —unauthorized items, **3**, 82, 358, 359; **4**, 208  
 possible dissipation, **10**, 363  
 repayment to, **7**, 210, 211, 214; **9**, 9  
 Separate opinion, *see also* Concurring opinion; Concurring and dissenting opinion; Declaration; Dissenting opinion and Explanatory remarks—  
 Aldrich, **1**, 200  
 Ansari, **6**, 66; **8**, 65; **11**, 45, 165, 277; **13**, 244  
 Bahrami, **8**, 65; **11**, 277  
 Brower, **8**, 29; **10**, 189; **11**, 289; **13**, 240  
 Holtzmann, **1**, 200; **5**, 82, 101, 138; **6**, 175; **8**, 329, 391; **9**, 138-152, 200-202; **13**, 319  
 Kashani, **1**, 115, 203, 329, 404; **4**, 67  
 Lagergren, **8**, 385  
 Mosk, **1**, 132, 200; **6**, 95  
 Mostafavi, **8**, 65; **11**, 255, 277, 283 n.1, 298; **12**, 80  
 Sani, **1**, 452  
 Shafeiei, **1**, 115, 203; **2**, 356; **5**, 175; **6**, 288  
 Separation of issues, **2**, **2**, 146, 285, 287; **3**, 297-301; **4**, 82; **5**, 54, 377  
 Services, meaning of, **5**, 101, 102  
 Settlement, **1**, 123-126, 140-143, 156, 157, 160-165, 181-184, 216, 217, 220-221, 327-333, 342-346, 403-410; **2**, 44-50, 90-95, 126-131, 132-137, 228-231, 261-267, 269-277, 278-280, 291-293, 305-309, 332, 333, 348-361, 364, 365, 366, 367; **3**, 34-35, 36-38, 73-75, 91-96, 119-123, 169-172, 176-180, 181-185, 186-197, 212-217, 218-224, 326-330, 338-348, 351-357,

- 366-371, 390-394; **4**, 20-25, 29-32, 33-38, 39-46, 47-52, 83-88, 183-191, 192-196, 197-198, 199-204, 205-209, 280-285; **5**, 76-77, 80-84, 88-89, 148-149, 150-151, 155-159, 249-250, 354-356; **6**, 1-3, 4-11, 20-26, 33-37, 38-42, 118-119, 120-124, 147-148; **7**, 209-216, 220-222, 223-224, 225-235, 236-238, 239-243, 244-246, 247-248, 249-257, 258-259, 260-268, 269-274; **8**, 11-12, 13-14, 18-19, 42-43, 66-71, 72-74, 79-80, 81-82, 83-84, 97-98, 183-188, 236-237, 349-352, 353-359; **9**, 6-9, 306-307, 308-309, 310-312, 347-349, 357-359; **10**, 357-365; **11**, 363-372; **12**, 385-396; **13**, 359-370
- absence of financial obligations noted, **8**, 82
- agreement not to pursue claims, **6**, 36; **8**, 67
- amendment to, **7**, 238; **8**, 214-215; **9**, 348; **12**, 388
- applicable law, **7**, 268
- approval of Iranian bank, **3**, 193, 194, 213, 220, 359, 360; **4**, 34
- assignment of rights, **6**, 6; **12**, 394
- authority of representative, **6**, 39-41; **7**, 221; **12**, 395
- availability of, **3**, 79
- breach of, **7**, 215; **8**, 105, 270-271, 282; **10**, 46-53, 282-283
- damages for, **8**, 105-106
- concurring opinion, **2**, 357, 358; **3**, 78, 358
- conditional agreement, **7**, 213, 214, 237, 240-242, 263, 267
- conditional award, **3**, 340, 352, 358
- conditions for recording, **1**, 149-153; **3**, 78, 82, 192-194, 358
- jurisdiction, **1**, 152
- reasonableness, **1**, 152, 153
- confidentiality of negotiations, **2**, 356
- confidentiality of terms, **3**, 37, 74, 79, 80, 83, 169, 212, 339; **4**, 207, 209; **5**, 81, 82, 84, 88; **6**, 25, 34, 35; **7**, 210, 211, 222, 237; **8**, 185; **10**, 128, 358, 359; **12**, 388
- default, **7**, 211
- delays in payment of award, **3**, 196 n.1
- dissent to, **3**, 37, 38, 74, 78, 177, 182, 187, 192, 194, 327, 330, 352, 360; **4**, 22, 34, 84, 198, 200, 206; **5**, 77, 82, 355; **6**, 3, 21, 121
- effect on contract, **10**, 13-14, 17-19
- enforcement, **1**, 330, 331, 406, 407; **3**, 37, 38, 74, 177, 182, 187, 194, 195, 327, 330, 353, 360; **4**, 22, 34, 41, 48, 84, 198, 200, 206; **5**, 77, 82, 355; **6**, 3, 21, 121; **10**, 18
- escrow payment, **7**, 210
- evidence of, **3**, 358, 359
- exception to, **7**, 220, 221, 226-228, 230
- extinction of claims, **8**, 264
- failure to implement, **10**, 13-14
- form of award, **1**, 329, 330, 405, 406
- from beginning to end of the world, **7**, 252-254
- indemnity from costs and taxes, **12**, 392-393
- interdependence of terms, **6**, 121
- interpretation of, **10**, 283
- “upon execution”, **8**, 105
- invitation to negotiate, **7**, 177-179
- jurisdiction of Tribunal, **1**, 161; **5**, 83, 353
- modified, **6**, 120; **7**, 261, 262; **9**, 358
- null and void, **7**, 210, 211, 213, 214
- parties bound by, **6**, 122
- payment to Iranian bank, **3**, 192-194
- performance of, **7**, 213, 214
- precedential value, **6**, 122, 124
- prejudicial to one party, **6**, 40
- ratification of, **7**, 222, 240; **8**, 19, 185, 186
- reciprocal obligations of parties, **3**, 75, 80, 177, 182, 187, 194, 195, 327, 330, 353, 360; **4**, 22, 34, 84, 198, 200, 206; **5**, 77, 82, 355; **6**, 3, 21, 121; **7**, 220; **8**, 66, 97
- release from liability, **8**, 214; **12**, 387, 388, 392, 393
- revocation of, **7**, 214
- signature of parties, **4**, 22, 23, 39
- standards for acceptance by Tribunal, **3**, 78, 82, 358, 359; **4**, 208
- status of, **5**, 353
- suspension of contract rights, **8**, 105; **10**, 13-14
- third party claims, **6**, 24

