Title:
VII.3.1 - Limits to claims for damages

Content:
No. VII.3.1 - Limits to claims for damages

Damages may not exceed the actual loss and are available only for loss which is proven by the aggrieved party, or where the amount of damages cannot be established with a sufficient degree of certainty, assessed by the court or tribunal.

Commentary:
1 The Principle sets limits to the Principle of full compensation. Such compensation is always limited to the loss suffered by the aggrieved party. Such loss may include future damages such as lost profits or further damages such as lost business chances, provided that such loss can be established with a sufficient degree of certainty. However, there are no punitive damages in transnational law and the aggrieved party may not be enriched through the damages which it claims from the party in breach.

2 Immateriial of the nature of the damage, any damage claim is subject to the general rules of burden of proof. This means that the aggrieved party must always prove the damages which it claims.

3 In special cases in which that party finds it impossible to quantify its damages, those damages may be quantified by the court or arbitral tribunal which enjoy a certain degree of discretion.