

PROVISIONAL MEASURES BEFORE INTERNATIONAL COURTS AND TRIBUNALS

Since the decision of the International Court of Justice in *LaGrand* (*Germany v United States of America*), the law of provisional measures has expanded dramatically both in terms of the volume of relevant decisions and the complexity of their reasoning. *Provisional Measures before International Courts and Tribunals* seeks to describe and evaluate this expansion, and to undertake a comparative analysis of provisional measures jurisprudence in a range of significant international courts and tribunals so as to situate interim relief in the wider procedure of those adjudicative bodies. The result is the first comprehensive examination of the law of provisional measures in over a decade, and the first to compare investor-state arbitration jurisprudence with more traditional inter-state courts and tribunals.

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Cameron A. Miles

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PROVISIONAL MEASURES BEFORE INTERNATIONAL COURTS AND TRIBUNALS

CAMERON MILES

of Gray's Inn, Barrister



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Salamander took issue with academic international lawyers and even more so judges who claimed that the resolution of this or that international legal question was not what a faithful adherence to the rules of the game suggested but what their partial account of the values purportedly reflected in the law was said to suggest. In Salamander's view, this essentially populist opposition of positive law and the values underlying it – between mere 'black-letter' law and some more authentic spirit of that law – was spurious. The positive law was the values, or at least a particular formal embodiment of those values. This being so, recourse, in preference in effect to the application of the positive law, to what were said to be the values underpinning it was misconceived at best and special pleading at worst.

Roger O'Keefe, '*Curriculum Vitae*: A Prequel',
Inaugural Lecture given at University College London,
10 December 2015, published in (2016) 69
Current Legal Problems

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FOREWORD

On 8 January 1927, President Huber of the Permanent Court of International Justice handed down in circumstances of urgency the first recognizably modern order for provisional measures of protection by an international court or tribunal. The decision – taken alone pursuant to Article 41 of the Court’s Statute and Article 57 of its 1922 Rules – in the *Sino-Belgian Treaty* case¹ was for 12 years an only child: although the Permanent Court would consider five other applications under Article 41, it would not see fit to award interim relief again until 1939, when the decision in *Electricity Company* was made against the approaching thunder of the Second World War.² Provisional measures, it seemed, were to be considered an extraordinary remedy for extraordinary times: certainly not as a mainstay of international procedural law.

Some 90 years later, the position is very different. International law is no longer dominated by a single body. Although the International Court of Justice is the successor to the Permanent Court and exercises a plenary jurisdiction of similar scope, the postwar international order has seen a great growth in the number and variety of adjudicative institutions, the majority of which have the power to award provisional measures. The result has been a rapid increase in the number of decisions concerning interim relief and the refinement of their reasoning.

Cameron Miles’ book is one of the first to take account of these developments and to examine the international law of provisional measures in comparative perspective. Following a comprehensive analysis of the case law of the International Court, bodies operating under Part XV of the UN Convention on the Law of the Sea³ (specifically the International Tribunal for the Law of the Sea and Annex VII arbitral tribunals),

¹ *Denunciation of the Treaty of 2 November 1865 between China and Belgium (Belgium v China)* (1928) PCIJ Ser A No 8.

² *Electricity Company of Sofia and Bulgaria (Belgium v Bulgaria)* (1939) PCIJ Ser A/B No 79.

³ 16 November 1994, 1833 UNTS 3.

investor-state arbitration tribunals (including the Iran–US Claims Tribunal and ICSID and UNCITRAL tribunals) and those rare examples of inter-state arbitration tribunals which have awarded provisional measures,⁴ Miles identifies a ‘common approach’ to interim relief as between these courts and tribunals entailing certain uniform elements. The word ‘approach’ is carefully chosen – outside a few basic constraints that spring from the character of international jurisdiction generally, international courts and tribunals are free to adopt their own approach to provisional measures, and are in no sense bound to follow the dictates of (for example) the International Court on the topic. Nevertheless, a definable *jurisprudence constante* has emerged whereby most international courts follow the same process when deciding whether interim relief should be ordered: (a) whether the court or tribunal possesses *prima facie* jurisdiction over the dispute (which may include an inquiry into the dispute’s *prima facie* admissibility and the admissibility of the request for provisional measures itself); (b) some form of review over whether the applicant for interim relief possesses a case on the merits (whether in the form of the so-called ‘plausibility’ test or a more searching *prima facie* analysis of the applicant’s position); (c) whether the requisite relationship between the measures of protection sought and the rights subject to final adjudication exists; (d) whether there is a risk of ‘irreparable’ prejudice to those rights if provisional measures are not awarded, and (e) whether judicial or arbitral intervention is in all the circumstances urgent. Furthermore, the determination by the International Court in *LaGrand*⁵ that provisional measures ordered under Article 41 of its Statute are binding in international law – a decision that followed from a similar determination by an ICSID tribunal⁶ and the express wording of UNCLOS Article 290(6) – has more recently given rise to a new issue: state responsibility and the enforcement of provisional measures whether through the final judgment or other means.

