

INDEX

For references to particular articles of treaties, see the Table of Treaties, p. liii.

A

- Act of government. *See also* Act of State
 decision of EC Council of Ministers, 222
 diminishing scope, 220
 European Community (EC)—
 —Council of Ministers, decision, 222
 immunity for, whether—
 —European Community (EC), 220-1
 judicial review, 218
 Act of State—
 act of government, distinguished, 217 n. 48
 immunity—
 —abrogation, 219-20
 —general principle of law, whether, 220
 recognition, government—
 —property, right to, 49
 Air transport agreements—
 Canada/Netherlands (1974)—
 —“air services” as “scheduled services”, 335
 —“designated airlines”, 335-6
 —directly binding on individuals, whether, 336
 —failure to object to proposed tariffs, effect, 336-7
 Chicago Convention on Civil Aviation (1944): *qv*
 Montreal Agreement (1961)—
 —liability under, nature of—
 —absolute, 116, 123
 Warsaw Convention on International Carriage by Air (1929) and Hague Protocol (1955): *qv*
 Aliens. *See also* Diplomatic protection
 expulsion. *See* Expulsion of aliens
 extradition: *qv*
 American Convention on Human Rights (1969). *See also* American Declaration on the Rights and Duties of Man; Inter-American Court of Human Rights
 American Declaration on the Rights and Duties of Man, and, 426-9
 breach—
 —absence of effective remedy for, as, 411. *See also* effective remedy *below*
 effective remedy. *See also under* Inter-American Court of Human Rights, admissibility
 —absence as breach of the Convention, 411
 —ineffectiveness—
 —denial of access to judicial remedy, 412
 —general conditions in country, 411
 —lack of independent judiciary, 412
 —state of emergency, 412
 —unjustified delay, 412
 —suspension, 415
 habeas corpus—
 —*amparo*, and, 401-2, 413-14, 415
 —purpose, 402
 —right of suspension, 394-404, 413-15

American Convention (*cont.*)

rights—

- amparo*. *See* habeas corpus *above*
- due process, 412-13
- fair trial, 412
- guarantees, distinguished, 397, 400, 412
- habeas corpus. *See above*
- independent and impartial tribunal—
- State of emergency, and, 400-1, 403
- personal liberty, right of suspension, 395
- suspension—
- “effective exercise of democracy”, paramount importance, 398, 414, 415
- essential judicial remedy requirement, 400-1, 415
- exceptional, 398
- full and effective exercise, distinguished, 398
- habeas corpus, 394-404, 413-15
- humane treatment, 395
- international obligations, and, 398
- liberty, 395, 414
- non-discrimination, 398
- non-suspendible rights, 395, 398-9, 402, 409-10, 414-15
- proportionality, 399, 414
- reasonableness, 399
- rule of law, and, 399-400, 414, 415

American Declaration of the Rights and Duties of Man (1948)—

- evolving law, subject to, 426
- fundamental human rights, statement of, 426-7
- interpretation—
- Inter-American Court of Justice, 422-4, 426, 428-9
- legal effect, 429
- obligations—
- source of, 428, 429
- treaty, whether, 422-3, 424-5
- Inter-American Committee of Jurisconsults, 425
- Inter-American Juridical Committee, 425
- Ninth International Conference of American States 1948, 425

Applicable law—

- Administrative Tribunal—
- constituent instrument, 235
- general principles of law—
- “common law” of international organizations, 235
- arbitration—
- parties’ right to choose, 12
- procedure—
- absence of connecting factors, relevance, 264-5
- parties’ right to choose, 264-5
- seat of tribunal, 260, 264-5
- central bank—
- structure and responsibilities, 735
- choice of law clause. *See* Arbitration agreement, choice of law clause
- competition law—
- place of implementation, 196
- corporation—
- national law of contracting party, 308-9, 319

- employment contract, 573
- foreign civil aviation companies operating on territory, between—
 - bilateral air transport agreement, 334-6
- participation in conduct of public affairs—
 - national law, 712
- restrictive practices agreement—
 - place of implementation, 196
- service of process—
 - lex fori*, 78, 79-80
- State contract—
 - international law, 262-6
 - municipal law of State party—
 - conflict with, 265-6
- Arbitral award. *See also* Iran-US Claims Tribunal, award
 - binding force, 332
 - definition—
 - New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), 9
 - enforceability—
 - date of, 332
- Arbitral tribunal. *See also* Badinter Commission (Yugoslavia); Iran-US Claims Tribunal
 - advisory opinion—
 - binding effect, 716
 - compétence de la compétence*, 260, 266-8
 - arbitral decisions, 267-8
 - derived from arbitrator's appointment, whether, 260-1
 - equity, rule of, 268
 - European Convention on International Commercial Arbitration (1961), 266-7
 - France/Iran Arbitration Agreement (1977), 267
 - general principle of international law, 268
 - ICSID Convention (1965), 267
 - publicists, writings of, 267
 - procedure—
 - oral proceedings—
 - new grounds, 294-5
 - practice, 294-5
- Arbitration—
 - applicable law—
 - choice of law clause. *See* Arbitration agreement, choice of law clause
 - parties' right to choose, 12
 - procedure—
 - absence of connecting factors, relevance, 264-5
 - parties' right to choose, 264-5
 - seat of tribunal, 260, 264-5
 - exhaustion of local remedies, and, 278-9
 - diplomatic protection cases, limited to, 278-9
 - “international”—
 - limited to inter-State arbitration, whether, 330-1
- Arbitration agreement—
 - choice of law clause, 262-6
 - conflict with national law, 262-3, 274-9
 - subsequent legislation, and, 265-6
 - deviation from general conflict of laws rules, 263

- Arbitration agreement (*cont.*)
 —“equity and generally recognized principles of law and in particular international law”, 262-6
 —ICJ Statute, Article 38, and, 265
 —*pacta sunt servanda*, 265-6
- Arbitration clause—
 acceptance—
 —State agency, by, attribution to government, 275
- binding effect—
 —*Anglo-Iranian Oil Co*, 277
 —arbitral decisions, 277
 —ICSID Convention (1965), 275
 —publicists, writings of, 275-6
- nullity—
 —legislation of State party, 268-9, 274-8
- separability, 268-74
 —arbitral decisions, 269
 —arbitration conventions, 272
 —Council of Europe Uniform Law on Arbitration, 272-3
 —European Convention on International Commercial Arbitration (1961), 272
 —France/Iran Arbitration Agreement (1977), 274
 —ICC Rules, 273
 —UNCITRAL, 237
 —*BP v. Libya*, 271
 —general principle of international arbitration law, 269
 —international organizations, arbitration rules, 270, 272
 —*LIAMCO*, 270-1
 —*Losinger*, 270
 —national arbitration law, 270, 273-4
 —publicists, writings of, 269-70, 271-2
 —*Texaco*, 270
- Arrest. *See* Ships, arrest
- Asian Development Bank—
 Administrative Order No 2.08, 248
 Administrative Order No 2.10, 246
 fixed-term appointment—
 —decision not to convert, review of, 246
 performance appraisal, 235-7
Personnel Handbook for Professional Staff—
 —Section 5.1, 236
 Personnel Policy Statement (1990), 236
 termination of employment—
 —reasons—
 —unsatisfactory performance, 237
 —security of tenure, 248-9
- Asian Development Bank Administrative Tribunal—
 admissibility—
 —delay in adopting Rules of Procedure, and, 235, 246-7
 applicable law—
 —constituent instrument—
 —Bank, 235
 —Tribunal, 235
 —general principles of law—

- “common law” of international organizations, 235
- decisions of international and administrative tribunals, 235, 250
- employment contract, 235
- Personnel Handbook, 235
- Staff Rules and Regulations, 235
- World Bank Administrative Tribunal, decisions of, 250
- costs—
 - expenses, 251
 - itemization, need for, 251
 - legal, 251
 - secretarial, 251
- jurisdiction—
 - compétence de la compétence*, 238
 - judicial review—
 - limitations, 237-8
 - non-observance of terms of employment contract or terms of appointment, 234
- Austria—
 - Constitution—
 - 130, 576, 581
 - Article 94, 576
 - Article 131, 575
 - Article 144, 575
 - contract—
 - employment. *See* employment contract *below*
 - employment contract—
 - applicable law—
 - Civil Code (*ABGB*), 573
 - Private Employee Act 1921, 573
 - dismissal, 573-8
 - administrative retirement, 573
 - disabled, 574-5, 580-2
 - Disabled Persons (Employment) Act 1970, 574-5
 - Industrial Relations Act 1974, 573-4
 - procedure, 575-6
 - judicial review, 576-8
 - separation of powers, 575-6
 - law of—
 - appeal—
 - new material, 443-4
 - Civil Code (*ABGB*)—
 - Articles 859 ff, 573
 - Civil Procedure Code (*ZPO*)—
 - Article 190, 577
 - Article 228, 577
 - Article 504, 577
 - Article 507, 577
 - Article 508, 577
 - Article 509, 577
 - Article 530, 577
 - Disabled Persons (Employment) Act 1970, 574-5, 580
 - General Administrative Procedure Code 1950, 575-6
 - Article 38, 577
 - Industrial Relations Act 1974, 573, 580

Austria (*cont.*)

- Labour and Social Courts Act 1985—
- Article 63, 576-7
- Labour Courts Act, 576
- Private Employment Act 1921—
- Article 27, 573

B

Badinter Commission (Yugoslavia), 713-42

- advisory opinion—
 - binding effect, 716
 - ‘subsidiary means for the determination of the rules of law’, 715
- competence—
 - basis—
 - agreement of parties, 715, 716
 - referral by Co-Chairmen of the International Conference on the Former Yugoslavia, 716
 - non-legal issues, 731
 - terms of reference, 716
- composition and terms of reference, 737-8
- equality of parties, 717
- Rules of Procedure, 739-42
- Yugoslavia, Federal Republic (FRY), and—
 - advisory opinion, effect, 716
 - letter relating to, 717-18
 - non-participation, 717
 - statement relating to, 714-15

