Sovereignty over natural resources
Schrijver, Nicolaas Jan

IMPORTANT NOTE: You are advised to consult the publisher's version (publisher's PDF) if you wish to cite from it. Please check the document version below.

Document Version
Publisher's PDF, also known as Version of record

Publication date:
1995

Link to publication in University of Groningen/UMCG research database

Citation for published version (APA):
# Appendix I:
## United Nations Resolutions and Other Decisions

### I.A General Assembly Resolutions on Permanent Sovereignty over Natural Resources

<table>
<thead>
<tr>
<th>GA Resolution</th>
<th>Date of Adoption</th>
<th>Voting Record</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>626 (VII)</td>
<td>21 Dec. ’52</td>
<td>36 (60%)–4–20</td>
<td>Right to Exploit Freely Natural Wealth and Resources.</td>
</tr>
<tr>
<td>1720 (XVI)</td>
<td>19 Dec. ’61</td>
<td>85 (95%)–0–5</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>1803 (XVII)</td>
<td>14 Dec. ’62</td>
<td>87 (86%)–2–12</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>2158 (XXI)</td>
<td>25 Nov. ’66</td>
<td>104 (95%)–0–6</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>2386 (XXIII)</td>
<td>19 Nov. ’68</td>
<td>94 (91%)–0–9</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>2692 (XXV)</td>
<td>11 Dec. ’70</td>
<td>100 (92%)–6–3</td>
<td>Permanent Sovereignty over Natural Resources of Developing Countries and Expansion of Domestic Sources of Accumulation for Economic Development.</td>
</tr>
<tr>
<td>3016 (XXVII)</td>
<td>18 Dec. ’72</td>
<td>120 (83%)–0–22</td>
<td>Permanent Sovereignty over Natural Resources of Developing Countries.</td>
</tr>
<tr>
<td>3171 (XXVIII)</td>
<td>17 Dec. ’73</td>
<td>108 (86%)–1–16</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>3201 (S-VI)</td>
<td>1 May ’74</td>
<td>Adopted without vote</td>
<td>Declaration on the Establishment of a New International Economic Order.</td>
</tr>
<tr>
<td>3202 (S-VI)</td>
<td>1 May ’74</td>
<td>Adopted without vote</td>
<td>Programme of Action on the Establishment of a New International Economic Order.</td>
</tr>
<tr>
<td>3281 (XXIX)</td>
<td>12 Dec. ’74</td>
<td>120 (88%)–6–10</td>
<td>Charter of Economic Rights and Duties of States.</td>
</tr>
<tr>
<td>32/176</td>
<td>19 Dec. ’77</td>
<td>130 (94%)–0–8</td>
<td>Multilateral Development Assistance for the Exploration of Natural Resources.</td>
</tr>
<tr>
<td>33/194</td>
<td>29 Jan. ’79</td>
<td>Adopted without vote</td>
<td>Multilateral Development Assistance for the Exploration of Natural Resources.</td>
</tr>
</tbody>
</table>
## I.B General Assembly Resolutions Relevant to the Question of Sovereignty over Natural Resources