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

407

- to suspend proceedings, **7**, 237  
 waiver of claims, **8**, 81-82  
 withdrawal of, **3**, 99  
 withdrawal of claims, **9**, 9  
 without payment from Security Account, **7**, 236  
 without prejudice, **1**, 161; **5**, 159  
 Shareholder claims: *see under*  
     Nationality of claims and Corporations  
 Social Security payments, **3**, 248, 249; **7**, 69; **9**, 132; **10**, 54, 78, 313-316; **13**, 340-343  
 counterclaim for, **3**, 116, 167, 236; **4**, 246-248; **5**, 233, 234; **6**, 84, 85, 90, 91, 96, 174; **7**, 87; **8**, 326, 347-348; **9**, 135-136, 167, 177, 299-300; **10**, 313-316; **11**, 26, 39, 51-52, 67, 172, 184 n.1, 204-205, 248-249, 317-319, 349-355; **12**, 157, 233 n.5; **13**, 182-183, 307, 342-343  
 effect of contract on, **6**, 91, 92; **12**, 157  
 whether contractual obligation, **9**, 167, 177, 225-226  
 Sole jurisdiction: *see* Forum selection clause, jurisdiction of Tribunal  
 Sources of international law, **2**, 84, 196; **4**, 114; **5**, 233, 332; **8**, 397-401, 407-409  
 United Nations General Assembly Resolutions and Declarations, **10**, 185-186, 198-200  
 Sovereign equality of States, principle of, **5**, 263, 266, 304, 311, 312, 327, 331  
 Sovereign immunity, **1**, 107, 207; **2**, 144, 149, 212, 259; **4**, 115 n.2; **5**, 6, 7, 10, 16, 117  
 Sovereignty, **1**, 105, 106, 192, 210, 212, 213, 516; **2**, 183, 188, 205, 206, 210, 224, 353 n.1; **3**, 298, 308 n.2, 312-314; **5**, 11, 12, 19, 22, 49, 287, 314, 315, 330, 337; **7**, 47, 170; **8**, 340  
 respect for, **7**, 135  
 Soviet Union, law of, **5**, 19  
 Speculative reasoning, **6**, 71  
*Stare decisis*, **8**, 141; **9**, 170  
 Statement of claim, **1**, 134  
 amendment of, **1**, 173, 174 n.2, 176, 177, 392-402; **2**, 338; **3**, 11, 30, 31, 81, 82, 358, 359; **4**, 1, 101; **5**, 30, 377; **6**, 28, 29, 60, 63, 68; **8**, 126, 134-140, 297; **9**, 127; **10**, 12, 14-15, 16-17; **11**, 17; **12**, 6, 18-21, 131, 289-290, 346 n.9; **13**, 17, 97-98  
 —change of legal theory, **6**, 60, 62, 70; **9**, 401  
 —delay, **10**, 12  
 —whether substantive or procedural, **8**, 136  
 failure to include specific plea, **13**, 142, 148-150  
 preparation of, **4**, 26  
 time limits: *see* Time limits  
 video tapes, **4**, 26  
 Statement of Counterclaim, **7**, 88  
 Statement of defence, **1**, 166; **5**, 138  
 amendment of, **3**, 116  
 counterclaim, need not include clarification of, **8**, 269 n.41  
 failure to file, **2**, 1-3; **3**, 374, 375  
 preparation of, **2**, 288  
 summary nature of, **3**, 378  
 time limits: *see* Time limits, statement of defence  
 State organ, **9**, 238-239  
 State responsibility, *see also* Aliens, protection of and Public order, protection of—  
 abusive practice, **2**, 188, 189; **6**, 210  
 acts of bank, **9**, 238-239  
 acts of officials, **6**, 202, 203  
 due diligence, **2**, 78, 79, 81, 84, 89  
 enforcement of contracts, **2**, 220, 221  
 for nationals, **7**, 124  
 for objective effect of acts, **6**, 207  
 lawful measures, **2**, 257, 258; **7**, 166, 169  
 observation of international obligations, **8**, 8-9; **9**, 142 n.7  
 protection of aliens, **7**, 169  
 protection of foreign investments, **7**, 151, 152, 159, 160  
 treatment of foreign nationals, **5**, 293, 383, 384  
 treaty obligations, **3**, 388; **6**, 111; **8**, 78  
 unjust enrichment, **2**, 237; **8**, 390  
 Statute of limitations, **7**, 116; **8**, 136  
 Stay of proceedings: *see under* Procedure  
 Stock certificates, to be delivered, **10**, 253  
*Sua sponte*, **5**, 146; **6**, 41, 177; **7**, 116