Miles sensibly uses these common elements to structure a legal analysis and comparative study of provisional measures that goes beyond earlier studies of the subject. He seeks coherence without oversimplifying – and so is willing to admit where a particular tribunal has chosen to depart from the ‘common approach’, choosing to see such departures not as heresy but

⁴ See e.g. *Indus Waters Kishenganga Arbitration (Pakistan v India)*, Interim Measures (2011) 150 ILR 311.

⁵ *LaGrand (Germany v US)*, ICJ Reports 2001 p 466.

⁶ *Emilio Agustín Maffezini v Spain*, Procedural Order No 2 (1999) 5 ICSID Reports 393.

as the corollary of a variable system of international adjudication. This reflects a belief in the development of what might be termed international civil procedure – a corpus of jurisdictional and case management tools between international courts and tribunals to be drawn on as required. Whilst this is not entirely novel – Miles is anticipated to a degree by Bin Cheng,⁷ and more so by Chester Brown⁸ – *Provisional Measures Before International Courts and Tribunals* is one of the first extended considerations of these ideas in a particular field, and may serve as a proof of concept for other investigations of its kind. Of note in this respect is Miles' Chapter 8, which situates interim relief in the context of other elements of international procedure, e.g. parallel proceedings, advisory proceedings and non-appearing parties. Seen in this light, interim relief is now properly seen as integrated into the dispute resolution process. The logical endpoint of this is Chapter 9, which takes account of the litigation strategy of interim relief, and how it might be used to achieve objectives beyond preservation of rights *pendente lite* or the *status quo*.

In sum, Miles is to be congratulated. *Provisional Measures Before International Courts and Tribunals* will undoubtedly serve as a first port of call for scholars, practitioners and adjudicators who are confronted with questions involving interim relief, and international procedure more generally. It is a reflection of the growing maturity of the system of international courts and tribunals and their procedure.

The Hague
 1 May 2016

Judge James Crawford AC
 International Court of Justice

⁷ Bin Cheng, *General Principles of Law as Applied by International Courts and Tribunals* (London: Stevens and Sons, 1953).

⁸ Chester Brown, *A Common Law of International Adjudication* (Oxford: Oxford University Press, 2007).

PREFACE

This book arose out of a conversation with Dr Thomas Grant at the Lauterpacht Centre for International Law in Cambridge between the Michaelmas and Lent terms 2012–13. I had found myself in that least enviable of positions for a doctoral candidate – that what had at first blush been considered a viable (even fruitful!) topic of investigation had in my clumsy hands turned out to be decidedly unviable.¹ The decision was made to abandon that particular windmill, and select another at which to tilt.

Fortunately for me, Tom at that time was retained by the Thai government, and as such had cause to consider (at some length) the wider implications of the recent provisional measures decision of the International Court of Justice in *Temple (Interpretation)*.² On this basis, he commented that it was high time that the field was revisited – and not just in the ICJ-centric manner in which previous texts had dealt with the topic.³ Rather, he proposed, any analysis undertaken should be *comparative* in character, and to address a variety of international courts and tribunals so as to observe the extent to which ideas were being transmitted between these bodies. Furthermore, Tom suggested, any such investigation should take account of the interaction between provisional measures

¹ The topic in question was that of resource extraction in *res communis* spaces, with a particular focus on seabed mining beyond 200nm under UNCLOS Part XI. The field is now the subject of investigation by Dr Surabhi Ranganathan, who will doubtlessly do a far better job with it than I ever could! See now Surabhi Ranganathan, ‘Global Commons’ (2016) 27 *EJIL* 693.