<table>
<thead>
<tr>
<th>GA Resolution</th>
<th>Date of Adoption</th>
<th>Voting Record</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1514 (XV)</td>
<td>14 Dec. ’60</td>
<td>89 (92%)–0–9</td>
<td>Declaration on the Granting of Independence to Colonial Countries and Peoples.</td>
</tr>
<tr>
<td>2849 (XXVI)</td>
<td>20 Dec. ’71</td>
<td>85 (70%)–2–34</td>
<td>Environment and Development.</td>
</tr>
<tr>
<td>2995 (XXVII)</td>
<td>15 Dec. ’72</td>
<td>115 (96%)–0–10</td>
<td>Co-operation between States in the Field of Environment.</td>
</tr>
<tr>
<td>3129 (XXVIII)</td>
<td>13 Dec. ’73</td>
<td>77 (62%)–5–43</td>
<td>Co-operation in the Field of Environment Concerning Natural Resources Shared by Two or More States.</td>
</tr>
<tr>
<td>3362 (S-VII)</td>
<td>16 Sept. ’75</td>
<td>Adopted unanimously</td>
<td>Development and International Economic Co-operation.</td>
</tr>
<tr>
<td>34/186</td>
<td>18 Dec. ’79</td>
<td>Adopted without vote</td>
<td>Co-operation in the Field of Environment Concerning Natural Resources Shared by Two or More States.</td>
</tr>
<tr>
<td>35/7</td>
<td>30 Oct. ’80</td>
<td>Adopted without vote</td>
<td>Question of the draft World Charter of Nature.</td>
</tr>
<tr>
<td>37/7</td>
<td>28 Oct. ’82</td>
<td>111 (85%)–1–18</td>
<td>World Charter of Nature.</td>
</tr>
<tr>
<td>41/128</td>
<td>4 Dec. ’86</td>
<td>146 (94%)–1–8</td>
<td>Declaration on the Right to Development.</td>
</tr>
<tr>
<td>S-18/3</td>
<td>1 May ’90</td>
<td>Adopted without vote</td>
<td>Declaration on International Economic Co-operation, in particular the Revitalization of Economic Growth and Development of the Developing Countries.</td>
</tr>
</tbody>
</table>
## I.C Relevant Resolutions of Other United Nations Organs

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Date of Adoption</th>
<th>Voting Record</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Security Council</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ECOSOC</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ECOSOC Res. 1737 (LIV)</td>
<td>4 May ’73</td>
<td>20 (77%)–2–4</td>
<td>Permanent Sovereignty over Natural Resources of Developing Countries.</td>
</tr>
<tr>
<td>ECOSOC Res. 1762 (LIV)</td>
<td>18 May ’73</td>
<td>17 (65%)–0–9</td>
<td>Question of the Establishment of a United Nations Revolving Fund for Natural Resources Exploration.</td>
</tr>
<tr>
<td>ECOSOC Res. 1956 (LIX)</td>
<td>25 Jul. ’75</td>
<td>26 (72%)–5–5</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>ECOSOC Res. 2120 (LXIII)</td>
<td>4 Aug. ’77</td>
<td>38 (76%)–1–11</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>ECOSOC Res. 1987/12</td>
<td>26 May ’87</td>
<td>Adopted without vote</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>ECOSOC Res. 1989/10</td>
<td>22 May ’89</td>
<td>Adopted without vote</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td><strong>UNCTAD</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>UNCTAD III Res. 46 (III)</td>
<td>18 May ’72</td>
<td>72 (70%)–15–18</td>
<td>Principles Governing International Trade (Principles II and XI).</td>
</tr>
<tr>
<td>TDB Res. 88 (XII)</td>
<td>19 Oct. ’72</td>
<td>39 (61%)–2–23</td>
<td>Permanent Sovereignty over Natural Resources.</td>
</tr>
<tr>
<td>UNCTAD IV Res. 93 (IV)</td>
<td>30 May ’76</td>
<td>Adopted without vote</td>
<td>Integrated Programme for Commodities.</td>
</tr>
<tr>
<td><strong>UNIDO</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>UNIDO II</td>
<td>27 Mar. ’75</td>
<td>82 (92%)–1–7</td>
<td>Lima Declaration and Plan of Action on Industrial Development and Co-operation.</td>
</tr>
<tr>
<td>Paragraph 32</td>
<td>76 (78%)–10–11</td>
<td></td>
<td>Paragraph on permanent sovereignty over natural resources.</td>
</tr>
</tbody>
</table>
Appendix II:
United Nations Resolutions on
Permanent Sovereignty over Natural Resources

GA Resolution 523 (VI), 12 January 1952
INTEGRATED ECONOMIC DEVELOPMENT AND COMMERCIAL AGREEMENTS

The General Assembly,
Considering that the underdeveloped countries have the right to determine freely the use of their natural resources and that they must utilize such resources in order to be in a better position to further the realization of their plans of economic development in accordance with their national interests, and to further the expansion of the world economy;