- Subcontractor, **3**, 273, 274, 278, 279; **5**, 166
- Subrogation, **10**, 133
- Succession: *see under* Corporations
- Sui generis*, **4**, 116 n.1
- Summary enforcement procedures:  
*see* Arbitral award, basis for legal action
- Sweden, law of—  
 arbitration, **7**, 204  
**RB 13:5(2)**; Grade 139, **1**, 233
- Switzerland, law of—  
 Code of Obligations, **7**, 191
- Taxes, **7**, 69; **10**, 290-298  
 applicability of, **3**, 115  
 contract liability, **10**, 294-298; **11**, 94-96, 244-245  
 contract tax, **3**, 114  
 counterclaim for  
   —jurisdiction of Tribunal, **3**, 115, 167, 236, 252, 288; **4**, 246-248; **5**, 233, 234; **6**, 84, 85, 90, 96; **9**, 134, 167, 177, 225-226; **10**, 54, 102, 287, 306-313, 346; **11**, 26, 39, 51-52, 172, 245, 248, 317-319, 349-356; **12**, 157-158, 233 n.5; **13**, 182, 192, 307, 343  
   —taxes outstanding on expropriated property, **11**, 318  
 deductibility of, **3**, 114, 235, 262, 264, 288  
 effect of contract on, **6**, 91, 92  
 enforcement of laws relating to, **5**, 233, 234; **9**, 152 n.21; **10**, 312-313, 346  
 income tax, **3**, 288  
 production of receipts, **3**, 368  
 reimbursement of, **11**, 95-96
- Technical Agreement with De Nederlandsche Bank N.V. (1981), **1**, 192-199, 204-212; **12**, 55
- Technical Agreement with N.V. Settlement Bank (1981), **1**, 192-199, 204-212; **12**, 55; **13**, 43-44, 59 n.14
- Appendix I, **1**, 204, 207
- Paragraph 1, **1**, 196, 198; **3**, 196; **6**, 66; **8**, 279 n.56
- Paragraph 3, **1**, 193, 194
- Technical Arrangement between Banque Centrale d'Algérie, Bank of England and Federal Reserve Bank of New York, **1**, 192-199, 204-212; **8**, 209 n.2; **12**, 53, 78 n.16; *see also* Dollar Account No. 1 and Dollar Account No. 2
- Paragraph 7, **5**, 68, 69
- Paragraph 10, **1**, 193
- Termination of claim: *see* Settlement Test case, **3**, 375
- Time limits, *see also* Procedure—  
 amendment of claim, **2**, 338; **3**, 11, 30, 31; **6**, 60, 68; **8**, 134-140; **12**, 20
- consolidation of cases, **4**, 241
- correction of award, **5**, 73
- counterclaims, **2**, 113, 268, 283, 286-289, 347; **3**, 116, 226, 253; **4**, 182; **5**, 400; **9**, 37-38, 227; **11**, 205; **12**, 100, 225; **13**, 227-229
- enforcement of, **3**, 85, 379
- exceptions, **2**, 315, 320
- extension of, **1**, 119, 120, 173-175, 230, 231, 320-325, 483; **2**, 3, 125, 283-290, 311, 327-331, 345-347; **3**, 41, 60, 85, 89, 90, 200, 301-303, 372-375, 377-379; **4**, 13, 17, 59, 63-67, 71-73, 76; **5**, 139, 140; **8**, 28, 39, 361; **9**, 348; **13**, 310-317
- justification for, **3**, 84
- failure to meet, **1**, 132, 133, 171, 226-229, 334-336, 391, 485; **2**, 3, 123, 312, 313, 317, 318, 320, 321; **3**, 85, 90, 116, 226, 253, 380, 382; **4**, 3, 4, 61, 64, 67, 73, 76, 143, 182, 214, 227; **5**, 400; **7**, 116, 117, 182; **11**, 181, 182, 287
- due to delay in mail, **1**, 127, 129-131, 226-229
- excused, **2**, 317
- failure of courier, **1**, 128-131; **2**, 313, 318; **3**, 5; **4**, 76
- failure to set, **1**, 158, 159, 178-180; **4**, 66; **5**, 141-143
- filings of claim, **8**, 369; **9**, 4
- filings of documents, **12**, 131-132
- filings of Settlement Agreement  
   —amendment, **9**, 62, 71, 348
- implied modification, **8**, 185, 186
- notification of costs, **13**, 299
- request for interpretation and correction of Award, **9**, 405
- request for revision of Award, **11**, 182