² *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v Thailand) (Cambodia v Thailand)*, Provisional Measures, ICJ Reports 2011 p 537.

³ See e.g. Jerzy Stucki, *Interim Measures in the Hague Court: An Attempt at a Scrutiny* (Deventer: Kluwer, 1983). A notable exception in this regard is Shabtai Rosenne, *Provisional Measures in International Law: The International Court of Justice and the International Tribunal for the Law of the Sea* (Oxford: Oxford University Press, 2005), but Rosenne’s analysis is hamstrung somewhat by the limited ITLOS and Annex VII case law available at that time.

and other procedural devices in international law such that the proper role of each could be defined. Although provisional measures must be considered incidental within a wider international dispute, that did not mean they could be considered distinct from international procedure as a whole. A further conversation with Professor James Crawford AC SC, my thesis supervisor, confirmed that the idea was a good one and the appropriate authorities were notified forthwith.

So far as I saw it, the contribution of the proposed project would be primarily practical and – in my plodding, common law way – black letter. Its originality would lie in its capacity to provide coherence to an area of international procedural law that was in a state of exponential growth on multiple fronts, positing solutions to common problems as it went. It would further carry on a school of thought – epitomized by the work of (*inter alia*) Bin Cheng⁴ and Chester Brown⁵ – that spoke of the potential for an international law of civil procedure produced through a ‘cross-fertilization’ of ideas as between international adjudicative bodies. Such a unified approach to procedural questions, it might be thought, would reflect the maturity of the system of international dispute settlement, and indeed reaffirm its systemic qualities.

* * *

The book that emerged over the next three years (or so) was produced during a time at which the law of provisional measures as it existed in the different courts and tribunals under examination was in a state of rapid evolution. This process did not coincide with the commencement of my project, but had (at least in my view) been under way in one form or another since the 2001 confirmation by the ICJ in *LaGrand* that its provisional measures were binding.⁶ This had prompted the Court to – perhaps in a manner that it had not previously turned its mind to – think carefully about the prerequisites for interim relief and the way in which these prerequisites were legally articulated. This made very little difference to some aspects of the calculation – *prima facie* jurisdiction, for example, had been a mainstay of the Court’s jurisprudence since the *Fisheries Jurisdiction* cases of the 1970s⁷ – but it prompted the evolution or

⁴ Bin Cheng, *General Principles of International Law as Applied by International Courts and Tribunals* (London: Stevens and Sons, 1953).

⁵ Chester Brown, *A Common Law of International Adjudication* (Oxford: Oxford University Press, 2007).

⁶ *LaGrand* (*Germany v US*), ICJ Reports 2001 p 466, 501–2.

⁷ *Fisheries Jurisdiction* (*UK v Iceland*), Interim Protection, ICJ Reports 1972 p 12, 16; *Fisheries Jurisdiction* (*FRG v Iceland*), Interim Protection, ICJ Reports 1972 p 32, 34.

invention of others, notably what I refer to in shorthand as the ‘plausibility’⁸ and ‘link’⁹ requirements. *LaGrand* also forced the Court to grapple with the question of enforcement of provisional measures as a matter of state responsibility and the law of remedies – a situation with which it is still, despite multiple attempts,¹⁰ not entirely comfortable.

A development that did occur over the lifetime of this project, however, was the issuing of several bold decisions on provisional measures by ITLOS under UNCLOS Article 290. These have certainly been innovative, but this innovation is not always constructively expressed,¹¹ particularly insofar as these decisions have sought to alter the *status quo* pending resolution of the dispute by requiring the release of contested persons or assets – which may be identified as the principal excesses (amongst others) of *ARA Libertad*¹² and *Arctic Sunrise*,¹³ qualified (so it seems) by the later decision in *Enrica Lexie*.¹⁴

By far the most active group of international courts and tribunals over the past three years has, however, been investor-state tribunals operating under both the ICSID Convention and in accordance with the 1976 and 2010 iterations of the UNCITRAL Rules. To my mind, such bodies offer fascinating potential for cross-fertilization as referred to earlier, due principally to the large number of eminent public international lawyers, both academics and judges, who sit on such tribunals. One need only look at the decision of the Tribunal in *CEMEX v Venezuela*,¹⁵ of which Judge Gilbert Guillaume and Professor Georges Abi-Saab were members, to understand

⁸ *Obligation to Prosecute or Extradite (Belgium v Senegal)*, Provisional Measures, ICJ Reports 2009 p 139, 151.