Considering that the existing sharp increase in the demand for raw materials, including the demand for stockpiling has resulted in an increase in the prices of a number of raw materials and in fluctuations in the prices of others; has in many cases been accompanied by increased prices and reduced availability of important items of machinery, equipment, consumer goods and industrial raw materials necessary for the development of underdeveloped countries; has created inflationary pressures and brought about the regulation of prices at different relative levels for different products and has thereby caused or increased the economic difficulties in many of the underdeveloped countries;

Recognizing that continued domestic and external inflationary pressures, if unchecked, are likely to affect unfavourably the rate and pattern of economic development of the underdeveloped countries;

Bearing in mind that one way of obtaining the means necessary for carrying out economic development plans in underdeveloped countries is the creation of conditions under which these countries could more readily acquire machinery, equipment and industrial raw materials for the goods and services exported by them;

1. Recommends that Members of the United Nations, within the framework of their general economic policy, should:

a. Continue to make every possible effort to carry out the recommendations contained in paragraphs 1, 2, 3 and 4 of Economic and Social Council resolution 341 (XII), Section A, of 20 March 1951;

b. Consider the possibility of facilitating through commercial agreements:
i. The movement of machinery, equipment and industrial raw materials needed by the underdeveloped countries for their economic development and for the improvement of their standards of living; and

ii. The development of natural resources which can be utilized for the domestic needs of the underdeveloped countries and also for the needs of international trade; provided that such commercial agreements shall not contain economic or political conditions violating the sovereign rights of the underdeveloped countries, including the right to determine their own plans for economic development;

2. Requests the Economic and Social Council and its regional economic commissions to encourage government action as recommended in the preceding paragraph and to facilitate such action as recommended in the preceding paragraph and to facilitate such action by any steps which the Council may deem appropriate;

3. Requests the Secretary-General to continue to carry out such studies as will enable Governments, the Economic and Social Council and its regional economic commissions to give effect to the recommendations contained in the present resolution;

4. Requests all Members of the United Nations to report to the Economic and Social Council at its fourteenth session on such action as they may have taken under the present resolution and under Council resolution 341 (XII), section A.

********

GA Resolution 626 (VII), 21 December 1952
RIGHT TO EXPLOIT FREELY NATURAL WEALTH AND RESOURCES

The General Assembly,

Bearing in mind the need for encouraging the underdeveloped countries in the proper use and exploitation of their natural wealth and resources;

Considering that the economic development of the underdeveloped countries is one of the fundamental requisites for the strengthening of universal peace;

Remembering that the right of peoples freely to use and exploit their natural wealth and resources is inherent in their sovereignty and is in accordance with the Purposes and Principles of the Charter of the United Nations;

1. Recommends all Member States, in the exercise of their right freely to use and exploit their natural wealth and resources wherever deemed desirable by them for their own progress and economic development, to have due regard, consistently with their sovereignty, to the need for maintaining the flow of capital in conditions of security, mutual confidence and economic cooperation among nations;

2. Further recommends all Member States to refrain from acts, direct or indirect, designed to impede the exercise of the sovereignty of any State over its natural resources.

********
GA Resolution 837 (IX), 14 December 1954
RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT
FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION

The General Assembly,
Recalling its resolutions 637 (VII), 648 (VII) and 738 (VIII),
Noting the recommendations of the Commission on Human Rights to the Economic and Social Council,
Noting further, resolution 545 G (XVIII) adopted by the Economic and Social Council,
Considering that the preparation of recommendations on measures for promoting the right of self-determination is a matter of immediate concern,
1. Requests the Commission on Human Rights to complete its recommendations concerning international respect for the right of peoples and nations to self-determination, including recommendations concerning their permanent sovereignty over their natural wealth and resources, having due regard to the rights and duties of States under international law and to the importance of encouraging international cooperation in the economic development of underdeveloped countries, in order that the General Assembly may give those recommendations full and due consideration at its next session;
2. Requests the Economic and Social Council to transmit these recommendations to the General Assembly for consideration at its next regular session.