## INDEX

409

- statement of defence, **2**, 283, 286-289; **3**, 85, 89, 253, 374, 375  
 submission of evidence: *see* Procedure, post-hearing submissions  
 Undertakings: *see* Undertakings, time limits  
 Trade law, **3**, 54; **5**, 394  
 Trade practice, **5**, 32, 33; **13**, 232-233  
 Transfer of cases, **7**, 183, 200, 205  
 Transfer of documents, **3**, 108, 119, 120  
 Translation: *see under* Evidence  
 Treaties—  
   Agreement between U.S. and Egypt Concerning Claims of Nationals of the United States (1976), **5**, 283, 285, 329  
   Agreement Providing for Determination of Amount of Claims Against Germany, U.S.-Germany (1922), **2**, 83  
 Amity, Economic Relations and Consular Rights, Iran-U.S. (1955), **1**, 313, 365, 501; **2**, 84, 161, 257, 353; **4**, 103-105, 109, 112-117, 155, 156, 174, 179; **5**, 381-383; **6**, 151, 168, 178, 200, 201 n.1, 208; **7**, 41, 47, 50, 51; **8**, 378-379, 428-450; **9**, 272-273; **10**, 106, 267  
   —and customary international law, **9**, 273; **10**, 151, 184, 192  
   —as source of law, **10**, 132, 150, 184  
   —Article II, **4**, 174 n.2; **6**, 168  
   —Article IV, **2**, 353, 388; **4**, 102, 112, 114 n.1, 116, 174 n.2; **6**, 168, 200 n.2, 225 n.1; **7**, 40, 46, 51; **8**, 379, 404; **10**, 131-133, 148, 184, 192-196, 203, 204 n.38; **12**, 12  
   —Article V, **6**, 183 n.1  
   —Article VII, **3**, 28 n.1; **5**, 382; **6**, 211, 212; **7**, 40, 46, 47  
   —Article XVII, **5**, 270  
   —Article XX, **4**, 174 n.2  
   —Article XXI, **8**, 405  
   —Article XXIII, **4**, 112, 113; **10**, 131, 190  
   —termination or breach of, **4**, 112-114; **5**, 381, 383  
   —validity, **8**, 379, 431-451; **10**, 149, 190-191  
   —whether binding, **5**, 381  
 Charter of Economic Rights and Duties of States, **5**, 11; **7**, 170  
 Claims Settlement Declaration: *see* Claims Settlement Declaration  
 Convention on the Elimination of All Forms of Discrimination Against Women, **5**, 273 n.1  
 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), **2**, 60; **6**, 137 n.2  
 Convention on the Recognition and Enforcement of Foreign Judgments (1983), **5**, 233  
 Convention on the Settlement of Matters Arising out of the War and Occupation of 26 May 1952, **5**, 272, 298  
 Draft Articles on Sovereign Immunity of States and State Properties, **5**, 11 n.1  
 Draft Articles on State Responsibility, **5**, 12; **12**, 318 n.4  
 Draft Code of Conduct for Transnational Corporations, **10**, 204 n.39  
 Draft Convention on Arbitral Procedure, **3**, 301 n.1  
 Draft Convention on the International Responsibility of States for Injuries to Aliens, **10**, 259 n.6  
 Draft Convention on the Protection of Foreign Property (1967), **4**, 118 n.2, 174  
 Draft Convention on Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, **9**, 152 n.21  
 European Convention on Foreign Money Liabilities (1967), **8**, 424  
 General Convention providing a Uniform Law for Bills of Exchange (1930), **13**, 32-33, 69  
 Geneva Convention providing a Uniform Law for Cheques (1931), **2**, 168, 235; **3**, 19; *see also* European Convention on International Commercial Arbitration  
 General Declaration: *see* General Declaration  
 Germany-U.S., Treaty of Peace of

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

410

## INDEX

- Berlin (1921), **2**, 80, 83, 84
- Hague Conventions: *see* Hague Convention
- Hague Rules: *see* International Convention for the Unification of Certain Rules Relating to Bills of Lading (1924), amended 1968 and 1979 *below*
- Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens (1961), **2**, 84, 89, 351, 352, 388; **4**, 115, 118 n.2, 162, 166 n.1, 173; **7**, 51
- Harvard Draft Convention on the Responsibility of States (1929), **2**, 196, 197, 205; **5**, 326
- International Convention for the Unification of Certain Rules Relating to Bills of Lading (1924), amended 1968 and 1979, **12**, 143-145
- International Monetary Fund Agreement: *see under* International Monetary Fund
- Treaty of Neuilly, **3**, 311; **5**, 320
- Treaty of Paris, France-Great Britain (1814), **2**, 181; **5**, 304, 312
- Treaty of Peace, United Nations and Italy, **2**, 206; **5**, 310, 326
- Treaty of Rome, **13**, 92
- Treaty of Versailles (1919), **2**, 80, 83, 84, 186
- Treaty of Washington, Great Britain-U.S. (1871), **2**, 181, 190; **5**, 305
- United Nations Charter, **3**, 24 n.1 —Article 51, **2**, 258 n.1
- United Nations Charter of Economic Rights and Duties of States, **4**, 105, 106, 114 n.1; **10**, 185, 198
- United Nations Convention on Contracts for the International Sale of Goods, **5**, 45; **13**, 50
- United Nations Declaration on the Establishment of a New Economic Order, **10**, 185, 198
- United Nations Declaration on Inadmissibility of Intervention into Domestic Affairs of States, **8**, 445
- United Nations Declaration on Permanent Sovereignty over National Resources, **4**, 114 n.1; **10**, 186, 198, 204 n.38
- United Nations Declaration on Principles of Friendly Relations, **8**, 445
- Universal Declaration of Human Rights, **5**, 273 n.1
- U.S.-Iran Guaranty of Private Investments (1957), **10**, 141, 148, 151-152
- U.S.-Mexican Claims Convention (1868), **2**, 83
- U.S.-Mexican General Claims Convention (1923), **2**, 80, 83
- U.S.-Mexican Special Claims Convention (1923), **2**, 80
- U.S.-Poland Agreement (1960) —Article 3, **1**, 466 n.1
- Vienna Convention: *see* Vienna Convention on the Law of Treaties
- Treaties, interpretation of, **1**, 101-110, 190-192, 198-201, 205, 207-213, 288, 289, 292-295, 307, 308, 310; **2**, 55, 61-63, 82-87, 147, 148, 151, 160-168, 178-215, 311, 315, 320, 363, 371, 402; **3**, 305; **5**, 2, 67, 83, 253, 259, 271, 273, 277, 294, 329-333, 341-346, 351; **6**, 168; **7**, 33; **8**, 92, 95, 207-213, 295; **10**, 140; *see also* Contract, interpretation of; Jurisdiction of Tribunal, interpretation of Declarations and Vienna Convention on the Law of Treaties
- aids to interpretation, **2**, 161-164, 179-215; **3**, 310; **5**, 262, 281, 290, 291, 329; **8**, 211
- ambiguity, effect of, **2**, 317; **5**, 287, 289, 290; **11**, 87
- applicable law, **12**, 82
- associated agreements, **12**, 51
- clear language required to vary existing rule, **10**, 313
- contra proferentem* rule: *see* *verba ambigua accipiuntur contra proferentem*
- effectiveness, **12**, 46, 68 n.7
- equilibrium to be maintained, **12**, 54-55, 79-80
- expresio unius est exclusio alterius*, **8**, 264; **12**, 59, 78; **13**, 252
- flexible, **1**, 199 n.1, 309 n.8