Belgium—

- act of government—
 - judicial review, 218
- judicial review—
 - act of government, 218
 - commercial relations, 219
 - foreign relations—
 - discretionary powers, 219

Belligerent occupation. *See also* War

- occupying power—
 - mandatory, whether, 61
 - obligations—
 - Hague Conventions (1899/1907), 58-9, 61

Bosnia-Herzegovina—

- succession—
 - date, 721-2

Burundi—

- law of—
 - Decree-Law 1/007 of 20 November 1989—
 - expulsion of aliens, 311

C

Canada—

- freedom from discrimination—
 - direct and intentional discrimination, need for, 664
 - religious—
 - hard-hat, requirement to wear, 663-4

- Indian peoples in—
 - Constitutional Conferences to determine status, 709-10
 - right of representation under International Covenant on Civil and Political Rights (1966), 710-12
 - natural resources, right to dispose of freely, 669-73
 - self-determination, right to, 669-73, 706-7
- law of—
 - Charter of Rights and Freedoms—
 - religious discrimination, 663
 - Labour Code—
 - safety at work provisions, 662-3
- Central bank—
 - jurisdiction—
 - dispute relating to agreement with foreign commercial bank, 736, 737
 - State organ, whether, 735-6
 - State responsibility—
 - acts on behalf of State and private acts, distinguished, 736
 - State succession—
 - disintegration, and, 735
 - distribution of assets following succession—
 - applicable law, 736
 - structure and responsibilities—
 - applicable law, 735
- Chicago Convention on Civil Aviation (1944)—
 - phrases—
 - ‘accident’, 114 n. 2, 124
- Child care—
 - developing law—
 - abduction of children by parents—
 - conclusion of conventions, 636
 - parental access—
 - bilateral agreements, 636
 - Draft Convention on the Rights of the Child, 636
 - See also under* European Convention on Human Rights (1950) International Covenant on Civil and Political Rights (1966)
- China, Republic of—
 - diplomatic relations—
 - termination, 86
 - People’s Republic of China, and, 85-7
 - recognition, withdrawal, 85-7
 - recognition, withdrawal—
 - continuation of non-diplomatic relations, 86
 - treaties, effect on, 86-9
 - treaties—
 - Friendship and Navigation Treaty (US/Republic of China) (1946)—
 - validity, 85-7
- Choice of law clause. *See* Arbitration agreement, choice of law clause
- Colombia—
 - freedom from discrimination—
 - English-speaking protestants, treatment of, 705-6
- Comity—
 - effects doctrine, 182, 183, 187, 197
 - legislation—
 - extraterritorial, 133-4

- Compensation. *See also* Just satisfaction
 breach of State responsibility—
 —causal link, need for, 323
 exchange rate—
 —date of damage, 328
 international officials, 250
 measure—
 —*damnum emergens*, 323
 —deprivation of employment, 250
 —difficulty of obtaining other work, 250
 —effect of illegal act excluded, 324
 —loss of pension, 250
 —lost earnings, 329, 330
 —lost profit, 323, 326-7
 —lost property following expulsion, 329
 —moral injury, 250
 —non-pecuniary loss. *See below*
 —original investment—
 —retroactive effect, 324
 non-pecuniary loss—
 —reputation and honour, 329, 330
 period covered—
 —commencement of unlawful act, 323
 —continuation of unlawful act, 323-4
 rescission of decision, and, 250
restitutio in integrum—
 —as alternative to, 321
 specific performance, and, 250
 State succession—
 —inequity following, 731
 —war damage, 728-9
 subrogation, 330
 valuation—
 —balance sheet, 327-8
 war damage, 728-9
 Competition law—
 applicable law—
 —place of implementation, 196
 Consular relations—
 diplomatic relations, break, effect on, 303, 304
 —Vienna Convention on Consular Relations (1963), 303
 Contract—
 breach—
 —maritime claim, 377
 employment. *See* Employment contract
 State. *See* State contract
 Corporation—
 debts, liability for—
 —enforceability of award, 17
 —fraudulent intent, 16-17
 —piercing the corporate veil, 16-17
 international public undertaking—
 —applicable law—
 —constituent instrument, 308-9

- national law of contracting party, 308-9, 319
- piercing the corporate veil, 16-17
- valuation—
 - balance-sheet, 327-8
- Costs—
 - arbitration proceedings, 331-2
 - arbitration costs, 330
 - legal fees, distinguished, 330
 - bad faith, relevance, 331-2
 - ICSID Convention (1965), 331
 - legal fees, 330-1
 - practice, 331
 - UN Commission for International Commercial Law, 331
 - Asian Development Bank Administrative Tribunal. *See* Asian Development Bank Administrative Tribunal, costs
 - European Court of Human Rights. *See also* European Court of Human Rights, costs; Just satisfaction
- Croatia—
 - succession—
 - date, 721
- Customary international law—
 - expulsion of aliens—
 - collective, 312
 - extraterritorial jurisdiction—
 - conflicting jurisdictions, 185
 - State succession—
 - immovable property on territory of successor State, 731
 - treaties—
 - third party, 725
 - treaties reflecting—
 - Vienna Convention on State Succession in Respect of Treaties (1978), 377

D

- Death penalty. *See under* European Convention on Human Rights (1950)
- Denmark—
 - judicial review—
 - diplomatic protection, 215
 - diplomatic relations, establishment, 215
 - legally protected right, need for, 215
 - recognition, State, 215
- Diplomatic agent—
 - employee of company established under economic development agreement, whether, 306
 - expulsion—
 - aliens, distinguished, 313
- Diplomatic protection—
 - judicial review, 215
- Diplomatic relations, 175
 - break—
 - consular relations, effect on, 303, 304
 - Vienna Convention on Consular Relations (1963), 303
 - discretionary act, 303, 313
 - economic development agreement, effect on, 306-7, 308-9
 - parties' conduct, and, 308

Diplomatic relations (*cont.*)

- existing treaties, 303, 304-5
- nationals in receiving country, effect on, 306
- right of suit, effect on, 74-5
- treaties, effect on—
 - conclusion of new treaties, 303
 - existing treaties, 303
 - in absence of need for diplomatic relations, 303, 304, 308
 - United States Diplomatic and Consular Staff in Teheran*, 305
- establishment—
 - judicial review, 215

E

Economic development agreement—

- company established under—
 - applicable law—
 - constituent instrument, 308-9
 - national law of contracting party, 308-9, 319
 - “measure capable of infringing rights of shareholders or limiting right of company to achieve objects”—
 - nationalization or similar measures, limited to, whether, 315-16
 - waiver—
 - right of expulsion, 315
 - right to sever diplomatic relations, 315-16
- termination—
 - necessity, 316-20

Employment contract—

- applicable law, 573
- dismissal, 573-8

Equality. *See also* Freedom from discrimination *and under* International Covenant on Civil and Political Rights (1966) *and* International Covenant on Economic, Social and Cultural Rights (1966)

- education—
 - Elimination of Discrimination in Education, Paris Convention (1960), 371
 - International Covenant on Civil and Political Rights (1966), 371
- transitional rules, 371-2

Equality of parties—

- Badinter Commission (Yugoslavia), 717

European Commission of Human Rights—

- admissibility. *See also* European Court of Human Rights, admissibility
- standing. *See below*

role—

- assessment of compatibility of court’s discretionary decision under Convention, 616

standing—

- child of parent denied access, 628

European Community (EC)—

- act of government—
 - immunity for, whether, 220-1
- competition law—
 - applicable law—
 - place of implementation, 196
 - EC Free Trade Agreements, and, 19-92, 153-4, 199-200
 - cumulative, 190-1

- parties outside EC, applicability, 152-3, 195-7
- requirements—
- distortion of trade within EC, 152-3
- Council of Ministers—
- decision—
- “act of government”, 222
- foreign relations—
- judicial review, 213-23
- Adams*, 214
- Clemessy*, 214
- Faust*, 214
- Fediol*, 213
- Member States’ law, 215-21
- International Tin Council, and—
- responsibility for acts of, 225-30
- jurisdiction—
- effects doctrine—
- Article 85 of Treaty of Rome, 175-6, 179
- Beguelin*, 176
- competition law, applicability to, 177
- Dyestuffs*, 176
- existence of infringement and jurisdiction, distinguished, 175-6, 186-7
- international law, conformity with, need for, 177
- Walrave v. Union cycliste internationale*, 176-7
- Member States, and—
- substitution of EC, 179
- territorial, 187, 196
- European Community law—
- act of government—
- immunity for, whether, 220-1
- judicial review—
- EC treaties, 220-3
- compatibility with Treaty of Rome, 222
- ex post facto, 220
- mixed agreement, 222-3
- political credibility of EC, and, 222
- prior review procedure, and, 220-2
- protection of third parties, 222
- sources—
- principles common to the laws of Member States, 220
- European Convention on Human Rights (1950)—
- breach—
- statutory provision, as, 613-14, 620
- child care—
- parental access, 613
- divorce, after, 612-17, 620-3
- inhuman or degrading treatment, 617
- interests of child, 614, 615-17
- civil right, whether—
- applicable law—
- domestic law, 491, 552
- dismissal from employment, 580
- preliminary question, whether, 552
- Court’s duty to consider *ex proprio motu*, 552

European Convention on Human Rights (cont.)