********

GA Resolution 1314 (XIII), 12 December 1958
RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT
FOR THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION

The General Assembly,
Noting that the right of peoples and nations to self-determination as affirmed in the two draft Covenants completed by the Commission on Human Rights includes ‘permanent sovereignty over their natural wealth and resources’;
Believing it necessary to have full information at its disposal regarding the actual extent and character of this sovereignty,
1. Decides to establish a Commission consisting of Afghanistan, Chile, Guatemala, the Netherlands, the Philippines, Sweden, the Union of Soviet Socialist Republics, the United Arab Republic and the United States of America to conduct a full survey of the status of this basic constituent of the right to self-determination with recommendations, where necessary, for its strengthening, and further decides that, in the conduct of the full survey of the status of the permanent sovereignty of peoples and nations over their natural wealth and resources, due regard shall be paid to the rights and duties of States under international law and to the importance
of encouraging international cooperation in the economic development of under-developed countries;
2. Invites the regional economic commissions and the specialized agencies to cooperate with the Commission in its task;
3. Requests the Commission to report to the Economic and Social Council at its twenty-ninth session;
4. Requests the Secretary-General to provide the Commission with the necessary staff and facilities.

*******

GA Resolution 1515 (XV), 15 December 1960
CONCERTED ACTION FOR ECONOMIC DEVELOPMENT
OF ECONOMICALLY LESS-DEVELOPED COUNTRIES

The General Assembly,
Believing that the principles laid down in the Charter of the United Nations with regard to international economic and social co-operation should be reaffirmed now when so many States have recently become Members of the United Nations,
Bearing in mind the solemn undertaking embodied in the Charter to employ international machinery for the promotion of the economic and social advancement of all peoples,
Recalling also that one of the principal objectives of the United Nations is to promote higher standards of living and that Member States have pledged themselves to take joint and separate action to achieve this purpose,
1. Reiterates that a prime duty of the United Nations is to accelerate the economic and social advancement of the less developed countries of the world, thus contributing to safeguarding their independence and helping to close the gap in standards of living between the more developed and the less developed countries;
2. Recognizes that this social and economic advancement requires the development and diversification of economic activity, that is, the improvement of conditions for the marketing and production of foodstuffs and the industrialization of those economies which are largely dependent on subsistence agriculture or on the export of a small range of primary commodities;
3. Believes that in the present circumstances the achievement of these ends demands, inter alia:
   a. The maintenance of a high and expanding level of economic activity and of generally beneficial multilateral and bilateral trade free from artificial restrictions, in order to enable the less developed countries and those dependent on the export of a small range of primary commodities to sell more of their products at stable and remunerative prices in expanding markets, and so increasingly to finance their own economic development from their earnings of foreign exchange;
b. The increasing provision of public and private capital on acceptable terms from the more developed to the less developed countries, notably through international organizations and through freely negotiated multilateral or bilateral arrangements;
c. The expansion of technical co-operation between countries at all stages of development, with the objective of aiding the people of underdeveloped countries to increase their knowledge of, and capacity to apply, modern techniques;
d. Scientific and cultural co-operation and the encouragement of research;
e. Proper regard for the human and social aspects of economic development;
4. **Recommends**, with these objects in view, that:
   a. Member States and the international organs concerned should continue as a matter of urgency to seek and apply ways of eliminating both excessive fluctuations in primary commodity trade and restrictive practices or measures which have unfavourable repercussions on the trade in basic products of the less developed countries and those dependent on the export of a small range of primary products, and to expand trade in these products;
b. In particular, the Economic and Social Council should give close and serious attention to the problems of commodity trade and to the recommendations of the Commission on International Commodity Trade designed to deal with them, including those such as compensatory financing relating to offsetting the effects of large fluctuations;
c. Technical training, education and pre-investment assistance, whether undertaken by international organizations or by individual Governments, should be regarded as an important factor in the economic development of underdeveloped countries and, in particular, the fullest possible support should be given to the Expanded Programme of Technical Assistance, to the Special Fund and to the other voluntary programmes of the United Nations which are concerned with these ends;
d. Technical assistance and the supply of development capital, which are increasing, should be increased further — whether provided through existing and future international organizations and institutions or otherwise — should be of a kind and in a form in accordance with the wishes of the recipients and should involve no unacceptable conditions for them, political, economic, military or other;
e. Regional economic groupings should be designed to offer the opportunities of an expanding market to all trading nations, taking into account the interests of third parties;
5. **Recommends further** that the sovereign right of every State to dispose of its wealth and its natural resources should be respected in conformity with the rights and duties of States under international law;
6. **Requests** the Economic and Social Council, the Secretary-General, the specialized agencies, the International Atomic Energy Agency and the Governments of States members of these organizations to take note of the present resolution and asks them to play their appropriate part effectively in carrying out its objectives and principles for the general and common benefit of the human race.
GA Resolution 1720 (XVI), 19 December 1961
PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES

