

5. Each member of the Tribunal, before entering upon his duties, shall make and subscribe to a solemn declaration before the Joint Secretaries of the Tribunal stating that he will carefully and impartially examine and decide according to his best judgment and in accordance with the provisions of this Agreement all matters presented for his decision. A duplicate of every such declaration shall be filed with each of the Joint Secretaries of the Tribunal.

ARTICLE II

1. The Tribunal shall have jurisdiction to hear and decide in a final fashion each claim presented to it in accordance with the terms of this Agreement. Each decision of the Tribunal shall be based on its determination of any one or more of the following questions on the basis of the legal principles set forth in this Article:

- (a) Was the construction and maintenance of Gut Dam the proximate cause of damage or detriment to the property that is the subject of such claim?
- (b) If the construction and maintenance of Gut Dam was the proximate cause of damage or detriment to such property, what was the nature and extent of damage caused?
- (c) Does there exist any legal liability to pay compensation for any damage or detriment caused by the construction and maintenance of Gut Dam to such property?
- (d) If there exists a legal liability to pay compensation for any damage or detriment caused by the construction and maintenance of Gut Dam to such property, what is the nature and extent of such damage and what amount of compensation in terms of United States dollars should be paid therefor and by whom?

2. The Tribunal shall determine any legal liability issue arising under paragraph 1 of this Article in accordance with the following provisions:

- (a) The Tribunal shall apply the substantive law in force in Canada and in the United States of America (exclusive, however, of any laws limiting the time within which any legal suit with respect to any claim is required to be instituted) to all the facts and circumstances surrounding the construction and maintenance of Gut Dam including all the documents passing between Governments concerning the construction of the dam and other relevant documents.
- (b) In this Article the law in force in Canada and the United States of America respectively includes international law.
- (c) No claim shall be disallowed or rejected by the Tribunal through the application of the general principle of international law that legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

3. In the event that in the opinion of the Tribunal there exists such a divergence between the relevant substantive law in force in Canada and in the United States of America that it is not possible to make a final decision with regard to any particular claim as provided by this Article, the Tribunal shall apply such of the legal principles set forth in paragraph 2 as it considers appropriate, having regard to the desire of the Parties hereto to reach a solution just to all interests concerned.

4. The Tribunal shall not have jurisdiction over any claim presented under this Agreement unless the claim is accompanied by an undertaking,