- relevant factors—
 - “decisive for private rights and obligations”, 491, 552
 - personal and property interest, 491-2
- death penalty, in non-member State—
 - extradition treaties, 388
 - obligation to refrain from act leading to, 387
 - breach as tort, 387
 - NATO Status of Forces Agreement (1951), and, 387-8
 - State practice, 388
- fair hearing—
 - equality of arms, 561-2
 - failure to provide copy of relevant report, 619
 - expert, failure to appoint, 555-8, 560-2
 - national court’s responsibility to determine need, 555, 558
 - lawyer, absence, 601
- inhuman or degrading treatment—
 - refusal of parental access, whether, 17
- phrases—
 - “in accordance with the law”, 614, 615
 - “legitimate aim”, 614
 - interests of child, 615-16
 - “necessary in a democratic society”, 614
 - protection of health of child, 616-17, 623
 - “reasonable time”. *See under* prompt hearing *below*
 - “within the jurisdiction”—
 - alien on territory, 386-7
 - jurisdictional responsibility, relevance, 387
 - wide interpretation, 386
- precedence—
 - balance of interests, 388
 - direct effect of treaty, relevance, 388
 - other treaties, over, 387-8
- prompt hearing—
 - applicant’s obligation to advance proceedings, 530, 554, 588, 598
 - 4 years, 601
 - 14 months, 618
 - criminal proceedings, 601
 - parental access cases, 601
 - delays attributable to State, limited to, 554, 599
 - “reasonable time”—
 - 5 years, 520, 523-33, 601
 - 6 years, 492-5
 - 7 years, 443-9, 472-4, 553-9, 598-600, 601-2
 - 8 years, 510-15
 - 9 years, 476, 519, 582-3, 601
 - 10 years, 459-63
 - 12 years, 602
 - 18 months, 443
 - court’s duty to ensure prompt hearing, 460, 530
 - delay in obtaining expert advice, 461-2
 - divorce proceedings, 519
 - relevant factors—
 - applicant’s conduct, 53-1, 441-6, 460-1, 493-4, 529, 553-4, 588-9

- behaviour of judicial authorities, 446-7, 494-5, 513-15, 529, 531-3, 554-5, 589-90, 599-600
- circumstances of case, 459, 473, 492, 510, 513, 582, 587, 601
- complexity of case, 444, 460, 493, 529, 530, 553, 582-3, 588, 598
- court's workload, 473, 519, 532-3, 554, 602
- evolution of applicant's state of health, 514-15
- excessive judicial activity, 519
- practice in other Member States, relevance, 513
- state of case at commencement of period, 473, 510, 529
- relevant period—
 - commencement of proceedings, 443, 459, 587, 598
 - continuing, 459
 - enforcement proceedings, 529
 - entry of Convention into force, 519, 601
 - judgment, 443, 529, 587, 598
 - legal aid procedure, 553
 - recognition of right of individual petition, 473, 510, 529
 - remedial action, relevance, 532, 554
 - State responsibility—
 - action to remedy judicial procedure defects, 473-4, 513, 519
 - delay in obtaining expert opinion, 462
 - diligence in cases affecting civil status and capacity, 519
 - judicial authorities, acts of, 515
 - mitigating factors, 600
 - proper administration of justice, 448, 474, 492, 495, 510-11, 532, 590, 601
 - provision of means to fulfil treaty obligations, 515
 - termination of enforcement proceedings, 510
- proportionality, 623
- rights—
 - civil right, whether. *See above*
- tribunal—
 - administrative court—
 - limited powers of review, 580-2
 - Disabled Persons Board, 581
 - Provisional Governor, 581
- European Court of Human Rights—
 - admissibility. *See also* European Commission of Human Rights, admissibility
 - exhaustion of local remedies. *See below*
 - dispute (*contestation*) over right, 490-1, 519
 - effective remedy before national authority—
 - availability, 597
 - burden of proof, 597
 - finding case time-barred, 519
 - relevance to alleged breach, need for, 597
 - statutory provision, sufficiency, 596-7
 - exhaustion of local remedies—
 - effective remedy before national tribunal. *See above*
 - estoppel—
 - non-objection at Commission proceedings, 579-80
 - friendly settlement, 520
 - applicant's problem resolving itself, 472
 - finding case time-barred, 472
 - jurisdiction—
 - anticipation of national court's decision, 496

- European Court of Human Rights (*cont.*)
- dispute (*contestation*) over right. *See above*
 - effect of revolution on application of legislation, 490
 - legislative measures, direction to State to take, 476
 - national courts—
 - assessment of evidence before, 561
 - merits, review, 490
- Rules of Court—
- 2 (3), 500
 - 21(3)(b), 432, 454, 467, 480, 500, 522, 537, 565, 591
 - 21(4), 432, 454, 467, 468, 480, 500, 522, 537, 565, 591
 - 21(5), 432, 454, 468, 480, 500, 522, 538, 565, 591
 - 21(6), 467
 - 22(1), 432, 500, 538, 591
 - 23(1), 480
 - 24(1), 538, 564, 591
 - 24(2), 480
 - 27(2), 480
 - 27(3), 454, 468, 480
 - 30, 432, 454, 467, 479, 500
 - 30(1), 537
 - 33(3)(d), 454, 467, 479, 500, 522, 537, 564, 591
 - 33(3)(b), 591
 - 37(1), 433, 454, 468, 480, 500, 522, 538, 565, 591
 - 38, 454, 468, 480, 500, 591
 - 48(2), 472
 - 53(1), 450
 - Addendum—
 - 4, 454, 538
- European Court of Justice (ECJ)—
- admissibility. *See also* European Community law, judicial review
 - Commission's failure to act, 224-6
 - difficulty of assessing conduct, 223-4
 - liability without fault, 225
 - premature application, 212-13
 - liability to be established at merits stage, 212-13
- Advocate-General—
- Opinions—
 - MacLaine Watson*, 205-31
 - Woodpulp*, 173-92
- Judge-Rapporteur—
- Report for Hearing—
 - Woodpulp*, 154-73
- European Economic Community (EEC) treaties—
- Free Trade Agreements—
 - application of Article 85(1) of Treaty of Rome, and, 153-4, 181-92, 199-200
 - primacy, 189-91
 - cumulative, 190-1
 - judicial review, 220-3
 - annulment, risks, 222
 - compatibility with Treaty of Rome, 222
 - ex post facto, 220
 - legal certainty, need for, 222
 - mixed agreement, 222-3

- political credibility of EC, and, 222
- prior review procedure, and, 220-2
- protection of third parties, 222
- European Economic Community Treaty (Rome) (1957)—
 - phrases—
 - “effect”, 175-6, 186-7
- Exhaustion of local remedies. *See also* European Court of Human Rights; European Court of Justice (ECJ), admissibility, premature application
 - arbitration, 278-9
 - diplomatic protection cases, limited to, 278-9
- Expulsion of aliens—
 - collective, 311-14
 - African Charter on Human and Peoples’ Rights (1981), 312
 - customary international law, 312
 - European Convention on Human Rights (1950), 312
 - International Covenant on Civil and Political Rights (1966), 311
 - Pact of San José (1964), 312
 - diplomatic agents, expulsion, distinguished, 313
 - grounds—
 - nationality, 313-14
 - public order, 310
 - definition determined by law, 310
 - security, 310, 311
 - termination of economic development agreement, 309-10
 - jurisdiction—
 - arbitral tribunal, 311
 - margin of discretion, 311, 313
 - “measure capable of infringing the rights of shareholders or limiting rights of company to achieve objects”, whether, 315-16
 - requirements—
 - good faith, 310
 - in accordance with law—
 - of expelling State, 310, 314-15
 - non-arbitrary, 310
 - reasonable, 313
 - reasons to be given, 310, 313
 - respect for person and property, 310
 - right of appeal, 310, 311
- Extradition—
 - agreement—
 - death penalty reservation, 388
 - agreement, need for, 107
 - conditions in receiving State, review, 109
 - executive power, 109
- Extraterritoriality—
 - UN Headquarters, 77

F

- Finland—
 - judicial review—
 - military disciplinary procedure, 651
 - military disciplinary procedure—
 - compatibility with International Covenant for Civil and Political Rights (1966), 650-60
 - judicial review, 651

Cambridge University Press

978-0-521-47293-7 - International Law Reports, Volume 96

Edited by E. Lauterpacht and C. J. Greenwood

Index

[More information](#)

758

INDEX

- Force majeure*—
 contributory act, and, 318
- Foreign law—
 choice of law—
 —incorporation of foreign law, distinguished, 79
- Foreign relations—
 confidentiality, and, 348-58
 —balance of interests, 351-4, 356-7
 —evidence, obligation to give, effect on, 351, 354, 355, 356
 —obligation of person appointed by State to conduct foreign relations, 350-8
 —rules of international organization, 350, 356
 foreign commerce, distinguished, 134
 judicial restraint—
 —acts between private individuals affecting foreign relations, 216-17
 judicial review, 213-23
 —European Community (EC), 213-23
 —discretionary powers, 218
 —prerogative, and, 216
 margin of discretion, 216
 reliability of State as international partner, 352-4, 356-7
- France—
 civil procedure—
 —court's duty to ensure prompt hearing, 598
 —parties' responsibility for advancing, 598
 judicial review—
 —deportation, 218
 —extradition, 218
 —foreign relations, 217-18
 —discretionary powers, 218
 —malfunctioning of judicial system, 595-6
 —treaty—
 —absolute liability for abnormal damage, in case of, 218
 law of—
 —Civil Procedure Code (New)—
 —Article 2, 598
 —Article 3, 598
 —Article 373, 594
 —Article 780, 594-5
 —Article 910, 595
 —Judicial Organization Code—
 —Article L781-1, 595-6
 treaties—
 —judicial review—
 —absolute liability for abnormal damage, in case of, 218
- Freedom from discrimination—
 direct and intentional discrimination, need for, 664
 English-speaking protestants in Colombia, treatment of, 705-6
 justification for discrimination, 362-3
 religious—
 —hard-hat, requirement to wear, 663-4
See also under International Covenant on Civil and Political Rights (1966)

INDEX

759

G

- General principles of—
 - international arbitration law—
 - separability of arbitration clause, 269
 - law—
 - pacta sunt servanda*, 266
- Germany, Federal Republic (FRG)—
 - foreign relations—
 - judicial review, 215-16
 - margin of discretion, 216
 - judicial review—
 - foreign relations, 215-16
 - legal rules, need for, 215-16
 - Regierungsakte* and *justizfreie Hoheitsakte*, distinguished, 215
- Government—
 - act of. *See* Act of government
 - change—
 - fundamental change of circumstances, whether, 67
- Government, change—
 - obligations of new government, 67
 - State succession, distinguished, 65, 66-7
- Greece—
 - judicial review—
 - act of government, 218
 - foreign relations, 218
 - treaty, 218