## INDEX

411

- generalia specialibus non derogant*, **13**, 88  
 good faith, principle of, **6**, 251, 270; **12**, 60-61  
 intention of parties, **1**, 103-105, 107-110, 190, 191, 198, 201, 205-207, 210, 211, 213, 245, 246, 255, 256, 265, 266, 276, 277, 284-286, 311, 312, 489, 491, 492, 495, 497, 498, 516; **2**, 56, 166, 210, 211, 213, 223, 315, 316, 320; **3**, 303-305, 307-310, 312-315; **5**, 14, 260, 267, 270, 272, 280, 281, 288, 329, 352; **6**, 270, 7, 33  
 international claims practice, **10**, 83  
 judicial precedents, **5**, 262, 271, 304-328, 331, 332  
 language, structure and purpose, **12**, 74  
 negotiating history, **2**, 161, 165, 196-198, 201, 202, 210, 212; **3**, 305-311, 313-315; **5**, 261, 300, 301, 304; **10**, 193; **12**, 75-76; **13**, 329  
 object and purpose of provisions, **5**, 261, 268, 270, 271, 281, 284, 285; **8**, 200-201  
*obligatio tertio non contrahitur*, **13**, 43  
 ordinary meaning, **8**, 207-208; **10**, 193-195; **12**, 46  
*pacta sunt servanda*, **1**, 114, 210; **9**, 140; **13**, 231-233  
*pacta tertii nec nocent nec prosunt*, **13**, 43  
 preamble, status of, **12**, 46-48, 67-68  
 preparatory work, **1**, 245, 246, 255, 256, 265, 266, 276, 277, 284-286, 310-312, 477; **3**, 303, 304, 307, 308, 315; **13**, 168  
*procès-verbaux*, **2**, 198  
 reasonable, **10**, 83  
*rebus sic stantibus*: see Changed circumstances  
 reciprocity, **1**, 106, 107; **8**, 432-441  
 restrictive, **1**, 192, 198, 211-213, 309 n.8, 480; **2**, 80, 179, 211, 223; **3**, 309, 312, 313; **5**, 13, 93, 95, 99, 126, 281, 287, 288, 330, 351; **7**, 135; **11**, 87; **13**, 168-169  
*specialia derogant generalibus*, **1**, 104; 410 n.3  
 subsequent practice, **2**, 149; **5**, 71, 268, 271, 289, 332, 346, 347, 353; **8**, 201, 407, 440, 447-450; **9**, 104-105, 411-413  
 terms, meaning of, **3**, 311, 314, 315; **5**, 4, 260, 267, 268, 270, 280, 281, 284, 285, 289, 290  
 useful effect, principle of, **6**, 251  
*ut res magis valeat quam pereat*, **1**, 292 n.25; **12**, 46, 68 n.7, 89  
 vacuum not necessarily result of silence, **12**, 54, 58-60  
*verba ambigua accipiuntur contra proferentem*, **2**, 211; **5**, 281, 286, 288, 330; **9**, 255; **10**, 329, 331  
 writings of scholars, **5**, 262, 264, 328
- Treaties, invalidity—  
 violation of internal laws, **3**, 303-309
- Treaties, parties' vested rights unaffected by termination, **10**, 191 n.9
- Treaties, right to invoke, **10**, 148, 150, 192
- Tribunal—  
 absence of arbitrator: see Arbitrator, absence of  
 arbitrary action, **6**, 232  
 assignment of cases to chamber, **3**, 92, 126, 141, 237, 254, 268, 276, 292  
 authority of President, **5**, 51, 52; **9**, 409-413  
 binding nature of Full Tribunal's finding, **11**, 197
- Chambers  
 —authority of, **5**, 47, 53  
 —composition of, **9**, 409-413  
 —independence of, **5**, 251  
 —preemption of Full Tribunal, **10**, 85-86
- competence, **5**, 127; **6**, 52  
*dicta*, **4**, 178, 180
- discretion, **3**, 192, 207, 212, 234, 316, 339, 362, 382 n.1; **4**, 12, 224; **5**, 262; **7**, 116
- duty  
 —to apply principles of law, **9**, 146  
 —to avoid entering into execution of Award, **13**, 40  
 —to avoid excessive technicality, **8**, 139  
 —to clarify aim, **7**, 121, 126

