

IN THE  
INTERNATIONAL COURT OF JUSTICE

March, 1970

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CASE NO. 1

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UNITED STATES,

Applicant,

v.

AMAZONIA,

Respondent.

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MEMORIAL FOR APPLICANT

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## JURISDICTION

The United States and Amazonia, upon the consent of both parties, invoke the jurisdiction of the Court pursuant to Article 36(1) of the Statute of the International Court of Justice.

## QUESTIONS PRESENTED

### I.

Whether the United States has the right to espouse the claim of UPC?

### II.

Whether the 1905 Treaty whereby Amazonia agreed to protect all interests of United States nationals and enterprises and treat those interests as inviolable remains in force and binding?

### III.

Whether UPC is entitled to compensation for the taking of its subsoil interests in the Tacos tract?

### IV.

Whether the 1936 amendment to the Amazonian Constitution precludes UPC from relying on United States diplomatic intervention on behalf of its claim to the subsoil resources?

### V.

Whether the response by the United States to the confiscatory actions of Amazonia was valid under the principles of international law?

## SUMMARY OF ARGUMENT

The 1905 Treaty confers the right on the United States to espouse the claim of UPC to the subsoil resources of the Tacos tract. By waiving all preliminary objections, Amazonia has confirmed this right.

International law requires Amazonia to observe the terms of the 1905 Treaty for it was not only valid at the time of its conclusion, but remains in force and binding on the parties thereto. Amazonia cannot allege a change in circumstances or the succession of a new form of government to nullify its treaty obligations.

The rights granted UPC in the subsoil resources of the Tacos tract cannot be held void ab initio. Even admitting arguendo their invalidity, Amazonia is foreclosed from asserting that invalidity by the doctrines of estoppel and laches.

The award of the Amazonia Compensation Board was not only below the standard of international justice, but was also arrived at in a setting which deprived UPC of due process.

The 1936 amendment to the Amazonian Constitution does not preclude UPC from relying on United States diplomatic

interposition because an individual may not relinquish the rights of his state.

Finally, the response of the United States to the confiscatory actions of Amazonia was not only proper, but valid under the principles of international law.

## ARGUMENT

I. The United States has the right to espouse the claim of UPC.

A. Amazonia has waived its right to challenge United States espousal of the UPC claim.

Amazonia cannot contend that the United States is precluded from seeking compensation on behalf of the UPC. Any argument to that effect is a preliminary objection which the parties have waived.

This Court has defined a preliminary objection as follows:

The essence of any preliminary objection . . . is that, if good, it holds good and brings the proceedings to an end, irrespective of the plaintiff State's ability to prove its case on the merits.<sup>1</sup>

It is clear that if this Court had found that the United States could not espouse the claims of UPC, the proceedings as to those claims would have been ended. "[I]t is true that an objection disputing the national character of a claim is in principle of a preliminary character."<sup>2</sup> Such an argument should have been made as a preliminary objection but was waived. (R-4)

B. The 1905 Treaty confers the right upon the United States to espouse the UPC claim.

Even if espousal may be construed as a rule of substantive law, this Court has long recognized the right of a state to assert a claim on behalf of its nationals.<sup>3</sup> This well-recognized rule is founded on the principle that, "a state is in reality asserting its own rights--its right to insure in the person of its subjects, respect for the rules of international law."<sup>4</sup>

Applicant is well aware of this Court's decision in the Barcelona Traction case wherein it was held that Belgium lacked jus standi to exercise diplomatic protection of shareholders in a Canadian company with respect to measures taken against that company in Spain.<sup>5</sup> Applicant contends, however, that that decision is not binding precedent either in law or fact in the instant case.

Initially, it must be recognized that this Court is not constrained to follow previous decisions as binding precedent.<sup>6</sup> Furthermore, the Barcelona Traction case should not be persuasive upon this Court because it is distinguishable on its facts from the one at bar.

In the instant case Amazonia is bound to adhere to

the terms of the 1905 Treaty whereby it was established that,

Amazonia will accord the most constant protection to all interests of United States nationals or enterprises in Amazonia and will treat its commitments to United States nationals or enterprises as inviolable. (R-1)

Applicant contends that under the terms of the 1905 Treaty it is asserting the interest of its national, Yankee Oil Co. of California, which is 98 percent owner of UPC.

(R-1) This parent-subsidary relationship is itself distinguishable from the corporation-shareholder relationship in the Barcelona Traction case as to the degree of control exercisable by the parent.