⁹ *Pulp Mills on the River Uruguay (Argentina v Uruguay)*, Provisional Measures, ICJ Reports 2007 p 3, 10–11.

¹⁰ See e.g. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, ICJ Reports 2007 p 34, 230–7.

¹¹ In this respect, I may be safely categorized as one of Ambrose Bierce’s Conservatives, being an individual ‘enamoured of existing evils, as distinguished from the Liberal, who wishes to replace them with others’: *The Devil’s Dictionary* (New York: Oxford University Press, 1999).

¹² *ARA Libertad (Argentina v Ghana)*, Provisional Measures (2011) 156 ILR 186, 205.

¹³ *Arctic Sunrise (Netherlands v Russian Federation)*, ITLOS Case No 22 (Provisional Measures, 22 November 2013) §93–7, 105.

¹⁴ *Enrica Lexie Incident (Italy v India)*, ITLOS Case No 24 (Provisional Measures, 24 August 2015) §§123–7. The strides taken by ITLOS in that case were reversed in part by the later decision on the same matter by the Annex VII tribunal in *Enrica Lexie Incident (Italy v India)*, PCA Case No 2015-38 (Annex VII) (Provisional Measures, 29 April 2016), which unfortunately came too late to be considered.

¹⁵ *CEMEX Caracas Investments BV and CEMEX Caracas II Investments BV v Venezuela*, ICSID Case No ARB/08/15 (Provisional Measures, 3 March 2010).

how ideas may migrate between such bodies, as well as the odd persistence in certain other investor-state decisions of a separate opinion of President Jiménez de Aréchaga in the *Aegean Sea* case,¹⁶ which has been informally abandoned (at least as I see it) by the ICJ itself. And yet, the peculiar character of such bodies – brought about by their temporary nature and the fact that they are called upon to adjudicate between a person (natural or juridical) and the state – means investor-state arbitration is frequently called upon to deal with issues that rarely if ever arise between inter-state tribunals. Speaking subjectively, one such development has been the extent to which investor-state tribunals have been asked to step in to enjoin or forestall criminal or regulatory proceedings in the host state of the investment *pendente lite* after the arbitration has already commenced. Beginning with decisions such as *Paushok v Mongolia*,¹⁷ *Perenco v Ecuador*¹⁸ and *Quiborax v Bolivia*,¹⁹ the jurisprudence in this area has expanded progressively, leading to the adoption of a structured test for the resolution of such problems²⁰ and its introduction into unusual fields, most recently with respect to preventing the state from maintaining extradition proceedings abroad.²¹

Finally, another development that occurred post-*LaGrand* – though I do not claim that it was inspired by it – was the decision of the Court of Arbitration in the *Kishenganga* dispute.²² This decision was unique in that unlike the other courts and tribunals under consideration, the Court derived its jurisdiction from a single instrument, the Indus Waters Treaty,²³ which in Paragraph 28 of Annexure G was given a *sui generis* power to order interim relief. Further and in addition, the Court

¹⁶ *Aegean Sea Continental Shelf (Greece v Turkey)*, Provisional Measures, ICJ Reports 1976 p 3, 16.

¹⁷ *Sergei Paushok, CJSC Golden East Company and CJSC Vostokneftegaz Company v Mongolia*, UNCITRAL (Interim Measures, 2 September 2008).

¹⁸ *Perenco Ecuador Limited v Ecuador and Empresa Estatal Petróleos del Ecuador (PetroEcuador)*, ICSID Case No ARB/08/6 (Provisional Measures, 8 May 2009).

¹⁹ *Quiborax SA, Non Metallic Minerals SA and Allan Fosk Kaplún v Bolivia*, ICSID Case No ARB/06/2 (Provisional Measures, 26 February 2010).

²⁰ *Lao Holdings NV v Lao People's Democratic Republic*, ICSID Case No ARB(AF)/12/6 (Motion to Amend Provisional Measures, 30 May 2014) §§30, 37.

²¹ *Hydro Srl and Ors v Albania*, ICSID Case No ARB/15/28 (Provisional Measures, 3 March 2016).