The General Assembly,
Recalling its resolution 1314 (XIII) of 12 December 1958,
Desiring to promote the strengthening of permanent sovereignty of peoples and nations over their natural wealth and resources,
1. Expresses its thanks for the revised study on the status of permanent sovereignty over natural wealth and resources, prepared by the United Nations Secretariat;
2. Requests that arrangements be made speedily for the printing of that study, together with the report of the Commission on Permanent Sovereignty over Natural Resources, so that these documents may be available to all who wish to consult the useful information they contain;
3. Decides that the United Nations work on permanent sovereignty over natural wealth and resources shall be continued and recommends that priority be given for discussion of this matter in the Second Committee at the seventeenth session of the General Assembly.

********

GA Resolution 1803 (XVII), 14 December 1962
PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES

The General Assembly,
Recalling its resolutions 523 (VI) of 12 January 1952 and 626 (VII) of 21 December 1952,
Bearing in mind its resolution 1314 (XIII) of 12 December 1958, by which it established the Commission on Permanent Sovereignty over Natural Resources and instructed it to conduct a full survey of the status of permanent sovereignty over natural wealth and resources as a basic constituent of the right to self-determination, with recommendations, where necessary, for its strengthening, and decided further that, in the conduct of the full survey of the status of the permanent sovereignty of peoples and nations over their natural wealth and resources, due regard should be paid to the rights and duties of States under international law and to the importance of encouraging international cooperation in the economic development of developing countries,
Bearing in mind its resolution 1515 (XV) of 15 December 1960, in which it recommended that the sovereign right of every State to dispose of its wealth and its natural resources should be respected,
Considering that any measure in this respect must be based on the recognition of the inalienable right of all States freely to dispose of their natural wealth and resources in accordance with their national interests, and on respect for the economic independence of States,
Considering that nothing in paragraph 4 below in any way prejudices the position of any Member State on any aspect of the question of the rights and obligations of successor States and Governments in respect of property acquired before the accession to complete sovereignty of countries formerly under colonial rule,

Noting that the subject of succession of States and Governments is being examined as a matter of priority by the International Law Commission,

Considering that it is desirable to promote international cooperation for the economic development of developing countries, and that economic and financial agreements between the developed and the developing countries must be based on the principles of equality and of the right of peoples and nations to self-determination,

Considering that the provision of economic and technical assistance, loans and increased foreign investment must not be subject to conditions which conflict with the interests of the recipient State,

Considering the benefits to be derived from exchanges of technical and scientific information likely to promote the development and use of such resources and wealth, and the important part which the United Nations and other international organizations are called upon to play in that connexion,

Attaching particular importance to the question of promoting the economic development of developing countries and securing their economic independence,

Noting that the creation and strengthening of the inalienable sovereignty of States over their natural wealth and resources reinforces their economic independence,

Desiring that there should be further consideration by the United Nations of the subject of permanent sovereignty over natural resources in the spirit of international cooperation in the field of economic development, particularly that of the developing countries,

I

Declares that:

1. The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the wellbeing of the people of the State concerned.

2. The exploration, development and disposition of such resources, as well as the import of the foreign capital required for these purposes, should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable with regard to the authorization, restriction or prohibition of such activities.