To decide the true character and entity of a business or company you must ascertain where the motive or directing force of the business comes from; in other words, where the life is, and not where the limbs move to give effect to that living power.<sup>7</sup>

Thus, the very nature and existence of the 1905 Treaty bestows the right upon Applicant to espouse the claim of the UPC and renders it distinguishable from the Barcelona Traction case.

As this Court then stated,

It had been noted that a State could make a claim when investments being part of a State's national economic resources, were prejudicially affected in violation of the right of a

State itself to have its nationals enjoy a certain treatment. But, in the present state of affairs, such a right could only result from a treaty or special agreement. And no instrument of such a kind was in force between Belgium and Spain.<sup>8</sup>

Applicant contends that the unique relationship existing between it and Amazonia as a result of the 1905 Treaty confers the right upon it to espouse the claim of the UPC.

II. The 1905 Treaty whereby Amazonia agreed to protect all interests of United States nationals and enterprises and treat those interests as inviolable remains in force and binding.

A. The Treaty was valid at the time of its conclusion.

The United States in response to the arbitrary repudiation by Amazonia of a concession agreement with an American company, blockaded Amazonia's principal port. (R-1)  
This action by the United States was a valid exercise of power under the rules of International Law prevailing at the time.

The numerous cases of pacific blockade which occurred during the nineteenth century and since have through tacit consent of States, established the admissibility of pacific blockade for the settlement of political as well as legal international differences.<sup>9</sup>

It is the position of the United States that the 1905 Treaty

concluded between the United States and Amazonia subsequent to the blockade is not vitiated by the force exercised in that naval act.

International legal scholars recognize that duress does not automatically invalidate the consent necessary for the conclusion of a valid treaty between states.<sup>10</sup> Indeed, if the pressure exercised, whether military, economic, or political were to vitiate consent, every peace treaty would be objectionable on the grounds that it was concluded under duress.<sup>11</sup>

The 1905 Treaty concluded between the United States and Amazonia was a valid compromise--the United States received the commitment from Amazonia to treat the interests of its nationals and enterprises as inviolable while Amazonia had the blockade of its port lifted. (R-1) The consent of Amazonia, therefore, is to be regarded as freely given.

. . . [I]t [International law] regards all compacts as valid, notwithstanding the use of force or intimidation, which do not destroy the independence of the state which has been obliged to enter into them.<sup>12</sup>

In the instant case, the independence of Amazonia was not destroyed--it was not required to commit suicide by way of unjust reparation. Rather, it was merely required to

respect the economic interests of United States nationals and enterprises. International law should require no less.

B. International law requires Amazonia to observe the terms of the 1905 Treaty.

1. A treaty in force is binding on the parties thereto.

In the case at bar, Amazonia asserts that the original grant to the UPC was invalid, or in the alternative, it was subject to termination under the 1964 statute authorizing the nationalization of the petroleum industry. (R-3)

If such a position is sustained, it would be in contravention of the terms of the 1905 Treaty whereby Amazonia agreed to treat the interests of United States nationals and enterprises as inviolable. Applicant contends that such a position is untenable.

Initially, it must be noted that a State has the legal duty to carry out in good faith its treaty obligations and "may not invoke limitations in its own constitution or laws as an excuse for a failure to perform this duty."<sup>13</sup>

In attempting to effectuate its nationalization program by violating the 1905 Treaty, Amazonia has also violated the principles of the O.A.S. and United Nation of which both

Amazonia and the United States are signatories. (R-1)

The Charter of the O.A.S. approved at Bogota in 1948 provides in Article 14: "Respect for and the faithful observance of treaties constitute standards for the development of peaceful relations among states. . ."<sup>14</sup> Additionally, Article 26 of the Vienna Convention on the Law of Treaties specifies that "every treaty in force is binding upon the parties to it and must be performed by them in good faith."<sup>15</sup> The record reflects that the 1905 Treaty is listed in the Department of State publication, Treaties in Force: A List of Treaties and Other International Agreements of the United States. (R-1)

Furthermore, there is no evidence in the record that the treaty was terminated.