²² *Indus Waters Kishenganga Arbitration (Pakistan v India)*, Interim Measures (2011) 150 ILR 311.

²³ Indus Waters Treaty between the Government of India, the Government of Pakistan and the International Bank for Reconstruction and Development, 19 September 1960, 419 UNTS 215.

PREFACE

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comprised a unique cross-section of the international legal community: judges, academics, governmental legal advisers and commercial arbitrators. The resulting opinion was thus (a) an opportunity to observe how a specific legal instrument might affect a general power in international law to award interim relief (as *lex specialis*), and (b) an opportunity to see how a tribunal composed of individuals drawn from across the international law spectrum would consider interim relief. From this perspective, *Kishenganga* is a significant decision for someone interested in a comparative approach to provisional measures, and in this book it has (I hope) received the recognition it deserves.

*

The previous discussion is not intended to be a *tour de horizon* of recent developments for provisional measures in international law – though in re-reading it myself I understand it might look that way. Rather, it is an attempt to demonstrate that the importance of interim relief as a procedural tool has only increased since *LaGrand*, as the volume and complexity of the case law shows. This book intends to reflect some of the progress of the past 15 years, and to set it against the background of what came before. Ultimately, it will be for the reader to judge if it is of any use.

The law here is as it was on 15 April 2016. Although this meant that several important decisions (e.g. the Annex VII provisional measures order in *Enrica Lexie*) came too late to be included in any substantive sense, I have done my best to flag the existence of these in the footnotes.

Notwithstanding the immense contribution of those listed below, the usual caveat applies.

* * *

As is often the case with projects of this kind, this book would not exist without help from a large number of people.

Thanks firstly are owed to my thesis supervisor, who is now Judge James Crawford AC of the International Court of Justice. Over the course of his academic career, Judge Crawford has fostered many doctoral candidates, of which I am privileged to have been one. I have further been fortunate to have a professional association with him in one form or another that has stretched over the past five years (hopefully counting) and to count him as a mentor. His influence can be seen writ large in the footnotes, though in general his sage advice, encyclopedic knowledge and infinite patience have made this study far better than it ought to have been – and without his encouragement it may never have happened at all.

In the same breath, thanks are also owed to my thesis adviser, Dr Thomas Grant. As I mentioned earlier, it was Tom who first suggested this topic to me and convinced me that it was worthy of extended study. Not one to shirk responsibility, he has always accepted cheerfully a measure of blame for setting me on this path, and has reliably proved to be a source of good humour and revelation in equal parts.

In the course of writing this book, I have further benefited from consultations and discussions with a wide variety of peers – and particularly from my colleagues (past and present) from the Faculty of Law and the Lauterpacht Centre for International Law at Cambridge. They are too numerous to mention here *in extenso*, but especial thanks are owed to Lorand Bartels, Emma Bickerstaffe, Daniel Clarry, Marie-Claire Cordonier-Segger, Bart Smit Duijzentkunst, Markus Gehring, Christine Grey, Callista Harris, Naomi Hart, Valentin Jeutner, Jonathan Ketcheson, Massimo Lando, Rowan Nicholson, Sarah Nouwen, Roger O’Keefe, Daniel Peat, Surabhi Ranganathan, Pippa Rogerson, Jake Rylatt, Sahib Singh, Michael Waibel, Matthew Windsor and Rumiana Yotova. David Wills, Lesley Dingle and the wider staff of the Squire Law Library were unfailingly helpful and resourceful. Jason Allen and Rajiv Shah provided much-needed translation assistance. The usual suspects at Cambridge University Press – Finola O’Sullivan, Liz Spicer, Chloé Harries and Fiona Allison – were patience personified, as was the typesetting team at Aptara, coordinated with skill by Abdus Salam Mazumder.

Beyond Cambridge, Mads Andenas, Eirik Bjorge, Govert Coppens, Tariq Baloch, Douglas Guilfoyle, Martins Paparinskis, Philippe Sands, Antonios Tzanakopoulos and Sir Michael Wood have proved invaluable sounding boards for various ideas (some better than others, and others still not worth mentioning). Sam Luttrell and Romesh Weeramantry did the same in addition to being invaluable and unfailing professional companions. My thanks to them all.