3. In cases where authorization is granted, the capital imported and the earnings on that capital shall be governed by the terms thereof, by the national legislation in force, and by international law. The profits derived must be shared in the proportions freely agreed upon, in each case, between the investors and the recipient State, due care being taken to ensure that there is no impairment, for any reason, of that State’s sovereignty over its natural wealth and resources.

4. Nationalization, expropriation or requisitioning shall be based on grounds or reasons of public utility, security or the national interest which are recognized as overriding purely individual or private interests, both domestic and foreign. In such cases the owner shall be paid appropriate compensation, in accordance with the
rules in force in the State taking such measures in the exercise of its sovereignty and in accordance with international law. In any case where the question of compensation gives rise to a controversy, the national jurisdiction of the State taking such measures shall be exhausted. However, upon agreement by sovereign States and other parties concerned, settlement of the dispute should be made through arbitration or international adjudication.

5. The free and beneficial exercise of the sovereignty of peoples and nations over their natural resources must be furthered by the mutual respect of States based on their sovereign equality.

6. International cooperation for the economic development of developing countries, whether in the form of public or private capital investments, exchange of goods and services, technical assistance, or exchange of scientific information, shall be such as to further their independent national development and shall be based upon respect for their sovereignty over their natural wealth and resources.

7. Violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international cooperation and the maintenance of peace.

8. Foreign investment agreements freely entered into by or between sovereign States shall be observed in good faith; States and international organizations shall strictly and conscientiously respect the sovereignty of peoples and nations over their natural wealth and resources in accordance with the Charter and the principles set forth in the present resolution.

II

Welcomes the decision of the International Law Commission to speed up its work on the codification of the topic of responsibility of States for the consideration of the General Assembly;

III

Requests the Secretary-General to continue the study of the various aspects of permanent sovereignty over natural resources, taking into account the desire of Member States to ensure the protection of their sovereign rights while encouraging international cooperation in the field of economic development, and to report to the Economic and Social Council and to the General Assembly, if possible at its eighteenth session.

******
Appendix II

UNCTAD I, 16 June 1964
Excerpt from the
GENERAL AND SPECIAL PRINCIPLES
RECOMMENDED BY UNCTAD I TO GOVERN INTERNATIONAL
TRADE RELATIONS AND TRADE POLICIES CONDUCIVE TO DEVELOPMENT

General Principle Three

Every country has the sovereign right freely to trade with other countries, and
freely to dispose of its natural resources in the interest of the economic development
and well-being of its own people.

*********

GA Resolution 2158 (XXI), 25 November 1966
PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES

The General Assembly,
Recalling its resolutions 523 (VI) of 12 January 1952, 626 (VII) of 21 December
1952 and 1515 (XV) of 15 December 1960,
Recalling further its resolution 1803 (XVII) of 14 December 1962 on permanent
sovereignty over natural resources,
Recognizing that the natural resources of the developing countries constitute a basis
of their economic development in general and of their industrial progress in particular,
Bearing in mind that natural resources are limited and in many cases exhaustible
and that their proper exploitation determines the conditions of the economic develop-
ment of the developing countries both at present and in the future,
Considering that, in order to safeguard the exercise of permanent sovereignty over
natural resources, it is essential that their exploitation and marketing should be aimed
at securing the highest possible rate of growth of the developing countries,
Considering further that this aim can better be achieved if the developing countries
are in a position to undertake themselves the exploitation and marketing of their natu-
ral resources so that they may exercise freedom of choice in the various fields related
to the utilization of natural resources under the most favourable conditions,
Taking into account the fact that foreign capital, whether public or private, forth-
coming at the request of the developing countries, can play an important role inasmuch
as it supplements the efforts undertaken by them in the exploitation and development
of their natural resources, provided that there is government supervision over the activity
of foreign capital to ensure that it is used in the interest of national development,

I

1. Reaffirms the inalienable right of all countries to exercise permanent sovereignty
over their natural resources in the interest of their national development, in con-
formity with the spirit and principles of the Charter of the United Nations and as recognized in General Assembly resolution 1803 (XVII);

2. Declares, therefore, that the United Nations should undertake a maximum concerted effort to channel its activities so as to enable all countries to exercise that right fully;