- to clarify requests, **5**, 147
- to enforce law of Iran, **9**, 177
- to examine jurisdiction, **9**, 34, 332
- to execute Algiers Declarations, **8**, 65
- to fill omissions in UNCITRAL rules, **11**, 278
- to give reasoned decision, **10**, 330
- to implement international law, **7**, 171
- to respect laws of Iran, **7**, 136
- to respect legal facts, **5**, 12
- to respond to arguments, **5**, 289
- exceeding powers, **5**, 335
- expeditious conduct of business, **7**, 204; **8**, 288
- expenses, **1**, 107, 108
- functus officio* rule (*cessaisissement de juge*), **3**, 177, 182, 187, 195, 196, 330 n.3
- impartiality of, **5**, 36, 41, 42, 49, 86; **6**, 41, 251, 252, 270, 271
- inherent power, **5**, 129; **6**, 108; **7**, 219; **8**, 117, 118
- international character of, **5**, 261, 284, 294-297, 299; **9**, 177, 330
- juge d'instruction*, **2**, 285, 286, 346; **3**, 300; **5**, 54
- jurisdiction: *see* Jurisdiction of Tribunal
- majority decision, **2**, 29, 113, 122, 146, 390; **3**, 55, 199, 210, 211, 277, 293, 295, 325; **4**, 82, 111, 159; **5**, 269, 277 n.1; **8**, 143; **9**, 140, 409-413; **10**, 96
- moral issues, **13**, 117, 119 n.3
- neutrality of, **5**, 15, 16, 24, 49
- not bound by parties' legal theories, **13**, 101
- obligation to comply with decisions of, **9**, 394
- power to investigate, **2**, 115, 122 n.1, 153 n.1, 284, 285; **3**, 88, 89
- precedent, whether binding, **9**, 169, 216
- Procedural Guideline No. 1, **1**, 285
- quorum, **1**, 117
- statements contrary to fact, **5**, 36, 37
- suspension of proceedings, **7**, 281, 289, 301-302; **8**, 64
- ultra petitio*, **13**, 41, 43
- ultra vires* conduct, **3**, 125-129, 140-144, 146, 297-301, 302 n.2, 315, 324; **5**, 335, 336; **6**, 252, 271; **13**, 41, 43
- workload, **4**, 68, 69, 71; **7**, 203; **8**, 415 n.23
- Tribunal Rules—
  - Introductory Rules, Article **3**, **1**, 431
  - Article **2**, **1**, 127, 128, 130, 226, 228, 337, 398; **7**, 275; **8**, 54 n.4, 134; **11**, 183, 287; **13**, 54
  - Article **3**, **2**, 121
  - Article **4**, **1**, 167; **2**, 36
  - Article **5**, **9**, 407
  - Article **6**, **1**, 113, 511-514
  - Article **7**, **1**, 113
  - Article **8**, **1**, 113
  - Article **9**, **1**, 113, 114
  - Article **10**, **1**, 112-115, 509, 512, 514, 516-518; **3**, 209
  - Article **11**, **1**, 112-115, 509, 512, 516, 517
  - Article **12**, **1**, 112-115, 509, 512-514, 516-518
  - Article **13**, **3**, 126, 139, 209 n.4, 215; **9**, 409-413; **10**, 96
    - Amendment to, **7**, 56, 92
  - Article **14**, **3**, 209 n.4, 316 n.3; **4**, 214; **5**, 362; **7**, 56, 183
  - Article **15**, **1**, 167, 306; **2**, 54, 59 n.1, 122 n.1; **3**, 88, 362, 372, 387, 389; **4**, 64, 70, 95; **7**, 126; **8**, 115-116; **10**, 109; **13**, 130
  - Article **17**, **1**, 234; **2**, 368; **4**, 206; **8**, 54; **10**, 272; **13**, 54
  - Article **18**, **1**, 134, 167, 396; **3**, 378; **4**, 26; **7**, 88; **9**, 109
    - advisory, **9**, 109
  - Article **19**, **1**, 120, 159, 167, 171, 175, 179, 231, 492, 498; **2**, 36, 70, 113, 268, 289; **3**, 116, 226, 253, 374, 377, 378; **4**, 143, 182, 227; **5**, 400; **6**, 83, 101; **7**, 88, 116; **8**, 428-429; **9**, 38, 167, 168, 227; **10**, 108, 308, 310; **11**, 135; **12**, 100; **13**, 83 n.31, 225, 228
  - Article **20**, **1**, 309 n.9, 393, 395, 399-401; **2**, 338; **3**, 11, 31; **4**, 101; **5**, 378; **6**, 28, 60, 63, 68, 70, 102; **8**, 137, 297 n.16; **9**, 127; **10**, 12, 16-17; **11**, 17, 108; **12**, 6, 20, 100, 131, 289; **13**, 97, 228