This book would further not have been possible without the generous financial support of Trinity Hall, the Cambridge Commonwealth Trust and the Environmental Services Authority Trust. The latter is deserving of particular gratitude for permitting me to pursue a topic not directly related to environmental law, having nonetheless perceived and understood the immense practical value of my chosen subject to that area.

A version of Chapter 2 was published as ‘The Origins of Provisional Measures before International Courts and Tribunals’ (2013) 73 *ZaöRV* 615. I am very much indebted to the editors and publisher of that journal for permitting me to include it in the present work.

PREFACE

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I have saved the most important people for last. Vivienne Miles, Campbell Miles, Lachlan Miles and Stephanie Mullen were an unceasing source of encouragement and support during the writing of this book, and tolerated hours of interminable disquisition on provisional measures in international law; an experience that they neither asked for nor deserved. This book is affectionately dedicated to them accordingly.

London
7 October 2016

Cameron Miles
3 Verulam Buildings

ABBREVIATIONS

1976 UNCITRAL Rules	UNCITRAL Arbitration Rules 1976
2006 UNCITRAL Model Law	UNCITRAL Model Law on International Commercial Arbitration 2006
2010 UNCITRAL Rules	UNCITRAL Arbitration Rules 2010
AC	Appeal Cases (UK)
<i>AJCL</i>	<i>American Journal of Comparative Law</i>
<i>AJIL</i>	<i>American Journal of International Law</i>
<i>AJIL Supp</i>	<i>American Journal of International Law Supplement</i>
ALR	Australian Law Reports
<i>Anales</i>	<i>Anales de la Corte de Justicia Centroamericana</i>
<i>Ann de l'Inst</i>	<i>Annuaire de l'Institut de droit international</i>
<i>Arb Int'l</i>	<i>Arbitration International</i>
ARSIWA	ILC Articles on the Responsibility of States for Internationally Wrongful Acts, ILC <i>Ybk</i> 2001/II(2), 26
ARSIWA Commentary	Commentary to the ILC Articles on the Responsibility of States for Internationally Wrongful Acts, ILC <i>Ybk</i> 2001/II(2), 31
ASEAN	Association of South-East Asian Nations
<i>ASIL Proc</i>	<i>Proceedings of the American Society of International Law at its Annual Meeting</i>
ATS	Australian Treaty Series
<i>AYIL</i>	<i>Australian Yearbook of International Law</i>
<i>Basic Documents: Investment</i>	Martins Paparinskis (ed), <i>Documents in International Law: Basic Documents on International Investment Protection</i> (Oxford: Hart, 2012)
<i>Basic Documents: Settlement</i>	Christian J Tams and Antonios Tzanakopoulos (eds), <i>Documents in International Law: Basic Documents on the Settlement of International Dispute</i> (Oxford: Hart, 2012)

LIST OF ABBREVIATIONS

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<i>Basic Documents: PCA</i>	<i>Basic Documents of the Permanent Court of Arbitration: Conventions, Rules, Model Clauses and Guidelines</i> (The Hague: Permanent Court of Arbitration, 1998)
BFSP	British Foreign and State Papers
BIT	Bilateral Investment Treaty
<i>Brook JIL</i>	<i>Brooklyn Journal of International Law</i>
<i>Brownlie's Principles</i>	James Crawford, <i>Brownlie's Principles of Public International Law</i> (Oxford: Oxford University Press, 8th edn, 2012)
BYIL	<i>British Yearbook of International Law</i>
CACJ	Central American Court of Justice
<i>Ca West IILJ</i>	<i>California Western International Law Journal</i>
CERD	International Convention for the Elimination of All Forms of Racial Discrimination
<i>Chinese JIL</i>	<i>Chinese Journal of International Law</i>
CIC	<i>Corpus iuris canonici</i> (Canon law)
CJICL	<i>Cambridge Journal of International and Comparative Law</i>
CJIL	<i>Chicago Journal of International Law</i>
Claims Settlement Declaration	Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran
CLJ	<i>Cambridge Law Journal</i>
<i>Col JTL</i>	<i>Columbia Journal of Transnational Law</i>
CTS	Consolidated Treaty Series
CPC	<i>Code de procédure civile</i> 1806 (France)
CR	<i>Compte rendu</i> (record of oral proceedings before the International Court of Justice)
<i>Delhi LR</i>	<i>Delhi Law Review</i>
<i>Documents</i>	<i>Documents presented to the Committee relating to Existing Plans for the Establishment of a Permanent Court of International Justice</i> (London: League of Nations, 1920)
DRC	Democratic Republic of the Congo
DR–CAFTA	Dominican Republic–Central America–United States Free Trade Agreement
ECJ	Court of Justice of the European Union