3. States that such an effort should help in achieving the maximum possible development of the natural resources of the developing countries and in strengthening their ability to undertake this development themselves, so that they might effectively exercise their choice in deciding the manner in which the exploitation and marketing of their natural resources should be carried out;

4. Confirms that the exploitation of natural resources in each country shall always be conducted in accordance with its national laws and regulations;

5. Recognizes the right of all countries, and in particular of the developing countries, to secure and increase their share in the administration of enterprises which are fully or partly operated by foreign capital and to have a greater share in the advantages and profits derived therefrom on an equitable basis, with due regard to the development needs and objectives of the peoples concerned and to mutually acceptable contractual practices, and calls upon the countries from which such capital originates to refrain from any action which would hinder the exercise of that right;

6. Considers that, when natural resources of the developing countries are exploited by foreign investors, the latter should undertake proper and accelerated training of national personnel at all levels and in all fields connected with such exploitation;

7. Calls upon the developed countries to make available to the developing countries, at their request, assistance, including capital goods and know-how, for the exploitation and marketing of their natural resources in order to accelerate their economic development, and to refrain from placing on the world market non-commercial reserves of primary commodities which may have an adverse effect on the foreign exchange earnings of the developing countries;

8. Recognizes that national and international organizations set up by the developing countries for the development and marketing of their natural resources play a significant role in ensuring the exercise of the permanent sovereignty of those countries in this field, and on that account should be encouraged;

9. Recommends to the Economic Commission for Asia and the Far East, the Economic Commission for Latin America, the Economic Commission for Africa and the United Nations Economic and Social Office in Beirut that, in the execution of their functions, they should keep under review the question of permanent sovereignty over natural resources in the countries of the regions concerned, as well as the problem of the economic utilization of these resources in the national interests of their peoples;
II

*Requests* the Secretary-General:

a. To coordinate the activities of the Secretariat in the field of natural resources with those of other United Nations organs and programmes, including the United Nations Conference on Trade and Development, the United Nations Development Programme, the regional economic commissions, the United Nations Economic and Social Office in Beirut, the specialized agencies and the International Atomic Energy Agency, and in particular with those of the United Nations Industrial Development Organization;

b. To take the necessary steps to facilitate, through the work of the Centre for Development Planning, Projection and Policies, the United Nations Conference on Trade and Development, the United Nations Industrial Development Organization and the Advisory Committee on the Application of Science and Technology to Development, the inclusion of the exploitation of the natural resources of the developing countries in programmes for their accelerated economic growth;

c. To submit to the General Assembly at its twenty-third session a progress report on the implementation of the present resolution.

********

**GA Resolution 2386 (XXIII), 19 November 1968**

**PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES**

The General Assembly,

recalling its resolutions 523 (VI) of 12 January 1952, 626 (VII) of 21 December 1952, 1515 (XV) of 15 December 1960 and 1803 (XVII) of 14 December 1962,

reaffirming the principles and recommendations contained in its resolution 2158 (XXI) of 25 November 1966,

noting the progress report of the Secretary-General on permanent sovereignty over natural resources and his suggestion that a further report might be submitted,

considering that the full exercise of permanent sovereignty over natural resources will play an important role in the achievement of the goals of the second United Nations Development Decade,

considering that resolution 2158 (XXI) contains guidelines for the Secretary-General for the elaboration of the report requested under section II, subparagraph (c), of that resolution,

1. *Requests* the Secretary-General to include in his further report a comprehensive account of the implementation of the principles and recommendations set forth in General Assembly resolution 2158 (XXI), in particular section I, paragraphs 5, 6 and 7;

2. *Decides* to consider the report of the Secretary-General at its twenty-fifth session.
GA Resolution 2626 (XXV), 24 October 1970
Excerpt from the
INTERNATIONAL DEVELOPMENT STRATEGY
FOR THE SECOND UNITED NATIONS DEVELOPMENT DECADE

(75) Full exercise by developing countries of permanent sovereignty over their natural resources and economic activities will play an important role in the achievement of the goals and objectives of the Decade. Developing countries will take steps to develop the full potential of their natural resources. Concerted efforts will be made, particularly through international assistance, to enable them to prepare an inventory of natural resources for their more rational utilization in all productive activities.