## INDEX

413

- Article 21, **1**, 284, 285, 292, 294, 308, 320, 334, 335; **7**, 136; **8**, 44; **13**, 162
- Article 22, **3**, 382 n.1
- Article 24, **1**, 323, 464, 477; **2**, 115, 121, 122, 300, 389; **3**, 20, 294; **4**, 58, 80, 268; **5**, 22; **6**, 210; **9**, 244; **11**, 274, 327; **13**, 54-55
- Article 25, **1**, 306, 458, 484, 485; **2**, 122; **3**, 381; **5**, 59 n.1; **11**, 274, 276, 278, 281; **13**, 326 n.4
- Article 26, **1**, 154, 390; **2**, 60, 61, 65, 370, 371, 402; **3**, 60, 175; **4**, 7, 58; **5**, 128; **6**, 140; **8**, 47, 65, 218, 275, 278 n.55, 280; **13**, 176, 177, 196, 257, 258-259
- Article 27, **1**, 235; **4**, 95, 158; **8**, 276 n.31; **9**, 34-35; **13**, 351
- Article 28, **1**, 324; **3**, 85, 363, 382 n.2; **8**, 40; **10**, 179; **11**, 181
- Article 29, **2**, 101, 122; **8**, 115-116
- Article 30, **9**, 410, 412
- Article 31, **1**, 200 n.2, 323, 424, 429-432, 449 n.1; **2**, 29; **3**, 55; **4**, 82, 159; **9**, 410; **12**, 233 n.2, 268 n.9
- Article 32, **1**, 330, 331, 406, 420, 422, 449, 452, 454; **2**, 101, 333, 365, 367; **3**, 37, 74, 79, 83, 109, 118, 155, 168, 169, 212, 238, 255, 269, 293, 294, 339, 365; **4**, 180, 198, 206, 209; **5**, 81, 84, 252; **6**, 34, 109, 268; **7**, 183, 210, 222; **8**, 114, 185; **9**, 400; **10**, 152, 358; **12**, 21, 119 n.4, 388, 394
- Article 34, **1**, 140, 149, 150-153, 156, 160, 161, 163, 182-184, 216, 220, 221, 328-331, 342, 343, 404-406, 409; **2**, 45, 90, 126, 133, 134, 229, 262, 269, 279, 292, 306, 333, 348, 356, 357, 364, 367; **3**, 35, 37, 38, 74, 75, 78, 92, 119, 141, 169, 176, 181, 182, 187, 192, 194-196, 213, 219, 327, 328, 330, 338, 352, 353, 360, 390-392; **4**, 21, 22, 29, 30, 33, 34, 42, 47, 49, 83, 85, 86, 183, 185, 193, 194, 197-201, 205, 206, 282; **5**, 74, 76, 77, 80, 82, 149, 151, 156, 250, 355; **6**, 2, 3, 5, 21, 23, 34, 39, 121, 147; **7**, 210, 221, 224, 227, 236, 237, 242, 245, 248, 250, 253, 259, 262, 264, 269; **8**, 12, 14, 16, 18, 43, 67, 73, 80, 82, 84, 97, 184, 186, 187, 215, 237, 349, 354, 361; **9**, 8, 63, 71, 185, 204, 205, 307, 309, 312, 348, 358; **10**, 358, 359; **11**, 365; **12**, 394; **13**, 361
- Article 35, **3**, 364; **4**, 60; **5**, 74; **8**, 115; **9**, 405, 406; **11**, 182-183, 274, 287; **12**, 305, 307, 388; **13**, 327-328
- Article 36, **3**, 364; **4**, 60, 81, 82, 111; **5**, 73, 74; **6**, 269; **8**, 117 n.11, 133; **9**, 405, 406; **11**, 182-183, 274, 283-284, 285-286, 300; **12**, 306; **13**, 93-94
- Article 37, **3**, 364; **4**, 18; **5**, 73, 74; **8**, 53, 116-117; **9**, 406; **11**, 182-183; **13**, 324, 327
- Article 38, **1**, 414, 447, 451; **2**, 12, 113, 259, 385, 400; **3**, 33, 58, 71, 253, 275, 391; **4**, 79; **6**, 217; **7**, 47, 197; **8**, 330, 331; **9**, 60; **10**, 34, 35, 103; **11**, 43; **12**, 38-39
- Article 41, **2**, 75, 76; **3**, 166; **4**, 92, 93, 158; **5**, 186; **8**, 41, 47, 331; **10**, 21, 35
- parties' agreement on, **5**, 268  
violation of, **4**, 81; **6**, 70
- UNCITRAL Rules:** *see* **Tribunal Rules**
- UNCTAD, **8**, 409
- Undertakings, **12**, 50-52
- Paragraph 1, **12**, 50
- Paragraph 2, **6**, 66
- Paragraph 2(A), **5**, 67; **10**, 83; **12**, 55, 72
- Paragraph 2(B), **1**, 137 n.1; **2**, 312-321; **3**, 3-6, 381; **5**, 58, 61, 67-70, 71; **8**, 197-203, 203-206; **9**, 97-106; **12**, 55, 72, 77  
—ambiguity, **8**, 198-200, 205
- interpretation, **Tribunal's jurisdiction**, **8**, 206-213; **9**, 104-106
- object and purpose of, **12**, 50, 73 n.4
- procedural requirements, **2**, 313-319; **3**, 5, 6
- time limits, **2**, 313-319; **3**, 5, 6

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

414

## INDEX

- Unequal bargaining power, **3**, 320, 325
- United Kingdom, law of, **5**, **7**, **8**, **19**; **6**, 136  
interest on debt, **2**, 12, 27  
Misrepresentation Act (1967), **3**, 30  
Oil and Undersea Pipeline Act (1975), **7**, 168
- United Nations, **7**, 170, 171  
Charter, Article 11, **10**, 186 n.19
- United States—  
duty to examine validity of claims, **5**, 85  
Foreign Claims Settlement Commission, **5**, 350; **10**, 140; **12**, 23  
nationality of corporation, proof of, **1**, 456-474
- United States Courts—  
injunction, **3**, 267  
John Doe action, **3**, 15, 25  
jurisdiction, **9**, 136-137  
stay of proceedings, **5**, 154, 344 n.1  
termination of claims, **2**, 56, 62; **9**, 136-137
- United States, law of, **1**, 459, 460, 464, 467-474, 479-481
- Agricultural Foreign Investment Disclosure Act (1978), **1**, 472  
antitrust, **13**, 83-86  
arbitration, **3**, 210, 211, 295  
Bankruptcy Act, **8**, 257-259  
California  
—Code of Civil Procedure, **6**, 102  
—Constitution, **7**, 204  
Carriage of Goods by Sea Act, **12**, 145  
citizenship, **5**, 270  
Code (U.S.C.), **10**, 122  
Code of Ethics for Arbitrators in Commercial Disputes, **7**, 180 n.1, 204  
Code of Federal Regulations, **7**, 192; **11**, 176  
Constitution, **5**, 296  
—Article II(2), **3**, 307 n.1  
—Article VI, **4**, 114  
contract, **3**, 163; **6**, 196, 274  
corporations, **7**, 205  
Domestic International Sales Corporation, **3**, 40; **7**, 186, 205  
Executive Order of 14 November 1979 (freezing Iranian assets), **7**, 192; **13**, 52 n.7
- Executive Order 12294 of 24 February 1981, **12**, 287
- Executive Orders Prohibiting Transactions with Iran, **2**, 249, 251, 255 n.1; **5**, 60, 61; **6**, 28; **13**, 28
- extraterritorial effect, **8**, 258-259
- Federal Communications Act (1934), **1**, 468
- Federal Rules of Civil Procedure  
—Rule 13(a), **6**, 101; **13**, 78-83  
—Rule 15(c), **8**, 136 n.3  
—Rule 41, **1**, 233
- Foreign Corrupt Practices Act, **12**, 218
- Foreign Sovereign Immunities Act (1976), **2**, 148; **10**, 205 n. 40
- government agencies, **5**, 8-11
- Immigration and Nationality Act, **2**, 222; **5**, 100, 102
- International Claims Settlement Act, **5**, 346 n.1
- International Investment Survey Act (1976), **1**, 460
- Iranian Assets Control Regulations, **2**, 248, 251, 252, 255 n.1; **5**, 14 n.1, 60; **13**, 52 n.7, 90
- Merchant Marine Acts (1920 and 1936), **1**, 471
- non-profit corporations, **5**, 345; **10**, 325
- partnership, **3**, 161
- Restatement of the Law of Contracts, **13**, 50-51
- Restatement of the Law of Restitution, **12**, 379
- Restatement (Revised) (Draft) of Foreign Relations Law (1986), **10**, 202 n.35
- Restatement (Second) of Conflict of Laws, **7**, 99 n.1
- Restatement (Second) of Foreign Relations Law (1965), **2**, 84; **5**, 297; **7**, 169; **8**, 135, 397-399; **9**, 142 n.7
- Restatement (Second) of Foreign Relations Law (Revised) (Tentative Final Draft) (1985), **11**, 40
- Restatement (Second) of Trusts, **10**, 239 n.6
- Rules for the ICC Court of Arbitration, **7**, 204
- Shipping Act (1916), **1**, 471