In adopting a position irreconcilable with the Treaty of 1905, Amazonia has embarked upon a policy that it would be imprudent for this Court to uphold. If a State were permitted via statute to abrogate its treaty obligations, a State would be hesitant to bind itself by contract over a considerable period of time or would rescind those agreements at will.<sup>16</sup> Such a situation would most certainly be disruptive of the political stability of the international community. Thus, the

rule of law remains that,

A party may not unilaterally free itself from the engagements of a Treaty . . . except by the consent of the contracting parties.<sup>17</sup>

2. The doctrine of pacta sunt servanda must govern the treaty obligations of the parties in the instant case.

One of the most ancient principles of international law is the inviolability of treaties.<sup>18</sup> This principle, embodied in the doctrine of pacta sunt servanda, "deems treaties of every kind as obligatory on nations as private contracts are binding on individuals."<sup>19</sup> Without this rule, "International law as well as civil law would be a mere mockery."<sup>20</sup> Thus, pacta sunt servanda is an international rule of law expressing the principle of good faith which demands Amazonian observance of the terms of the 1905 Treaty.

Amazonia, however, may contend that the doctrine of clausula rebus sic stantibus should be controlling in the instant case. This doctrine is predicated on the notion that a party may be excused from its treaty obligations if there has occurred a change of circumstances which constituted an essential basis of consent of the parties to the treaty, or the effect of the change is to radically transform the scope of the

obligations still to be performed under the treaty.<sup>21</sup>

Although this doctrine occupies a place of uncertain validity in international law,<sup>22</sup> it is certain that it is inapplicable to the case at bar. As has been previously noted, the imposition of economic sanctions by the United States through the blockade of Amazonia's principal port resulted in the compromise agreement taking form in the 1905 Treaty. This policy which led to the conclusion of the 1905 Treaty has not changed. Indeed, when Amazonia confiscated UPC's Tacos tract, the United States again responded with economic sanctions. It terminated aid agreements, suspended all "sugar quota" imports from Amazonia, and blocked some \$40 million in Amazonian funds in the United States. (R-4) The international validity of these acts will be dealt with later in this memorial. Thus, the conditions of consent which led to the conclusion of the 1905 Treaty were yet present in 1969.

Furthermore, it cannot be argued that there has been such a radical change in circumstances as would make compliance with the obligations of the treaty unbearable. The record is devoid of any such implications. All that is required of Amazonia is respect for the property interests of United States nationals and enterprises. (R-1) Such an obligation

cannot be considered onerous in light of the respect and protection accorded private property under international law.<sup>23</sup>

3. The government which took control of Amazonia in May, 1969, inherited the obligations of its predecessor state.

It is a universally-accepted rule in international law that a change in form of government of a state does not discharge it of its international obligations.<sup>24</sup> As has been previously noted, a state may not unilaterally abrogate its treaty obligations.<sup>25</sup> Accordingly, the opinions of international publicists appear to be in complete agreement on the fact that a change in governmental organization or constitutional system does not detract from this principle.<sup>26</sup> Thus, the change effected in the Amazonian government in May, 1969, (R-3) cannot be used by that government as an excuse to repudiate the treaty obligations contracted by its predecessor government. This principle is so firmly embedded in international law that the Swiss Federal Tribunal stated:

It is a principle of international law, recognized and absolutely uncontested, that the modifications in the form of government and in the internal organization of a state have no effect on its rights and obligations under the general public law; in particular they do not

abolish rights and obligations derived  
from treaties concluded with other  
states.<sup>27</sup>

Applicant sees no reason why the Amazonian government should not be obligated to respect the provisions of the 1905 Treaty.

III. UPC is entitled to compensation for the taking of its subsoil interests in the Tacos tract.

A. The rights granted UPC in the subsoil resources cannot be held to be void ab initio.

Among the incidents of sovereignty are the power to grant title to state property and the power to enter into binding contracts. When a state through its proper organ of government concludes an agreement with a foreign national, it incurs an obligation, despite the invalidity of such action as a matter of the prevailing domestic law.<sup>28</sup> The criterion for the determination of the validity of the original agreement must be the law of the predecessor state, not that of the succeeding government.<sup>29</sup> Thus, it has been noted:

As there is no question of an obligation to continue the terms of the concession, it is immaterial that the concession is contrary to the public interest of the successor state. . . .<sup>30</sup>

Applicant submits that the Amazonian allegation that UPC was unjustly enriched because the original grant was void ab initio cannot be sustained. UPC's rights to the Tacos tract and to subsoil resources are derived from a 1923 grant from the Amazonian government conveying "full and irrevocable title" in the tract and "sole ownership of all subsoil resources" for good and valuable consideration in the form of taxes and royalties. (R-1, 2) This grant was duly ratified by statute in 1924. (R-2) Additionally, the 1936 amendment to the Amazonian constitution implicitly recognized the validity of extending grants for the exploitation of subsoil resources by aliens with the only stipulation being their agreement to be treated as Amazonian citizens. (R-2) Finally, under the terms of the 1905 Treaty, this grant to an enterprise of a United States national must be treated as inviolable.