H

- Habeas corpus—
 - amparo*, and, 401-2, 413-14, 415
 - purpose, 402
 - right of suspension, 394-404, 413-15
- Hague Conventions (1899/1907)—
 - belligerent occupation—
 - occupant—
 - obligations, 58-9, 61
 - individual—
 - rights, 58-9
 - self-executing, whether, 59
- Human rights. *See also* American Convention on Human Rights (1969); American Declaration of the Rights and Duties of Man (1948); Child care; Equality; European Convention on Human Rights (1950); Expulsion of aliens; International Covenant on Civil and Political Rights (1966); International Covenant on Economic, Social and Cultural Rights (1966); Minorities evolution, 426-7

I

- Iceland—
 - extradition to—
 - review of conditions, 109
 - treaties—
 - State succession, and, 107-9

- Inter-American Court of Human Rights—
 admissibility—
 —advisory opinion—
 —Member State, 408
 —organ entitled to seek, 394
 advisory opinion—
 —alternative judicial method, as, 409
 —competence—
 —American Declaration of the Rights and Duties of Man (1948), 422-4, 428-9
 —discretionary, 423-4
 —entitlement to seek—
 —Inter-American Commission, 394
 —Member State, 408, 422
 —hypothetical situation, exclusion, 409
 Commission, and—
 —non-representation, 419
 jurisdiction—
 —advisory opinion. *See above*
 —“all matters relating to the interpretation or application of [the] Convention or other treaties concerning protection of human rights in the American States”, 394, 408
 Rules of Procedure—
 —49(2), 407
 —52, 393, 406, 419
 Interest—
 ex aequo et bono, 329, 330
 post-judgment, 332
 International Covenant on Civil and Political Rights (1966)—
 binding on all persons, whether, 372-3, 390
 child care—
 —interest of child, 633-4
 —denial of parental access, and, 634-5
 —statutory criteria, need for, 634, 636-7
 —parental access—
 —after divorce, 631-7
 —compatibility of legislation, 636
 —interest of child, 634-5
 deprivation of liberty—
 —corporal punishment, need for, whether, 655
 —detention—
 —judicial review, right to, 659-60
 —military, applicability to, 654, 659-60
 —military detention, applicability to, 655, 658-9
 —period of detention, 655, 657
 —physical and mental effects, 657
 —solitary confinement, 655, 657
 equality—
 —court’s role—
 —avoidance of involvement in policy assessment, 343
 —International Covenant on Economic, Social and Cultural Rights (1966), distinguished, 361
 —social security, 361
 —spouses following divorce, 633
 family life, respect for, 633

- freedom from discrimination—
 - invidious discrimination, 666
 - legitimate aim, 666
 - Sikh headwear, 666
- inhuman or degrading treatment—
 - deprivation of liberty as, 657-8
- judicial review, right to—
 - deprivation of liberty, 659-60
- legitimate aim, 648
 - protection of workers, 666
- minorities—
 - enjoyment of own culture—
 - aboriginal Indians in Canada, 702-4
 - context, to be seen in, 646-7
 - economic and social activities, 703
 - exploitation of natural resources, and, 703-4
 - historical inequities, 703
 - interests of society as a whole, 704
 - preservation intact, 704
 - Sami in Sweden, 646-8
 - natural resources, right to dispose of freely, 704
 - self-determination. *See below*
- obligations—
 - existing legislation to conform, 361
 - implementation, 361
- participation in conduct of public affairs, 711-12
 - applicable law—
 - national law, 712
 - direct participation, 712
- “people”—
 - Optional Protocol, relevance, 702
- phrases—
 - “court”—
 - supervisory military officer, 659-60
 - “family”—
 - parent/child relationship, 634, 636
- proportionality, 648
- purpose—
 - universality of human rights, 658
- remedies—
 - effective measures to remedy violations, 660, 703
 - steps to ensure non-repetition, 660
- self-determination—
 - individual’s right to challenge, 645-6, 705-7
- State responsibility—
 - adoption of challenged legislation, 647
- International Covenant on Economic, Social and Cultural Rights (1966)—
 - direct effect, 340-3, 362, 363, 372-3, 390-1
- equal pay—
 - patent inequality, need for, 341-3
- equality—
 - destruction of existing equality, 341
 - discrimination, need for, 351-2
 - patent inequality, need for, 341-3

- International Covenant on Economic, Social and Cultural Rights (*cont.*)
 —pay, 340-3, 390-1
 —near-identity of positions, need for, 343
 —perpetuation of inequality, 362-3
 —destruction of existing equality, distinguished, 341
- International law—
 general principles—
 —authorization and obligation, distinguished, 189
 international commercial law, whether, 134
 multilateral trade agreements, whether, 134
 —GATT, 134
 —Uruguay Round Negotiations, 134 n. 45
 sources—
 —arbitral and judicial decisions, 267-8, 277
 —international and administrative tribunals, 235, 250
 —“subsidiary means for the determination of the rules of law”—
 —arbitral tribunal, advisory opinion, 715
- International Law Association (ILA) (1972)—
 effects doctrine, 186-7
- International Law Commission (ILC)—
 Draft Articles on State Responsibility (1977)—
 —Article 6, 320
 —Article 31, 318
 —Article 33, 318
 —cessation, 320-1
 —customary international law, whether, 319, 321
 —necessity, 318
 —preclusion of wrongfulness—
 —*force majeure*, 318
 —time factor, 323-4
- jurisdiction—
 —extraterritorial, 185
- State succession—
 —State property, archives and debts, 728
- International officials—
 acquired rights, 235
 compensation—
 —measure—
 —deprivation of employment, 250
 —difficulty of obtaining other work, 250
 —loss of pension, 250
 —moral injury, 250
 —rescission of decision, and, 250
 —specific performance, and, 250
- due process—
 —elements—
 —fair and balanced scrutiny of qualifications, 236
 —performance appraisal, 236
 —policy discretion, and, 237-8
 —right to, 235-8
- fixed term employment—
 —conversion into career appointment—
 —conditional, 235

- expectancy of, 235, 240-1
- review, 246
- judicial review—
 - grounds—
 - arbitrariness, 238, 247
 - failure to observe correct procedures, 238
 - improper motivation, 238
 - unreasonableness, 238
- performance appraisal—
 - exchange of views, 248
 - future steps, 236, 242-3
 - general practice accepted as law, 236
 - written provision, relevance, 237
 - personal observation, need for, 244-5, 248
 - senior staff, 248
 - written, 236, 237, 241-9
- termination of employment—
 - reasons—
 - unsatisfactory performance, 237
 - security of tenure, 248-9
- International organizations—
 - personality—
 - test—
 - binding effect of decisions of Members, 228
 - independence of Member States, 228
 - private law rules, relevance, 228
 - status—
 - independent entity, 227-8
- International Tin Council (ITC)—
 - confidentiality of proceedings—
 - action against single Member State, relevance, 353-4
 - ITC Rules as basis of obligation, 350
 - history, 205-10
 - Member States—
 - debts—
 - liability, 228
 - Rules of Procedure—
 - binding on third parties, whether, 350
 - continued application, 348
 - direct effect, 348
 - publication, effect, 350
 - status—
 - independent legal entity, 227-8
 - binding effect on Members of Council's decisions, 228
 - Chairman as organ of ITC, 227
 - independence of Council, 228
- Iran, Republic of—
 - arbitration—
 - refusal to participate in, 268-9
 - law of—
 - Nationalization Act 1951, 268
 - Petroleum Act 1957, 268
 - Single Article Act 1980, 268

Iran-US Claims Tribunal—

Algiers Accords. *See also* Claims Settlement Agreement and General Declaration
below

- individual's rights, effect on, 10-11
- President's power to conclude, 10-11
- self-executing, whether, 8

award—

- Algiers Accords, provisions under, 8
- compliance—
- obligation, whether, 8
- enforcement—
- against Iran, 8
- in favour of Iran, 8
- US courts, by, 5
- “made in foreign State”, whether, 9, 11-12

Claims Settlement Declaration. *See also* Algiers Accords *above* and General Declaration
below

- description, 6

General Declaration. *See also* Algiers Accords and Claims Settlement Agreement
above

- description, 6

Ireland, Republic of—

- act of State—
- absence of doctrine, 220
- foreign relations—
- judicial review, 220
- judicial review—
- foreign relations, 220

Italy—

- civil procedure—
- court's duty to ensure prompt hearing, 460
- parties' responsibility for advancing, 460
- remedial action, 601

Constitution—

- Article 113, 215

foreign relations—

- judicial review, 214

law of—

- Civil Procedure Code—
- Article 99, 460
- Article 115, 460
- Article 175, 460
- Constitutional Court Law—
- Article 28, 215
- Criminal Procedure Code 1989—
- prompt hearing, and, 601

South Tyrol, Austrians in—

- treatment of, 706

Ivory Coast—

Constitution—

- Article 75, 376

treaties—

- applicability—
- declaration by colonial power, need for, 378

- “overseas territory”, to, 379
- State succession, 376-9
- conduct of parties, 379
- Constitution, 376
- notification by depositary, 379
- notification of succession, 377, 378, 379

J

- Judicial restraint, 219
 - foreign relations—
 - acts between private individuals affecting foreign relations, 216-17
- Judicial review—
 - act threatening life or liberty, 219
 - deportation, 218
 - diplomatic protection, 219-20
 - extradition, 218
 - foreign relations, 217-18
 - discretionary powers, 218
 - European Community (EC), 213-23
 - prerogative, and, 216
 - grounds—
 - arbitrariness, 238, 247
 - failure to observe correct procedures, 238
 - improper motivation, 238
 - unreasonableness, 130, 131, 238
 - international officials, 238, 247
 - legislation, 360, 367-71
 - conformity with treaty, 367-9
 - European Convention on Human Rights (1950), and, 369
 - fundamental principles of law, 36
 - growing power of executive, and, 368
 - malfunctioning of judicial system, 595-6
 - margin of discretion, 219
 - military disciplinary procedure, 651
 - standard, 129-30
 - treaty, 219, 339, 360
- Jurisdiction—
 - basis—
 - Barcelona Traction*, 178
 - international law, 177-9
 - Lotus*, 177-9
 - sovereignty, 177-9
 - central bank—
 - dispute relating to agreement with foreign commercial bank, 736, 737
 - concurrent—
 - international trade, 185
 - conflict—
 - failure to object, 197
 - connecting factors—
 - commercial activity, 185
 - effects doctrine—
 - absence of rule against, 187
 - Alcoa*, 181
 - balancing of judicial interest, 183-4