Cambridge University Press

978-0-521-46447-5 - Iran—United States Claims Tribunal Reports: Volume 13

Edited by M. E. Macglashan

Index

[More information](#)

## INDEX

415

- Securities Act (1933), **2**, 148 n.1  
 Tax Reform Act (1984), **7**, 205  
 Tentative Final Draft Restatement,  
     Foreign Relations Law (Revised)  
     (1985), **9**, 275  
 Treasury Regulations, **5**, 14  
 Uniform Commercial Code, **4**, 268;  
     **5**, 45; **7**, 99, 102, 109, 113, 114;  
     **8**, 140  
     —§1-106, **3**, 57 n.2  
     —§1-201, **3**, 20 n.2  
     —§2-204, **3**, 48  
     —§2-206, **3**, 50  
     —§2-207, **3**, 49  
     —§2-208, **13**, 51-52  
     —§2-235, **13**, 51  
     —§2-240, **7**, 109 n.2  
     —§2-301(a), **12**, 300 n.4  
     —§2-319, **7**, 100 n.2  
     —§2-325, **7**, 109  
     —§2-504, **7**, 100 n.2  
     —§2-509, **7**, 100  
     —§2-602, **7**, 101 n.1  
     —§2-612, **13**, 50 n.4  
     —§2-703, **7**, 110 n.1; **13**, 50 n.4  
     —§2-706, **7**, 110 n.1, 111, 114 n.1  
     —§2-708, **7**, 111  
     —§2-709, **3**, 52, 56  
     —§2-710, **3**, 52, 56; **7**, 111  
     —§3-122, **7**, 115  
     —§3-302, **2**, 235; **3**, 20 n.2; **7**, 99  
     —§3-305, **3**, 20 n.2; **7**, 99, 100 n.1  
     —§3-307, **3**, 20  
     —§3-309, **3**, 51  
     —§3-413, **2**, 168; **3**, 19  
     —§3-506, **3**, 20 n.2  
     —§3-507, **2**, 169  
 Uniform Partnership Act, **11**, 313,  
     348  
 Unjust enrichment, **1**, 287, 309 n.9; **2**,  
     155, 234-239; **3**, 30-32, 278, 279;  
     **4**, 231, 232, 278, 279; **5**, 171,  
     172; **6**, 168, 169, 172, 177, 213,  
     215; **8**, 60, 390; **9**, 56-58, 401,  
     402-403; **10**, 107, 171; **11**, 238,  
     335-336, 351; **12**, 352-356, 363,  
     375-380; **13**, 101, 115, 116, 117,  
     119 n.3, 120  
 Unlawful acts, **6**, 169  
 Video tapes: *see* Statement of claim,  
     video tapes  
 Vienna Convention on the Law of  
     Treaties (1969), **1**, 190, 205, 209,  
     289; **5**, 281, 351, 353; **8**, 443; **9**,  
     256; **12**, 68 n.7, 82  
 Article 12, **1**, 200  
 Article 26, **1**, 109; **12**, 61; **13**, 231  
 Article 27, **1**, 490, 495; **3**, 304, 305  
 Article 31, **1**, 109, 198, 200, 200,  
     211, 288, 307; **2**, 82, 147, 149,  
     160, 161, 209, 210; **3**, 305 n.1,  
     310, 312 n.1; **5**, 83, 259, 260,  
     265, 273, 279, 281, 289, 290,  
     329-332, 341, 346; **8**, 92, 95, 201  
     n.12, 207, 295, 440, 447; **10**, 193  
     n.12; **11**, 87; **12**, 46, 51, 74, 89,  
     273; **13**, 168  
 Article 32, **1**, 109, 211 n.3, 288,  
     307; **2**, 160; **3**, 305 n.1, 310; **5**,  
     259, 279, 280; **11**, 46; **13**, 168  
 Article 33, **11**, 8, 9, 36, 46; **12**, 82  
 Article 34, **13**, 43-44  
 Article 45, **4**, 112 n.3, 113  
 Article 46, **1**, 490, 495; **3**, 304-306  
 Article 47, **1**, 489, 495; **3**, 304, 306  
 Article 54, **4**, 112 n.3; **10**, 191  
 Article 60, **2**, 257  
 Article 62, **1**, 314; **4**, 112 n.3; **8**,  
     443-444; **9**, 122  
 Article 65, **4**, 112 n.3; **8**, 444; **10**,  
     191  
 Article 67, **4**, 112 n.3; **10**, 191  
 Article 70, **10**, 191 n.9
- Waiver of rights, **6**, 50  
 "Warehouseman's lien": *see under*  
     Damages  
 Wholly-owned subsidiary, **7**, 206; *see*  
     *also under* Nationality of claim,  
     corporations  
 Withdrawal of action: *see* Claims,  
     withdrawal of