

**THE PHILIP C. JESSUP INTERNATIONAL LAW MOOT
COURT COMPETITION**

1967

**Case Concerning Certain Incidents
on the Moon, United States v.
France, 1967.**

Problem

HYPOTHETICAL

Situation:

The Treaty Governing the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which the United Nations General Assembly commended in its Resolutions 2222 (XXI) of 19 December 1966 (hereinafter referred to as the Outer Space Treaty) came into force upon the deposit of five ratifications including those of the United States, the Union of Soviet Socialist Republics and the United Kingdom. France signed the treaty, but did not ratify.

Shortly after the entry into force of the Outer Space Treaty, France and the U.S.S.R. entered into an agreement whereby the U.S.S.R. undertook to assist France in placing a French expedition on the moon. Pursuant to this agreement, the French government sent to the moon an expedition consisting of three members of the French armed forces. The expedition was transported to the moon by a spacecraft provided by the Soviet Union and launched from Soviet territory. The U.S.S.R. also provided a vehicle for the return trip to Earth, but otherwise took no part in the expedition.

Six months previously, a Soviet expedition had successfully reached the moon and established a temporary station there for a period of one week; the personnel and equipment of the Soviet expedition then returned to Earth. The Soviet Union made no claim of sovereignty to the moon.

The French expedition landed on the moon's surface some one hundred (100) kilometres from the site of the Soviet landing, and established a station. On the second day after arrival, the chief of the French expedition raised the French flag and proclaimed French sovereignty over the site of the French station and the area within a radius of twenty (20) kilometres of the station. This action was communicated to the French government, which notified the Secretary General of the United Nations of the claim and requested

that the Secretary General inform all other governments of it.

The United States, upon being notified of this action by the Secretary General, immediately informed the French government, by a note which was published, that it did not recognize the French claim of sovereignty on the moon and regarded it as contrary to international law. The Soviet Union remained silent.

Ten days later, the French expedition returned to Earth, leaving on the moon some supplies and a French flag; the expedition brought back samples of rock and dust from the moon. Three months later, France launched another expedition to the moon, consisting of five (5) military officers; this expedition was also transported to the moon by a Soviet spacecraft launched from Soviet territory. The expedition was under orders "to protect French territory on the moon." The expedition landed within three (3) kilometres of the site of the first French station, reoccupied the site, and reaffirmed the French claim of sovereignty.

Five days later, while the French expedition was still on the moon, four Americans landed on the moon in a spacecraft launched by the United States government. The American expedition landed twenty-two (22) kilometres from the French site. This was the first landing on the moon by other than Soviet or French astronauts. Two of the Americans were officers in the U.S. Air Force acting under orders; the two others, Adams and Brown, were private United States citizens, who were officers and sole owners of Astrominerals, Inc., a California corporation. Two days later, the four Americans started walking toward the French site. When they were eighteen (18) kilometres from the site, they met four French officers who warned them that they were on French soil and demanded that they turn back and leave the area claimed by France. The Americans, not wishing to create an international incident, turned back under protest toward their spacecraft, but while they were still within the area claimed by France Adams and Brown

collected a substantial amount of mineral samples. Two days later both expeditions left the moon. Owing to a malfunction of the return vehicles, the American spacecraft descended in the Indian Ocean, where the astronauts and the capsule were picked up by a French warship.

Upon arrival in a French port the Americans were released, but the mineral samples were confiscated by French customs authorities on the ground that they were public property of the French Republic and had been stolen. On subsequent analysis, the mineral samples were found to contain substantial amounts of precious metals. An appeal by Adams and Brown in the French courts for the return of the samples was unsuccessful.

The United States protested against the French act of confiscation, and demanded the return of the mineral samples to Adams and Brown. France rejected the demand, reiterated its claim of sovereignty to the area on the moon, and demanded an apology by the United States for intrusion into French territory.

The United States thereupon filed an application with the International Court of Justice asking the Court: "To declare that France is under a duty to return to the United States or to Adams and Brown the mineral samples taken from Adams and Brown." France asked the Court to reject the submission of the United States and to declare "that the United States, by the deliberate intrusion of its officers and citizens into French territory on the moon and by their taking minerals from said territory, committed a violation of French sovereignty, and that the United States is under a duty to apologize to France for this violation." The United States asked the Court to reject the French submissions. Neither party objected to the jurisdiction of the Court. By the time the submissions were filed with the Court, a total of nineteen states had ratified the Outer Space Treaty.

Arguments are to be made on behalf of the French and United States governments. All the facts stated above are stipulated.