Jurisdiction (*cont.*)

- comity, 182, 183, 187, 197
- direct effect, 186
- Horlogerie Suisse*, 181
- indirect effect, 186
- intended, 182, 186
- International Law Association (ILA) (1972), 186-7
- Laker Airways*, 183
- Lotus*, 177-9
- Manningtree Mills*, 182-3
- qualified effect, 185-7
 - competition law, applicability to, 185-6
 - requirements—
 - effect as element of offence, 179, 186
 - substantial and foreseeable result, 182, 186
- Timberlane*, 182

enforcement—

- blocking legislation, 180
- extraterritorial. *See below*
- prescription, distinguished, 179-80
- imposition of fine, classification, 180

extraterritorial—

- conflicting jurisdiction, 185
- customary international law, 185
- effects doctrine. *See above*
- enforcement, 180
- legitimate interests, need for, 185
- limitation—
 - conflicting obligations, 185, 197

nexus—

- “doing business” in New York, 76-8
- UN Permanent Observer’s non-UN activities, 77-8

territorial—

- acts begun abroad, 177
- American-Banana*, 180-1
- international commerce—
 - applicability, 184-5
 - subjective—
 - acts completed abroad, 177. *See also* effects doctrine *above*

Just satisfaction—

- equitable, 450, 464, 476, 517, 534, 560, 584
- expenses—
 - actually and necessarily incurred, 560
 - bringing case to ECHR, 518
 - reasonable, 560
 - translation, 584
 - travel and subsistence, 534, 584

interest on damages sought from government, 496

legal costs—

- domestic courts, in, 560
- additional costs caused by delay, 450, 518
- ECHR, proceedings before—
 - time spent, 450
 - fees, 497, 534

INDEX

767

- legal advice, 584
- legal expenses, 497
- legal representation, 584
- reasonable, 497
- legislative amendment, 476
- lost opportunities, 450, 517
- non-pecuniary loss—
 - prolonged uncertainty, 450, 475-6, 496, 517, 559, 583
- pecuniary loss—
 - bank commission on precautionary entry in land registry, 533
 - effect on applicant's chance of proving causal link, 559
 - increased costs incurred, 463-4
 - inflation, 533
 - interest, and, 533
 - mitigation, 475

L

- Lapps. *See* Sweden, Sami
- Legislation—
- extraterritorial—
 - comity, 133-4
 - requirements—
 - clear intent, 132, 133-4
 - sovereignty, intrusion, 134
 - Trust Territory, applicability of laws to, and, 27, 30-1
 - Legislation, interpretation—
 - aids—
 - dictionary, 131, 136-7
 - legislative history—
 - ambiguity, relevance, 131
 - guidelines—
 - absurdity, avoidance of, 132
 - clear language, 130, 131, 135
 - “identical language” rule, 137-9
 - intention of legislature, 130-5, 144-7
 - object and purpose, 141-2
 - plain language, 130-5
 - phrases—
 - “agency”, 29
 - “arbitral award”, 9
 - “doing business in”, 76-8
 - “the same as”, 128-47
 - presumptions—
 - conformity with treaty, 132
 - Libya—
 - recognition, government, 94-5
 - interim government, 92, 94
 - National Patriotic Reconstruction Assembly (NPRAG), 94-6
 - Luxembourg—
 - act of government, 218
 - judicial review—
 - act of government, 218
 - foreign relations, 218

M

- Macedonia—
 succession—
 —date, 721
- Minorities. *See also* International Covenant on Civil and Political Rights (1966), minorities
 English-speaking protestants in Colombia, 705-6
 Indians. *See* Canada, Indians
 Lapps. *See* Sweden, Sami
 Sami. *See* Sweden, Sami
 South Tyrol, Austrians in—
 —treatment of, 706

N

- Nationals. *See* Diplomatic protection
- Natural resources—
 minority—
 —right to dispose of freely, 669-73
- Netherlands—
 air transport agreements—
 —Canada/Netherlands (1974)—
 —“air services” as “scheduled services”, 335
 —“designated airlines”, 335-6
 —directly binding on individuals, whether, 336
 —failure to object to proposed tariffs, effect, 336-7
- applicable law—
 —foreign civil aviation companies operating on territory, between—
 —bilateral air transport agreement, 334-6
 —treaty—
 —terms of treaty, 341
- child care—
 —parental access—
 —divorce, after, 607-17, 620-3, 625-37
 —interests of child, 621-2
- Constitution—
 —Article 68, 354, 355
 —Article 93, 341, 350, 390
 —Article 94, 341
 —Article 120, 367-9
- contract—
 —breach—
 —maritime claim, 377
- discrimination—
 —justification, 362-3
- equality—
 —education—
 —Elimination of Discrimination in Education, Paris Convention (1960), 371
 —European Convention on Human Rights (1950), 371
 —International Covenant on Civil and Political Rights (1966), 371
 —transitional rules, 371-2
- family life, respect for. *See* child care *above*
- foreign relations—
 —confidentiality, and, 348-58
 —balance of interests, 351-4, 356-7

Cambridge University Press

978-0-521-47293-7 - International Law Reports, Volume 96

Edited by E. Lauterpacht and C. J. Greenwood

Index

[More information](#)

INDEX

769

- evidence; obligation to give, effect on, 351, 354, 355, 356
- obligation of person appointed by State to conduct foreign relations, 350-8
- rules of international organization, 350, 356
- reliability of State as international partner, 352-4, 356-7
- International Covenant on Civil and Political Rights (1966)—
 - binding on all persons, whether, 372-3, 390
 - equality—
 - courts' role, 343
 - International Covenant on Economic, Social and Cultural Rights (1966), distinguished, 361
 - social security, 361
 - obligations—
 - existing legislation to conform, 361
 - implementation, 361
- International Covenant on Economic, Social and Cultural Rights (1966)—
 - direct effect, 340-3, 362, 363, 390-1
 - equality—
 - destruction of existing equality, 341
 - discrimination, need for, 351-2
 - patent inequality, need for, 341-3
 - pay, 340-3, 390-1
 - perpetuation of inequality, 362-3
- international law—
 - customary international law, 377-8
 - development, 377-8
 - expert opinion, desirability, 378
- International Tin Council (ITC)—
 - confidentiality of proceedings—
 - action against single Member State, relevance, 353-4
 - ITC Rules as basis of obligation, 350
 - Rules of Procedure—
 - binding on third parties, whether, 350
 - continued application, 348
 - direct effect, 348
 - publication, effect, 350
- judicial restraint, 219
- judicial review—
 - act threatening life or liberty, 219
 - legislation, 360, 367-71
 - Charter of the Kingdom, 369-71
 - conformity with treaty, 367-9
 - European Convention on Human Rights (1950), and, 369
 - fundamental principles of law, 367-8
 - growing power of executive, and, 368
 - margin of discretion, 219
 - treaty, 219, 360
- law of—
 - Charter for the Kingdom—
 - Article 49, 369-71
 - judicial review of legislation, 369-71
 - Civil Aviation Act, 335
 - Civil Code—
 - Article 161(1), 608, 636
 - Article 161(5), 608, 613

Netherlands (*cont.*)

- breach of International Covenant on Civil and Political Rights, whether, 613-14, 620-1, 636
- Civil Code Amendment Act 1969, 613-14
- Civil Code Amendment Act 1979, 614
- Civil Procedure Code—
 - Article 191, 351, 354, 355, 356
- Council of State Act—
 - Article 77(4), 349
 - Article 107, 349-50
- Criminal Code—
 - Article 98, 354
- General Disablement Benefits Act—
 - sexual discrimination, 360-3
- Harmonization Act—
 - equality, 371-3
- International Covenant on Economic, Social and Cultural Rights Act—
 - direct effect of Convention, 391
- Open Government Act—
 - foreign relations and, 348-58
- Scheduled Air Transport Tariffs Decree, 335
- legislation, interpretation—
 - aids—
 - legislative history, 370
 - ministerial statement, 370-1
 - official commentary, 370
 - subsequent practice, 371
 - guidelines—
 - nature, 371-2
 - scope, 371-2
 - test, 370
- NATO Status of Forces Agreement—
 - applicability—
 - tort by visiting serviceman, 381-3
- State responsibility—
 - acts and omissions—
 - visiting serviceman, 381-3
- treaties—
 - amendment—
 - parties' conduct, 337
 - conclusion—
 - procedure, 338-9
 - direct effect—
 - binding on all persons, need to be, 372-3
 - clear provision, need for, 341, 372, 391
 - date of legislation intended to implement, relevance, 363
 - International Covenant on Economic, Social and Cultural Rights (1966), 340-2, 372-3, 390-1
 - nature and content, 341, 390-1
 - obligation to take progressive steps, and, 391
 - parties' intention, 372-3
 - ‘shall be agreed upon between [individuals]’, significance, 336
 - ‘shall come into effect on the expiration of the period’, 336
 - structural context for implementation, 341-2

Cambridge University Press

978-0-521-47293-7 - International Law Reports, Volume 96

Edited by E. Lauterpacht and C. J. Greenwood

Index

[More information](#)

