

PAV 0142590

# International Dispute Settlement

---

Sixth edition

J. G. MERRILLS

University of Sheffield

Dipartimento di Scienze Politiche Biblioteca
Inv. DSP 6936
Coll. ORGINT. 341.1.C. 1634



**CAMBRIDGE**  
UNIVERSITY PRESS

# Contents

Preface	<i>page</i> ix
Table of Cases	xi
Table of Treaties and Agreements	xviii
List of Abbreviations	xxvi
List of Websites	xxviii
<b>1 Negotiation</b>	<b>1</b>
Consultation	2
Forms of Negotiation	8
Substantive Aspects of Negotiation	12
Negotiation and Adjudication	16
Limitations of Negotiation	22
<b>2 Mediation</b>	<b>26</b>
Mediators	27
Consent to Mediation	29
Functions of Mediation	33
Limits of Mediation	39
<b>3 Inquiry</b>	<b>43</b>
1899 Hague Convention	43
The <i>Dogger Bank</i> Inquiry	44
Inquiries under the 1907 Hague Convention	46
Treaty Practice 1911–40	49
The <i>Red Crusader</i> Inquiry	51
The <i>Letelier and Moffitt</i> Case	54
The Value of Inquiry	56
<b>4 Conciliation</b>	<b>62</b>
Emergence of Conciliation	62
Work of Commissions of Conciliation	64
Practice of Conciliation	69
Place of Conciliation in Modern Treaty Law	74
Further Developments	79
Significance of Conciliation	84

---

<b>5 Arbitration</b>	88
Forms of Arbitration	88
Selection of Arbitrators	92
Terms of Reference	95
Basis of the Decision	100
Effect of the Award	106
Investment Arbitration	112
Utility of Arbitration	118
<b>6 The International Court I: Organisation and Procedure</b>	124
Contentious Jurisdiction	124
Jurisdictional Disputes	127
Incidental Jurisdiction	132
Advisory Jurisdiction	142
Membership of the Court	143
Chambers	146
<b>7 The International Court II: The Work of the Court</b>	152
Establishing the Facts	152
Identifying the Law	155
Extension of the Court's Function	157
Legal and Political Disputes	162
Effect of Judgments	166
Significance of the Court	171
<b>8 The Law of the Sea Convention</b>	177
The Convention and its System	177
Principle of Compulsory Settlement	179
Exceptions to the Principle of Compulsory Settlement	182
Conciliation	185
Arbitration	187
Special Arbitration	190
International Tribunal for the Law of the Sea	192
Sea-Bed Disputes Chamber	194
Inaugurating ITLOS	197
Significance of the Convention	201
<b>9 International Trade Disputes</b>	205
<b>From GATT (1947) to the World Trade Organization</b>	205
<b>Dispute Settlement Understanding</b>	206
<b>Consultations</b>	208
<b>Good Offices, Conciliation and Mediation</b>	210
<b>Panel Proceedings</b>	212
<b>Appellate Review</b>	217

Implementation of Rulings and Recommendations	222
Arbitration	225
Regional Trade Systems	227
The WTO System in Context	231
<b>10 The United Nations</b>	<b>235</b>
Machinery of the Organization	235
Security Council and General Assembly in Action	237
Role of the Secretary-General	241
Political Organs and the International Court	247
Peace-Keeping Operations	252
Action under Chapter VII	259
Are Decisions of Political Organs Open to Legal Challenge?	264
Effectiveness of the United Nations	268
<b>11 Regional Organisations</b>	<b>275</b>
Range of Regional Organisations	275
Role of Regional Organisations in Disputes	282
Limitations of Regional Organisations	290
Regional Organisations and Adjudication	293
Regional Organisations and the United Nations	298
<b>12 Trends and Prospects</b>	<b>303</b>
Dispute Settlement Today	303
A political Perspective	305
A legal Perspective	309
Improving the Capacity of Political Methods	315
Improving the Capacity of Legal Methods	321
Conclusion	328
<b>Appendices</b>	<b>330</b>
A. Agreement between Argentina and the United Kingdom establishing an Interim Reciprocal Information and Consultation System, 1990	330
B. Report of the Commission of Inquiry into the Red Crusader Incident, 1962 (extract)	332
C. Conciliation Commission on the Continental Shelf Area between Iceland and Jan Mayen, May 1981	334
D. Arbitration Agreement between the United Kingdom and France, July 1975	335
E. Special Agreement for Submission to the International Court of Justice of the Differences between the Republic of Hungary and the Slovak Republic Concerning the Gabcikovo-Nagymaros Project (1993)	339

<b>F. Optional Clause Declarations (Japan, Marshall Islands, Romania, United Kingdom)</b>	<b>342</b>
<b>G. WTO: Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes (extract)</b>	<b>344</b>
<b>H. Security Council Resolution 915, establishing UNASOG, May 1994</b>	<b>346</b>
<b>I. Terms of Reference of the Trust Fund for the International Tribunal for the Law of the Sea (2000)</b>	<b>347</b>
<b>J. Ruling Pertaining to the Differences between France and New Zealand Arising from the Rainbow Warrior Affair (extract)</b>	<b>350</b>
<b>K. ICSID Convention (extract)</b>	<b>354</b>
<b>Index</b>	<b>356</b>