Thus, the present Amazonian regime may not unilaterally modify the rights granted in 1923. Particularly persuasive on point is the finding of the arbitration tribunal in the Arabian American Oil Co. dispute:

Since Aramco's concession is a concession for the development of national wealth, which is contractual in character, and not a public service concession, the rights and

obligations of the concessionary Company are in the nature of acquired rights and cannot be modified by the granting state without the Company's consent.<sup>31</sup>

In view of the express and implied recognition by the Amazonian government of the validity of the grant of subsoil resources weighed in light of the Amazonian treaty obligations, the 1923 grant to UPC was not void ab initio.

B. Amazonia is estopped from denying the validity of the 1923 grant.

The doctrine of venire contra factum proprium non valet is an established doctrine of international law. The court recently reaffirmed this doctrine in The Temple of Preah Vihear<sup>32</sup> case. "The effect of this doctrine is to preclude a state from denying the existence of any right which that state has previously recognized, by its representation, its declaration, its conduct, or its silence."<sup>33</sup>

In the instant case, Amazonia is estopped from asserting the 1923 grant was invalid. Amazonia by specific declaration in the 1924 statute and by implication in the 1936 amendment recognized the validity of the grant. (R-2) Amazonia remained silent on the grant for an additional 28 years after the 1936 amendment. (R-3) Thus, UPC has relied to its

detriment by expending sums for its physical plant, (R-3) upon the express declaration, the implied representation and the silence of Amazonia. Clearly, then, the interest of equity can only be served by estopping Amazonia from urging the invalidity of the 1923 grant.

C. Amazonia is foreclosed from asserting the invalidity of the UPC grant by the doctrine of laches.

Laches is a principle of international law providing that where a claimant permits too long a time to elapse before making known his claim, he loses his remedy, and, ipso facto, his legal right, in all systems of jurisprudence.<sup>34</sup> Thus, even if Amazonia could prove that the rights to the subsoil resources were improperly obtained by UPC, it would be too late for such a claim to bear any international validity.<sup>35</sup>

Periods of 15 or 16,<sup>36</sup> 23,<sup>37</sup> 27,<sup>38</sup> 28,<sup>39</sup> 31,<sup>40</sup> 39,<sup>41</sup> and 43 years<sup>42</sup> or longer<sup>43</sup> have been deemed sufficient periods of time to invoke the doctrine of laches. Thus, the attenuated period of 46 years is more than adequate to raise a presumption of laches.<sup>44</sup>

D. UPC is entitled to just compensation without a set-off for Amazonia's expropriation of the Facos tract.

1. Expropriated property must be justly compensated for under International Law.

There can be little argument with the proposition that there must be compensation for expropriated property under international law.<sup>45</sup> In the instant case, Amazonia recognized this obligation in the 1964 Expropriation Statute.

Various phrases have been used to describe the nature of the compensation, but regardless of the words used, the compensation must be just:

Property taken . . . for the public use lawfully, by the civil or military authorities must be paid for by the government . . . . The public has received the value of the property and is bound to make just compensation.<sup>46</sup>

2. The award of the Amazonia Compensation Board was unjust and violative of the principles of due process.

The award granted by the Amazonian Compensation Board only recognized the value of the physical property of UPC.

(R-3) Thus, the Board did not take into consideration the value of the subsoil resources granted to UPC by the concession agreement of 1923, (R-1, 2) but the value of such rights cannot be ignored. While there is no set definition of what

is "just," a valuable guideline was set by the Organization for Economic Cooperation and Development:

The measures are accompanied by provision for the payment of just compensation. Such compensation shall represent the genuine value of the property affected, [and] shall be paid without undue delay. . . .<sup>47</sup>

There can be no question that the rights to the subsoil resources granted in 1923--and reaffirmed in 1936 (R-2)--are part of the true value of UPC's property. It is logical to conclude that the value of expropriated property should be determined by the standards of the business to which the property belongs. It is inherent in the nature of the mining industry to include subsoil resources as a valuable asset in determining the part of the genuine value of mining property.