INDEX

771

- terms of treaty, determined by, 341
- initialling, effect, 338-9
- precedence—
- balance of interests, 388
- direct effect, relevance, 388
- European Convention on Human Rights (1950), 387-8
- signature—
- initialling, distinguished, 338-9
- treaty-making power—
- executive, 339
- judicial review, 339
- legislature, 339
- New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)—
- arbitration—
- applicable law—
- parties' right to choose, 12
- arbitration agreement—
- head of State's power to conclude, 10-11
- filing of claim as endorsement, 11
- individual's rights, effect on, 10 n. 9
- written, need for, 10
- Algiers Accords, 10
- award—
- definition, 9
- permanent arbitral tribunal, by, 9
- foreign State, made in—
- award of international tribunal, whether, 9, 11-12
- award, enforcement—
- arbitral agreement, beyond scope of, 17-19
- pleading error, relevance, 18
- defences—
- burden of proof, 12 n. 13, 17
- excess of powers, 17
- public policy, violation, 12
- specific performance, necessary, whether, 20-1
- North Atlantic Treaty Organization Status of Forces Agreement (1951)—
- European Convention on Human Rights (1950)—
- precedence, 387-8
- jurisdiction—
- tort committed by visiting serviceman, 382-3
- receiving State—
- obligation to return to sending State—
- death penalty, and, 386-9
- State responsibility—
- acts of visiting serviceman—
- receiving State, 381-3
- sending State, 381-3
- tort by visiting serviceman, 381-3
- Northern Mariana Islands—
- Covenant (1975)—
- Section 302, 37
- jurisdiction—
- US courts, 38

Northern Mariana Islands (*cont.*)

- law of—
 - Pacific Trust Territory, applicability to, 37
 - US law, 37-8
- State immunity, 38
 - US, of, 40-1, 42

P

Pacific Territory Trust—

- authority—
 - UN, 27
- government—
 - agency of US government, whether, 27-9
- history and structure, 25-7
- law of—
 - Northern Mariana law—
 - Trust Territory government base in Saipan, relevance, 37
 - US law—
 - specific extension, need for, 27, 30-1
- territory or possession of US—
 - “like”, 29-30
- Trusteeship Agreement, 27
- Pact of Bogotá—
 - individuals, rights, 50
- Palestine Liberation Organization (PLO)—
 - diplomatic relations—
 - suit, right of, and, 74-5
 - State immunity, jurisdiction, 73-4
 - State, whether—
 - foreign relations, capacity to establish, 74
 - permanent population, lack, 74
 - territory, lack, 74
 - UN, and—
 - Headquarters Agreement—
 - applicability to, 74
 - observer status—
 - State immunity, jurisdiction, and, 74
 - USA, in—
 - jurisdiction over—
 - “doing business in New York” requirement, 76-8
 - non-UN business, 77-8
 - Permanent Observer to UN—
 - State immunity, jurisdiction, 74
- Panama—
 - recognition, government—
 - US, 46-54
 - US intervention (1989)—
 - State responsibility—
 - failure to restore and maintain public order, 57-61
- Political question doctrine—
 - reasons for—
 - difficulty in handling relevant information, 75
 - responsibility of another branch of government, 75-6
 - recognition of foreign State, 48

- requirements—
 - legal criteria, 217
- Portugal—
 - Constitution 1933—
 - judicial independence, 486
 - reparation for infringement of fundamental rights, 486
 - Constitution 1976—
 - Article 21, 486-7
 - law of—
 - Administrative and Fiscal Tribunals Act—
 - compatibility with Constitution, 220
 - Administrative Code—
 - Article 852, 488
 - Article 853, 488
 - Civil Code 1966—
 - Article 501, 491
 - civil procedure—
 - courts' duty to ensure speed and fairness, 511-12
 - Civil Procedure Code—
 - Article 264(1), 510
 - Article 266, 511
 - Article 484, 488
 - Article 485, 488
 - Article 490, 488
 - Civil Procedure Code Article, 486, 488
 - Decree-Law 48.051 of 21 November 1967, 486, 491
 - Law 3/74 of 14 May 1974, 486
 - Road Traffic Code—
 - summary action, 511
 - State immunity, jurisdiction—
 - administrative act, for, 220
 - State responsibility—
 - acts of private administration, 487, 491
 - acts of public administration, 487, 491
 - imputability—
 - revolution, acts during, 490
 - jurisdiction—
 - administrative courts, 487-8
 - civil liability basis, 491
 - non-contractual liability, 486-8
- Prompt hearing, 525-8
 - court's workload, 526
 - damage to plaintiff's interests, need for, 526
 - ECHR jurisprudence, 526
 - normal delay as "norm", 526-7
 - prioritization of cases, 526

R

- Recognition, government—
 - access to municipal courts, 52
 - China, People's Republic of—
 - effect, 85-7
 - interference in internal affairs, whether, 50
 - legal counsel, right to appoint, and, 51-2

Northern Mariana Islands (*cont.*)

- law of—
 - Pacific Trust Territory, applicability to, 37
 - US law, 37-8
- State immunity, 38
 - US, of, 40-1, 42

P

Pacific Territory Trust—

- authority—
 - UN, 27
- government—
 - agency of US government, whether, 27-9
- history and structure, 25-7
- law of—
 - Northern Mariana law—
 - Trust Territory government base in Saipan, relevance, 37
 - US law—
 - specific extension, need for, 27, 30-1
- territory or possession of US—
 - “like”, 29-30
- Trusteeship Agreement, 27
- Pact of Bogotá—
 - individuals, rights, 50
- Palestine Liberation Organization (PLO)—
 - diplomatic relations—
 - suit, right of, and, 74-5
 - State immunity, jurisdiction, 73-4
 - State, whether—
 - foreign relations, capacity to establish, 74
 - permanent population, lack, 74
 - territory, lack, 74
 - UN, and—
 - Headquarters Agreement—
 - applicability to, 74
 - observer status—
 - State immunity, jurisdiction, and, 74
 - USA, in—
 - jurisdiction over—
 - “doing business in New York” requirement; 76-8
 - non-UN business, 77-8
 - Permanent Observer to UN—
 - State immunity, jurisdiction, 74
- Panama—
 - recognition, government—
 - US, 46-54
 - US intervention (1989)—
 - State responsibility—
 - failure to restore and maintain public order, 57-61
- Political question doctrine—
 - reasons for—
 - difficulty in handling relevant information, 75
 - responsibility of another branch of government, 75-6
 - recognition of foreign State, 48

- judicial review—
 - diplomatic protection, 219-20
- prompt hearing, 525-8
 - Constitution, 525-6
 - court's workload, 526
 - damage to plaintiff's interests, need for, 526
 - ECHR jurisprudence, 526
 - normal delay as "norm", 526-7
 - prioritization of cases, 526
 - relevant period—
 - total time taken by trial, 526-7
 - remedial steps, relevance, 528
- State contract—
 - applicable law—
 - municipal law of State party—
 - conflict with, 265-6
 - subsequent legislation, 265-6
 - change of government—
 - fundamental change of circumstance, whether, 67
 - non-tangibility clause, 266
 - State succession—
 - executed contract, 65
 - executory contract, 65
 - termination—
 - State succession, 65
- State immunity, execution—
 - waiver—
 - arbitration agreement, express provision, 292, 294
- State immunity, jurisdiction—
 - administrative act, for, 220
 - PLO—
 - USA, in, 74
 - trust territories—
 - Northern Mariana Islands, 38-9
 - US, of, 40-1, 42
 - waiver—
 - arbitration agreement—
 - express provision, 292, 294
 - jurisdictional statute, as, 40-1, 42, 58
- State responsibility—
 - acts and omissions. *See also* imputability *below*
 - armed forces—
 - visiting serviceman, 381-3
 - central bank, 735-6
 - acts on behalf of State and private acts, distinguished, 736
 - occupying authorities—
 - Hague Convention (1907), 58-9, 60
 - US intervention in Panama (1989), 57-61
 - visiting serviceman, 381-3
 - acts of private administration, 487, 491
 - acts of public administration, 487, 491
 - breach, cessation—
 - duty, 320-1
 - customary international law, 321

- State responsibility (*cont.*)
 —waiver of right to, 321-2
 —*restitutio in integrum*, and, 321
 —compensation as alternative, 321
 continuity—
 —time of act to finding of illegality, 323-4
 —ILC Draft Articles on State Responsibility, 323-4
force majeure—
 —contributory act, and, 318
 imputability. *See also* acts and omissions *above*
 —revolution, acts during, 490
 International Law Commission (ILC)—
 —Draft Articles on State Responsibility (1977): *qv*
 intervention in Panama (1989)—
 —failure to restore and maintain public order, 57-61
 proper administration of justice, 448, 462, 473-4, 492, 495, 510-11, 515, 532, 590,
 601. *See also* European Convention on Human Rights (1950), prompt hearing,
 State responsibility
 treaty—
 —non-performance—
 —*force majeure*, 318
 State succession—
 agreement—
 —equitable arrangement, need for, 722, 725, 726, 731
 —possibility of, 722
 attainment of independence, 65
 central bank—
 —agency of successor States, whether, 735
 —disintegration, and, 735
 —distribution of assets following succession—
 —applicable law, 736
 change of government, distinguished, 65
 compensation—
 —immovable property, 731
 —war damage, 728-9
 contractual obligations—
 —executed contract, 65
 —liability, 65
 —termination, 65
 —executory contract—
 —termination, 65
 —termination—
 —executed contract, 65
 —executory contract, 65
 date—
 —Bosnia-Herzegovina, 721-2
 —Croatia, 721
 —Macedonia, 721
 —Slovenia, 721
 —slow disintegration of State, in case of, 721
 —Vienna Convention on State Succession in respect of State Property, Archives
 and Debts (1983), 720
 —Vienna Convention on State Succession in respect of Treaties (1978), 720
 definition—