xxviii	LIST OF ABBREVIATIONS
ECHR	Convention for the Protection of Human Right and Fundamental Freedoms (European Convention on Human Rights)
ECT	Energy Charter Treaty
ECtHR	European Court of Human Rights
EEZ	Exclusive Economic Zone
<i>EJIL</i>	<i>European Journal of International Law</i>
ER	English Reports
EWCA	Court of Appeal of England and Wales
EWHC	High Court of England and Wales
F.3d	Federal Reporter, 3rd Series (US)
<i>Fouchard, Gaillard, Goldman</i>	Emmanuel Gaillard and John Savage (eds), <i>Fouchard, Gaillard, Goldman on International Commercial Arbitration</i> (The Hague: Kluwer, 1999)
FRG	Federal Republic of Germany
F.Supp	Federal Reports, Supplement (US)
GA	United Nations General Assembly
Genocide Convention	Convention on the Prevention and Punishment of the Crime of Genocide
<i>GJIL</i>	<i>Georgetown Journal of International Law</i>
<i>Hague Recueil</i>	<i>Recueil des cours de l'Académie de droit international</i>
<i>Hague YIL</i>	<i>Hague Yearbook of International Law</i>
<i>Harv LR</i>	<i>Harvard Law Review</i>
<i>HILJ</i>	<i>Harvard International Law Journal</i>
IACtHR	Inter-American Court of Human Rights
ICC	International Chamber of Commerce
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
<i>ICJ Acts and Documents</i>	<i>Acts and Documents concerning the Organization of the International Court of Justice</i>
<i>ICJ Commentary</i>	Andreas Zimmermann, Christian Tomuschat, Karin Oellers-Frahm and Christian Tams (eds), <i>The Statute of the International Court of Justice: A Commentary</i> (Oxford: Oxford University Press, 2nd edn, 2012)
ICJ Pleadings	Pleadings, Oral Arguments and Documents presented to the International Court of Justice
ICJ Reports	Reports of Judgments, Advisory Opinions and Orders of the International Court of Justice

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ICJ Rules	Rules of Court of the International Court of Justice 1978
ICJ Statute	Statute of the International Court of Justice
ICJ <i>Ybk</i>	<i>Yearbook of the International Court of Justice</i>
ICLQ	<i>International and Comparative Law Quarterly</i>
ICSID	International Centre for Settlement of Investment Disputes
<i>ICSID Commentary</i>	Christoph Schreuer, Loretta Malintoppi, August Reinisch and Anthony Sinclair, <i>The ICSID Convention: A Commentary</i> (Cambridge: Cambridge University Press, 2nd edn, 2009)
ICSID Convention	Convention on the Settlement of Investment Disputes between States and Nationals of Other States
ICSID Reports	Reports of Cases Decided Under the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States
ICSID (AF)	Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of ICSID
ICSID (AF) Rules	ICSID Arbitration (Additional Facility) Rules 2006
ICSID Rules	ICSID Rules of Procedure for Arbitration Proceedings 2006
<i>ICSID History</i>	<i>History of the ICSID Convention: Documents Concerning the Origin and Formulation of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States</i> , 5 vols (Washington, DC: ICSID, 1968–1970).
<i>ICSID Rev – FILJ</i>	<i>ICSID Review – Foreign Investment Law Journal</i>
IELR	International Environmental Law Reports
<i>IJIL</i>	<i>Indian Journal of International Law</i>
<i>Ind LJ</i>	<i>Indiana Law Journal</i>
<i>IJMCL</i>	<i>International Journal of Marine and Coastal Law</i>
ILC	International Law Commission
ILC <i>Ybk</i>	<i>Yearbook of the International Law Commission</i>
ILM	International Legal Materials
ILR	International Law Reports
<i>Int'l Theory</i>	<i>International Theory</i>
Iran–US CTR	Iran–US Claims Tribunal Reports
<i>Israel LR</i>	<i>Israel Law Review</i>
ITLOS	International Tribunal for the Law of the Sea