Further, it was improper for Amazonia to apply local standards of just compensation to create a set-off. There is no question that there is an objective standard in international law which must be complied with; a state cannot substitute its own lesser standard.<sup>48</sup> This is precisely what was done when the Amazonian Compensation Board recognized its government's claim and declared a set-off. The set-off determined by the Compensation Board was based on the alleged premise of unjust enrichment by UPC. Assuming arguendo that

there is unjust enrichment in international law, there is authority to support the premise that compensation cannot be set off on the basis of an unequal concession agreement.<sup>49</sup>

The reasoning behind this is that the agreement in effect enriched the nation which granted it. O'Connell concludes:

Similar reasoning disposes of the argument that concessions in undeveloped lands need not be respected. Such concessions, it is true, may have been granted precisely because the undeveloped country was incapable of exploiting its own natural resources. However, as the successor state is enriched by the work done it owes a duty of compensation.<sup>50</sup>

The O'Connell analysis is applicable to the case at hand. There is little question that the concession was granted at a time when Amazonia was relatively undeveloped.

(R-1) Amazonia has been enriched by the presence of UPC in developing the Tacos tract and in payment of taxes. (R-2) Therefore, despite the alleged one-sidedness of the agreement, Amazonia was in fact enriched by it and cannot claim a set-off.

Furthermore, it must be recognized that the procedure whereby this determination was made infringed upon the fundamental precepts of due process. With regard to the procedure

for determining the value of property expropriated, "A judicial determination, subject to appeal, is a minimum."<sup>51</sup>

Thus, the "final and nonreviewable" character of the Amazonian National Compensation Board is repugnant to international due process. Additionally, it must be noted that the Board was comprised of members sympathetic to the new government's political views. (R-3) In light of such a situation, applicant contends that UPC was not afforded the just treatment to which it was entitled.<sup>52</sup>

IV. The 1936 amendment to the Amazonian Constitution does not preclude UPC from relying on United States diplomatic intervention on behalf of its claim to the subsoil resources.

The state has such a paramount interest in maintaining the principles of international law that a citizen cannot by contract bind the hands of his government.<sup>53</sup> The government of Denmark found this reasoning particularly compelling with respect to treaty violations: "No private individual, however, can renounce the right of his State, in international law, to plead the violation of treaties or of international law itself."<sup>54</sup>

Thus, the Calvo clause may not be employed by Amazonia to defeat the right of the United States to enforce the terms of the 1905 Treaty, nor to deny it the right to seek just compensation on behalf of UPC.

Moreover, the Arbitration Commission in the North American Dredging Co. case noted that if it were necessary to construe an article of a contract so as to preclude an individual from applying to his government to intervene diplomatically, it "would have no hesitation in holding such a clause void ab initio and not binding on the claimant."<sup>55</sup> Thus, the limits of diplomatic protection and the responsibility of states for injuries to aliens must be determined by international law, not by domestic constitutions as Amazonia has attempted to do in the instant case.<sup>56</sup> It is significant to further note that this view is shared by prominent Latin-American publicists.<sup>57</sup>

Furthermore, once a concession is granted, it cannot be abrogated by a subsequent statute without international responsibility. To hold otherwise would constitute a clear violation of the principle of nonretroactivity of laws.<sup>58</sup>

V. The response by the United States to the confiscatory actions of Amazonia was valid under the principles of international law.

A. The severance of economic aid to Amazonia was justifiable under international and municipal law.

In terminating the aid agreement, the United States did no more than exercise a right granted it under the terms of the agreement. (R-1) As such, Amazonia has no standing to challenge the exercise of this right. Further, the United States acted in compliance with section 620 (e) of the Foreign Assistance Act of 1962.<sup>59</sup> This law recognizes the duty of the United States to protect its nationals from financial loss. The law requires the suspension of aid to any nation which expropriates without compensation, property owned by any corporation having 50% or more American ownership.<sup>60</sup> This is a reasonable exercise of power and cannot be considered repugnant to international law.

The blocking of Amazonian funds is an established practice where property of United States nationals has been expropriated without compensation.<sup>61</sup> This practice was adopted to protect the financial position of wronged American nationals, i.e., in fulfillment of a duty which the United States

owes its citizens. The measure is preventive and temporary in character and imposes no hardship on Amazonia.

B. The Security Council Resolution did not affect the property rights of UPC.

The recommendation of the Security Council regarding the subsoil rights was merely a reaffirmance of the 1962 General Assembly resolution on Permanent Sovereignty over Natural Resources.<sup>62</sup> It is well established that neither resolutions of the General Assembly nor recommendations of the Security Council are binding in character.<sup>63</sup> "It was made clear at San Francisco . . . that such recommendations have no binding force."<sup>64</sup> Hence, even if the recommendation was independent of the General Assembly, it has no binding effect.