- attainment of independence, 65
- closing of borders, relevance, 66
- declaration of state of emergency, relevance, 66
- military coup, relevance, 66
- partial takeover by another State, 65
- renaming of State, relevance, 66
- suspension of constitution, relevance, 66
- total absorption by another State, 65
- equitable agreement, need for, 725, 726, 731
- rights and obligations—
 - date of transfer, 723
- State property, archives and debts. *See* State succession, State property, archives and debts
- State succession, State property, archives and debts—
 - agreement—
 - binding on third States, whether, 725, 726
 - equitable arrangement, need for, 725, 726, 731
 - customary international law—
 - case-by-case application, 728
 - immovable property on territory of successor State, 731
 - dispute relating to—
 - peaceful settlement, obligation, 732, 736
 - dissolution of predecessor State—
 - Vienna Convention on State Succession in respect of State Property, Archives and Debts (1983), 728
 - equity—
 - equitable proportions, distinguished, 728
 - immovable property—
 - compensation, 731
 - Vienna Convention on State Succession in respect of State Property, Archives and Debts (1983), 728
 - war damages, relevance, 728-9
 - offset, possibility of, 728
 - immovable property—
 - on territory of successor State—
 - compensation, 732
 - customary international law, 731
 - locus in quo*, 731
 - origin or financing of property, relevance, 731
 - international agency, decision of—
 - third State—
 - obligation to implement, 726
 - movable property—
 - division, 731-2
 - origin or financing of property, relevance, 732
 - Vienna Convention on State Succession in respect of State Property, Archives and Debts (1983), 731-2
 - previous ownership, determination—
 - applicable law—
 - national law in force at date of succession, 732
 - protective measures, 725-6
 - refusal to cooperate—
 - breach of obligation, 725, 726
 - non-forcible counter-measures, right to take, 725, 726

- State succession, State property, archives and debts (*cont.*)
 third State, in—
 —obligation of third State to take action, 725, 726
- Statehood—
 recognition, and, 88
 requirements—
 —defined territory, 73-4, 88
 —government, 73
 —permanent population, 73, 74, 88
 —power to—
 —implement international obligations, 74
 —maintain diplomatic relations, 73, 74, 88
- Sudan—
 State succession—
 —*coup d'état*, whether, 65-7
- Sweden—
 Constitution—
 —ethnic minorities, protection, 640
 law of—
 —Article 12, 646-8
 —Reindeer Husbandry Act 1971—
 —compatibility with International Covenant on Civil and Political Rights
 (1966), 646-8
 —purpose, 641, 647
 minorities—
 —objective ethnic criteria for determining membership, need for, 648
 —Sami. *See* below
- Sami—
 —compatibility of legislation with International Covenant on Civil and Political
 Rights (1966), 646-8
 —right to self-determination, 643
 —*sameby*, right to membership, 638-48

T

- Terrorism—
 support for—
 —Iran, 7 n. 4
- Travaux préparatoires*—
 interpretation, aid to, 119-21
- Treaties—
 amendment—
 —change of name,, 88-9
 —change of obligations, need for, 89
 —parties' conduct, 337
 contractual nature, 87
 definition—
 —approval as treaty, need for, 424
 —Vienna Convention on the Law of Treaties (1969), 424
 —Vienna Convention on the Law of Treaties among States and International
 Organizations or among International Organizations (1986), 424
 depositary—
 —parties to treaty—
 —responsibility for determining, 377, 379

- diplomatic relations, break, effect—
 - existing treaties, 303, 304-5
 - Vienna Convention on the Law of Treaties (1969)—
 - absence of need for diplomatic relations, in, 303, 304, 308
 - conclusion of new treaties, 303
 - existing treaties, 303
 - United States Diplomatic and Consular Staff in Teheran*, 305
- direct effect—
 - applicable law—
 - terms of treaty, 341
 - binding on all persons, need to be, 372-3
 - clear provision, need for, 341, 372, 391
 - criteria—
 - clear provision, 341, 372, 391
 - nature and content, 341, 390-1
 - parties' intention, 372-3
 - structural context for implementation, 341-2
 - date of legislation intended to implement, relevance, 363
 - International Covenant on Economic, Social and Cultural Rights (1966), 340-2, 372-3, 390-1
 - nature and content, 341, 390-1
 - obligation to take progressive steps, and, 391
 - parties' intention, 372-3
 - implementing legislation as evidence, 391
 - “shall be agreed upon between [individuals]”, significance, 336
 - “shall come into effect on the expiration of the period”, 336
 - structural context for implementation, 341-2
 - terms of treaty, determined by, 341
- evidence of—
 - Embassy statement, 108
 - executive intentions, 107-8, 112
 - incorporation into law, 108
 - listing in *Treaties in Force*, 108
 - State conduct, 108
- individuals—
 - Pact of Bogotá, 50
 - UN Charter, 50
- judicial review—
 - absolute liability for abnormal damage, in case of, 218
- municipal law—
 - clear intention of legislature to supersede, need for, 132-3
- non-performance—
 - change of economic policy, 319-20
 - force majeure*, 318
 - necessity, 316-18
 - Vienna Convention on the Law of Treaties (1969), 317-18
- parties—
 - change of name, 88-9
 - depository power's responsibility for determining, 377, 379
 - diplomatic recognition, need for, whether, 88
 - signatory's error as to, relevance, 379
 - sovereign powers, need for, whether, 88
- precedence—
 - direct effect, relevance, 388

Treaties (*cont.*)

State succession—

- clean slate theory, 108, 376
- change of rule, 376
- conduct of successor State—
- statement of intention to be bound, 112
- continuity of entity, 108
- evidence of treaty in force, 107-9
- exchange of notes prolonging, 112
- extradition treaty, 107-9
- independence—
- devolution agreements, 376
- subsequent termination by predecessor State, effect, 108, 112
- Vienna Convention on the Succession of States in respect of Treaties (1978)—
- applicability while not in force, 377

termination—

- conduct of parties, 87
- denunciation in prescribed form, need for, 308

third party—

- customary international law, 725
- obligations, 725-6
- res inter alios acta*, 725-6
- Vienna Convention on the Law of Treaties (1969), 725

Trusteeship Agreement, whether, 38

validity—

- continuing, 107-9
- derecognition of party to, 86-9

war—

- effect, 305

Treaty interpretation—

aids—

- context, 118, 398
- dictionary, 119
- parties' construction, 121-2
- ratification process, 103
- subsequent interpretation, 121-2
- title, 397

executive statement, binding nature, 103

guidelines—

- good faith, 397
- international law, in the light of—
- law at time of interpretation, 426
- language of treaty—
- variation, 118
- object and purpose, 397
- parties' construction—
- contemporaneous, 103
- text, 102, 103, 117

multilingual, 117-19

- discrepancy between texts, 397
- drafting language, priority, 119
- shared expectations of parties, 118-19

phrases—

- “effect”, 175-6, 186-7

- Vienna Convention on the Law of Treaties (1969), 396-7
- Trust territories. *See also* Northern Mariana Islands; Pacific Territory Trust; Trusteeship Agreements
 - administering authority—
 - task—
 - governmental function, whether, 28
 - nurture towards self-government, 2, 28
 - authority over. *See also* sovereignty *below*
 - limitation, 28
 - vested in UN, 27
 - government—
 - agency of administering authority, whether, 27-9
 - jurisdiction, 38
 - law of—
 - US laws, applicability, 37-8
 - specific extension, need for, 27, 30-1
 - sovereignty, 29-30. *See also* authority over *above*
 - quasi, 28, 37-8
 - State immunity, jurisdiction—
 - Northern Mariana Islands, 38-9
 - US, of, 40-1, 42
 - status—
 - “foreign country”, 37
 - territory or possession of US—
 - “like”, 29-30, 37, 38
- Trusteeship Agreements—
 - Japanese mandated islands, in respect of, 25-6, 27, 35-7
 - judicially enforceable rights under, 38-9
 - monetary damages, right to, 38-9
 - termination, 36
 - treaty, as, 38

U

- United Kingdom—
 - foreign relations—
 - judicial restraint—
 - acts between private individuals affecting foreign relations, 216-17
 - judicial review—
 - prerogative, and, 216
 - judicial restraint—
 - foreign relations—
 - acts between private individuals affecting foreign relations, 216-17
 - judicial review—
 - foreign relations—
 - prerogative, and, 216
- United Nations Charter (1945)—
 - individuals—
 - rights, 50
- United Nations Human Rights Committee (UNHRC)—
 - abuse of right of submission, 703
 - admissibility—
 - “being examined under another procedure of international investigation or settlement”, 630, 645
 - prior consideration under another procedure, 630

United Nations Human Rights Committee (*cont.*)

- Committee's duty to spell out arguments for consideration at merits stage, 702
- exhaustion of local remedies. *See below*
- “manifestly ill-founded”, 645
- victim. *See below*

complainant. *See also* victim *below*

- child of parent denied access, 629

effective remedy, need for, 645, 679

- availability, 679
- effectiveness, 679, 702

exhaustion of local remedies. *See also* admissibility, “being examined under another procedure of international investigation or settlement” *above*

- change of law, 630
- opportunity for redress, 705
- unreasonably prolonged proceedings, 630

interim measures, request to State to take, 680

jurisdiction—

- conformity with national law, review, 655
- continuing, 707
- review of national courts—
- evaluation of facts, 634, 635
- exercise of discretion, 635-6

Rules of Procedure—

- 86, 683
- 87, 645, 652
- 91, 628-9, 639, 643, 652
- 93(4), 680, 699

standing. *See* complainant *above* and victim *below*

State submissions, 639-43, 652-5, 665-6, 673-8, 683-4, 685, 686-7, 689-93, 697, 710

victim. *See also* complainant *above*

- actio popularis*, 706
- group of individuals, 702, 705-6
- right of self-determination, individual, 645-6, 679-80

United States of America (USA)—

- Alien Tort Claims Statute 1789—
- State immunity, jurisdiction—
- waiver, whether, 58, 61

antitrust—

- Anti-trust guide for international operations* (1977), 182
- substantial and foreseeable effect, need for, 182

applicable law—

- international law—
- adoption by federal courts, and, 16 n. 3
- service of process—
- lex fori*, 78, 79-80

arbitral award—

- definition—
- recognition and enforcement, for purposes of, 9
- foreign State, made in—
- Iran-US Claims Tribunal, whether, 9, 11-12
- interpretation, effectiveness, 19
- specific performance, necessary, whether, 20-1