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ITLOS Rules	Rules of Procedure of the International Tribunal for the Law of the Sea 2009
<i>ITLOS Basic Texts</i>	<i>Basic Texts of the International Tribunal for the Law of the Sea</i>
<i>JICJ</i>	<i>Journal of International Criminal Justice</i>
<i>JIDS</i>	<i>Journal of International Dispute Settlement</i>
<i>JWIT</i>	<i>Journal of World Investment and Trade</i>
<i>JYIL</i>	<i>Japanese Yearbook of International Law</i>
LCIA	London Court of International Arbitration
<i>LJIL</i>	<i>Leiden Journal of International Law</i>
<i>LJLC</i>	<i>Leeds Journal of Law and Criminology</i>
LMCLQ	<i>Lloyd's Maritime and Commercial Law Quarterly</i>
LN Doc	League of Nations Document
LNTS	League of Nations Treaty Series
LPIC T	<i>Law and Practice of International Courts and Tribunals</i>
<i>McGill LJ</i>	<i>McGill Law Journal</i>
<i>MJIL</i>	<i>Melbourne Journal of International Law</i>
<i>MPEPIL</i>	Rudiger Wölfrum (gen ed), <i>Max Planck Encyclopedia of Public International Law</i> (Oxford: Oxford University Press, online edn)
NAFTA	North American Free Trade Agreement
New York Convention	Convention on the Recognition and Enforcement of Foreign Arbitral Awards
<i>NILR</i>	<i>Netherlands International Law Review</i>
<i>NYIL</i>	<i>Netherlands Yearbook of International Law</i>
<i>NYUJILP</i>	<i>New York University Journal of International Law and Politics</i>
<i>ODIL</i>	<i>Ocean Development and International Law</i>
OJ	Official Journal (EU)
<i>OJLS</i>	<i>Oxford Journal of Legal Studies</i>
PCA	Permanent Court of Arbitration
PCA Arbitration Rules	PCA Arbitration Rules 2012
PCA Optional Rules	PCA Optional Rules for Arbitrating Disputes Between Two States 1992
PCIJ	Permanent Court of International Justice (in citations) Publications of the Permanent Court of International Justice
PCIJ Statute	Statute of the Permanent Court of International Justice

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<i>Procès-Verbaux</i>	<i>Procès-Verbaux of the Proceedings of the Committee, June 16th–July 24th 1920, with Annexes</i> (The Hague: van Langenhuysen Brothers, 1920)
<i>RabelsZ</i>	<i>Rabels Zeitschrift für ausländisches und internationales Privatrecht</i>
<i>Redfern & Hunter</i>	Nigel Blackaby and Constantine Partasides (with Alan Redfern and Martin Hunter), <i>Redfern and Hunter on International Commercial Arbitration</i> (Oxford: Oxford University Press, 5th edn, 2009)
Res	Resolution
<i>Restatement Third</i>	<i>Restatement (Third) of the Foreign Relations Law of the United States</i> , 2 vols (St Paul, MN: American Law Institute, 1987)
RGZ	<i>Reichsgerichts in Zivilsachen</i> (Germany)
RHDI	<i>Revue hellénique de droit international</i>
RIAA	United Nations Reports of International Arbitral Awards
SC	United Nations Security Council
SCR	Supreme Court Reports (Canada)
Straddling Stocks Agreement	Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
SYIL	<i>Singapore Yearbook of International Law</i>
TAM	<i>Recueil des décisions des tribunaux arbitraux mixtes, institués par les traités de paix</i>
TFEU	Consolidated Version of the Treaty on the Functioning of the European Union
TLCP	<i>Transnational Law and Contemporary Problems</i>
TST	Timor Sea Treaty
UN Charter	Charter of the United Nations
UNCIO	<i>Documents of the United Nations Conference on International Organization, San Francisco, 1945</i> (New York: United Nations Information Organization, 1945)
UNCITRAL	United Nations Conference on International Trade Law
<i>UNCITRAL Register</i>	<i>UNCITRAL, Register of Texts of Conventions and Other Instruments Concerning International Trade Law</i> , 2 vols (New York: United Nations, 1973)