## CONCLUSION

For the foregoing reasons, the United States respectfully requests this Court to find that UPC is entitled to full compensation for its physical plant and its right to future exploitation of the Tacos tract in the amount of \$400 million.

CERTIFICATE AS TO LENGTH

I certify, as Captain of the International Moot Court team, that by my count, this memorial contains fewer than 4,500 words. Signatures of the four remaining team members have not been affixed to this certificate because as of the mailing of this brief our local elimination rounds will not have been terminated.

This procedure has been sanctioned by James A. R. Nafziger, Executive Secretary, Association of Student International Law Societies.

  
Robert F. Bouchard

## FOOTNOTES

1. Case concerning the Northern Cameroons, Preliminary Objections [1963], I.C.J. Reports, pp. 104-05.
2. Case of the Panevezys-Saldutiskis Ry., [1938] P.C.I.J., ser. A/B No. 75, at 56.
3. Id.
4. Mavrommatis Palestine Concessions, [1924] P.C. I.J., ser. A No. 2, at 12.
5. Barcelona Traction, Light & Power Co. (Belgium v. Spain), Int'l Court of Justice, Communique No. 70/2, 5 Feb. 1970.
6. I.C.J. Stat., art. 38, para. 1.
7. Daember Co. v. Continental Tyro Co., 2 A.C. 307, 114 L.T.R. 1049, n. 4 (1916).
8. Barcelona Traction, supra note 5, at 4 (emph-added).
9. II Lauterpacht, Oppenheim's International Law 147 (7th ed. 1952).
10. J. Brierly, The Law of Nations 244 (5th ed. 1955).
11. I G. Schwarzenberger, A Manual of International Law 147 (4th ed. 1960).
12. W. Hall, International Law 319 (6th ed. 1909).
13. The International Law of the Future: Postulates, Principles, and Proposals (Carnegie Endowment for International Peace, 1944) 42, 38 Am. J. Int'l Law Supp. 41, 73 (1944) (hereinafter cited as Postulates, Principles and Proposals).
14. O.A.S. art. 14.

15. Vienna Convention on the Law of Treaties, May 22, 1969, as cited in 4 Int'l Lawyer 172 (1969).
16. Fitzmaurice, Law of Treaties, [1959], 2 Y.B. Int'l L. Comm'n 54-55, U. N. Doc. A/CN. 4/120 (1959).
17. Bin Cheng, General Principles of Law as Applied by International Courts and Tribunals 113 (1953).
18. Svarlin, An Introduction to the Law of Nations 113 (1955).
19. Van Bokkelen (Haiti v. United States), 2 Int'l Arb. 1807 at 1849-50 (1888).
20. Bin Cheng, General Principles of Law as Applied by International Courts and Tribunals 113 (1953).
21. 61 Am. J. Int'l L. 913 (1967).
22. 1 Y.B. Int'l L. Comm'n 77-81, 84-85 (1963). See also U. N. Doc. A/CN. 4/183/Add. 3 [1966].
23. I G. Schwarzenberger, A Manual of International Law 99 (4th ed. 1960).
24. I. J. Moore, A Digest of International Law 249 (1906).
25. Postulates, Principles, and Proposals at 42.
26. Harvard Research into the Law of Treaties, 29 Am. J. Int'l L. Supp. 1044 (1935).
27. Lupeschkin v. Gosweiler, 71 Journal des Tribunaux Revue Judiciaire 582 (1923) (France).
28. W. Willoughby, Fundamental Concepts of Public Law (1924); Restatement of Foreign Relations § 103 (Tent. Draft No. 3, (1959)).
29. G. Kaeckenbeeck, La Protection Internationale Des Droits Acquis, I Recueil Des Cours (1937).

30. D. O'Connell, *The Law of State Succession* 134 (1956).
31. *Saudi Arabia v. Arabian Oil Co. (United States)*, Arb. Tribunal, Geneva 125 (1958) (Hassan & Habachi, Arbitrators).
32. (Cambodia-Thailand) [1962] I.C.J. Rep. 40.
33. E. Hambro, IV-B, The Case Law of the International Court 851 (1966).
34. E. Borchard, *Diplomatic Protection of Citizens Abroad* 825 (1915); see also Domat, *Civil and Public Law* (Strahan's ed. 1732).
35. T. Holland, *The Elements of Jurisprudence* 213 (11th ed. 1910).
36. Black & Stratton (*United States v. Mexico*), Moore's Arb. 3138-39 (1868).
37. Bettiker (*United States v. Venezuela*), Opinions 92 (1890) (dictum, disallowed for lack of citizenship).
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