- arbitral award, enforcement—
 - defences, 12
 - Iran-US Claims Tribunal: *qv*
 - jurisdiction, requirements—
 - arbitration agreement, 10
 - commercial relationship, 9
 - foreign element, 9
 - foreign State, made in, 9
 - legal relationship, 9
 - national tribunal, emanation from. *See* foreign State, made in *above*
 - New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), 5, 12
 - violation of national law, as, 19-20
 - alternative satisfaction, 20
- arbitration agreement—
 - Algiers Accords, whether, 10
 - Presidential power to conclude, 10-11
 - individual's rights, effect on, 10-11
- Code (USC)—
 - 9 USC 201-8. *See* law, Federal Arbitration Act *below*
 - 28 USC 636, 84
- contract—
 - State contract. *See below*
- corporation—
 - debts, liability for—
 - enforceability of award, 17
 - fraudulent intent, 16-17
 - piercing the corporate veil, 16-17
 - piercing the corporate veil, 16-17
- extradition—
 - agreement, need for, 107
 - conditions in receiving State, review, 109
 - executive power, 109
- extraterritoriality—
 - UN Headquarters, 77
- Federal Tort Claims Act (FTCA) 1938—
 - 28 USC 1346(b), 57, 59
 - 28 USC 2674, 59
 - cause of action, whether, 59-60
 - tort—
 - discretionary functions, arising from, 60-1
- foreign commerce—
 - foreign relations, distinguished, 134
 - responsibility for—
 - legislature, 134
- foreign law—
 - choice of law—
 - incorporation of foreign law, distinguished, 79
- foreign relations—
 - foreign commerce, distinguished, 134
- government, change—
 - fundamental change of circumstances, whether, 67
 - obligations of new government, 67
 - State succession, distinguished, 65, 66-7

United States of America (*cont.*)

international law—

- international commercial law, whether, 134
- multilateral trade agreements, whether, 134
- GATT, 134
- Uruguay Round Negotiations, 134 n. 45

judicial review—

- Chevron*, 130, 131
- grounds—
- unreasonableness, 130, 131
- standard, 129-30

jurisdiction—

- nexus—
- “doing business” in New York, 76-8
- non-UN activities, 77-8
- UN Permanent Observer’s non-UN activities, 77-8
- UN Headquarters, 77

law of—

- Administrative Procedure Act—
- 5 USC 555 (1), 29
- Copyright Act 1978—
- 17 USC 104 (b) (1), 84
- Federal Arbitration Act—
- 9 USC 201, 9
- 9 USC 202, 9
- 9 USC 203, 17
- 9 USC 207, 17
- New York Convention on the Recognition and Enforcement of Foreign
 Arbitral Awards (1958), implementation, 9
- Poultry Product Inspection Act—
- Section 17(d), 128-47

legislation—

- extraterritorial—
- clear intent, 132, 133-4
- comity, 133-4
- sovereignty, intrusion on, 134
- Trust territory, applicability of laws to, and, 27, 30-1

legislation, interpretation—

- aids—
- dictionary, 131, 136-7
- legislative history, 131
- guidelines—
- absurdity, avoidance of, 132
- clear language, 130, 131, 135
- drafter’s intention, 39
- “identical language” rule, 137-9
- intention of legislature, 130-5, 144-7
- object and purpose, 141-2
- plain language, 130-5
- phrases—
- “agency”, 29
- “arbitral award”, 9
- “doing business in”, 76-8
- “the same as”, 128-47

- presumptions—
- conformity with treaty, 132
- variety of meanings within Statute, 130-2, 137-41
- New York—
- Civil Practice Law and Rules—
- “doing business in New York”, 76-8
- political question doctrine—
- reasons for—
- difficulty in handling relevant information, 75
- responsibility of another branch of government, 75-6
- recognition of foreign State, 48
- preliminary injunction—
- balance of hardships, 51
- irreparable harm, 50-1
- likelihood of success, 48-50
- public interest, 51
- Presidential power to conclude—
- individual, filing of claim as ratification, 11
- recognition, government—
- access to municipal courts, 52
- China, People’s Republic of—
- effect, 85-7
- interference in internal affairs, whether, 50
- legal counsel, right to appoint, and, 51-2
- Libya, 94-5
- interim government’s right of suit, 92, 94
- National Patriotic Reconstruction Assembly Government (NPRAG), 94-6
- Panama, 46-54
- property, right to, and, 48-9
- applicable law, 49
- responsibility—
- executive, 48, 49-50, 94
- right to sue, and, 94
- treaties, effect on, 86-9
- withdrawal—
- continuation of diplomatic relations, 86
- Restatement of Foreign Relations Law (Revised) (Tent. draft 6) (1985)—
- effects doctrine, 181-2, 183-4, 186
- Restatement of Foreign Relations Law (Second) (1965)—
- Section 18 (effects doctrine), 181-2
- Restatement of Foreign Relations Law (Third) (Revised)—
- Section 202 (recognition, States), 88
- Section 203 (recognition, States), 66
- Section 207 (State succession), 65
- Section 208 (State succession), 65
- Section 209 (State succession), 65
- Section 210 (State succession, treaties), 112
- Section 336 (fundamental change of circumstances), 67
- service of process—
- applicable law—
- lex fori*, 78, 79-80
- State contract—
- change of government—
- fundamental change of circumstance, whether, 67

United States of America (*cont.*)

- State succession—
 - executed contract, 65
 - executory contract, 65
- State immunity, jurisdiction—
 - PLO, 73-5
 - UN Permanent Observer status, 74
 - waiver—
 - jurisdictional statute, as, 40-1, 42, 58
- State responsibility—
 - intervention in Panama (1989)—
 - failure to restore and maintain public order, 57-61
- State succession—
 - contractual obligations—
 - executed contract, 65
 - executory contract, 65
 - termination, 65
 - definition—
 - attainment of independence, 65
 - closing of borders, relevance, 66
 - declaration of State of emergency, relevance, 66
 - military coup, relevance, 66
 - partial takeover by another State, 65
 - renaming of State, relevance, 66
 - suspension of constitution, relevance, 66
 - total absorption by another State, 65
- terrorism—
 - support for—
 - Iran, 7 n. 4
- treaties—
 - amendment—
 - change of name, whether, 88-9
 - change of obligations, need for, 89
 - contractual nature, 87
 - evidence of—
 - embassy statement, 108
 - executive intentions, 107-8, 112
 - listing in *Treaties in Force*, 108
 - State conduct, 108
 - executive responsibility—
 - conclusion, 88
 - termination, 87
 - individual—
 - Hague Convention (1907), 58-9
 - municipal law—
 - clear intention of legislature to supersede, need for, 132-3
 - sovereign powers, need for, whether, 88
 - parties—
 - change of name, 89
 - diplomatic recognition, need for, whether, 88
 - State succession—
 - continuity of entity, 108
 - evidence of treaty in force, 107-9
 - exchange of notes prolonging, 112

- extradition treaty, 107-9
- subsequent termination by predecessor State, effect, 108, 112
- tabula rasa*, 108
- treaty interpretation—
 - aids—
 - ratification process, 103
 - executive statement, binding nature, 103
 - guidelines—
 - parties' construction, 103
 - text, 102, 103
- Trust Territories Code (TTC)—
 - interpretation—
 - drafter's intention, 39
- trust territory, and—
 - applicability of US law, 37-8
 - specific extension, need for, 27, 30-1
 - government of—
 - US agency, whether, 27-9
 - State immunity, jurisdiction—
 - US government, 40-1, 42
- Trusteeship Agreements—
 - judicially enforceable rights under, 38-9
 - monetary damages, right to, 38-9
- UN Headquarters Agreement—
 - extraterritoriality, 77

V

- Visiting forces. *See* Belligerent occupation; North Atlantic Treaty Organization Status of Forces Agreement (1951)

W

- War. *See also* Belligerent occupation; Hague Conventions (1899/1907)
- State succession—
 - war damage—
 - offset, 728-9
 - treaties, effect on—
 - Institute of International Law—
 - Helsinki Resolution (1985), 305
 - Warsaw Convention on International Carriage by Air (1929) and Hague Protocol (1955)—
 - liability under, nature of—
 - absolute, 116, 123-4
 - phrases—
 - “accident”, 116-24
 - cause or event, whether, 118, 122-4
 - French and English, coincidence of meaning, 119
 - Guatemala City International Conference (1971), 121
 - Montreal Protocols (1975), 121
 - “occurrence”, whether, 116, 118
 - publicists, writings of, 122
 - terrorist act, 122
 - tortious act, 122
 - unexpected or unusual event, 119, 122

Words and phrases—

- actio popularis*, 706
- amparo*, 401-2, 411, 413-14
- jurisdictio inter volentes*, 735
- lex contractus*, 262, 264, 265
- locus in quo*, 725
- res inter alios acta*, 725

Y

Yugoslavia, Federal Republic (FRY), 722

succession—

- date, 722

successor to former Yugoslavia, whether, 722

Yugoslavia, Socialist Federal Republic (SFRY)—

Badinter Commission (Yugoslavia): *qv*

Constitution (974)—

- constituent republics—
- transfer of property to, 732

dissolution, 720-1

National Bank of Yugoslavia—

- disintegration following dissolution of SFRY, 735
- entitlement to take decisions relating to distribution of property, rights and interests of SFRY, 735
- private banking functions, agreement relating to—
- jurisdiction, 736, 737
- State organ, whether, 735-6
- structure and responsibilities—
- applicable law, 735

property, archives and debts, ownership—

- transfer to constituent republics, 732

State responsibility—

- acts and omissions—
- central bank, 735-6

State succession. *See also* successor States

- dates, 720-3
- transfer of rights and obligations, 723, 725-6
- immovable property, 731
- movable property, archives and debts, 731-3
- National Bank of Yugoslavia—
- acts of behalf of State and private acts, distinguished, 736
- agency of successor States, whether, 735
- disintegration, and, 735
- distribution of assets following succession—
- applicable law, 736
- social ownership, 732
- public prerogative, exercise of as test, 732