*********

GA Resolution 2692 (XXV), 11 December 1970
PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES
OF DEVELOPING COUNTRIES AND EXPANSION OF DOMESTIC SOURCES
OF ACCUMULATION FOR ECONOMIC DEVELOPMENT

The General Assembly,
Recalling its resolutions 626 (VII) of 21 December 1952, 1803 (XVII) of 14 December 1962, 2158 (XXI) of 25 November 1966 and 2386 (XXIII) of 19 November 1968 concerning permanent sovereignty over natural resources,
Recalling the pertinent provisions of the International Development Strategy for the Second United Nations Development Decade,
Reaffirming the necessity for the General Assembly to examine the problem further,
Noting with appreciation the efforts of the developing countries in mobilizing and effectively utilizing their domestic resources,
Taking into account that the financing of the development plans of the developing countries depends, to a considerable degree, upon the conditions under which their natural resources are exploited and, in a number of developing countries, upon their share in the profits of foreign investments undertaken in their countries,
Recognizing in this connexion the importance of the positive experience gained by the developing countries in the exercise of their sovereignty over their natural resources for the purpose of increased mobilization of domestic resources for development and of drawing up and implementing their national development plans, and recognizing also that such experience would be conducive to revitalizing the efforts being undertaken at the national level for the economic development of the developing countries,
Recognizing also the necessity for all countries to exercise fully their rights so as to secure the optimal utilization of their natural resources, both land and marine, for the benefit and welfare of their peoples and for the protection of their environment,
1. Takes note of the report of the Secretary-General entitled "Permanent sovereignty over natural resources";
2. Reaffirms the right of peoples and nations to permanent sovereignty over their natural wealth and resources, which must be exercised in the interest of their national development and of the wellbeing of the people of the State concerned;
3. Recognizes that the exercise of permanent sovereignty over their natural resources by developing countries is indispensable in order that they may, inter alia, accelerate their industrial development, and in this connexion stresses the important role of the appropriate organizations of the United Nations system in the promotion of specific industrial projects dealing with the natural resources of developing countries;
4. Calls upon Governments to continue their efforts aimed at the complete implementation of the principles and recommendations contained in the aforementioned resolutions of the General Assembly;
5. Invites the Economic and Social Council to instruct the Committee on Natural Resources to include in its work programme a periodic report on the advantages derived from the exercise by developing countries of permanent sovereignty over their natural resources, with particular reference to the impact of such exercise on the increased mobilization of resources, especially of domestic resources, for their economic and social development, on the outflow of capital therefrom as well as on the transfer of technology;
6. Further invites Member States to inform the Committee on Natural Resources, through the Secretary-General, on the progress achieved to safeguard the exercise of permanent sovereignty over their natural resources, including the measures taken to control the outflow of capital in a manner compatible with the exercise of their sovereignty and international cooperation;
7. Requests the Secretary-General to continue with the study requested in section III of General Assembly resolution 1803 (XVII) and the submission of the report called for in resolutions 2158 (XXI) and 2386 (XXIII), taking into account also the provisions of the present resolution;
8. Requests the Secretary-General to submit the report mentioned in paragraph 7 above, through the Economic and Social Council, to the General Assembly at its twenty-seventh session.
Sovereignty over Natural Resources

Excerpts from the
DECLARATION OF THE UNITED NATIONS CONFERENCE
ON THE HUMAN ENVIRONMENT
Stockholm, 16 June 1972

Principle 2
The natural resources of the earth including the air, water, land, flora and fauna and especially representative samples of natural ecosystems must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

Principle 3
The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

Principle 4
Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat which are now gravely imperilled by a combination of adverse factors. Nature conservation including wildlife must therefore receive importance in planning for economic development.

Principle 5
The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind.

Principle 21
States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

********

GA Resolution 3016 (XXVII), 18 December 1972
PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES OF DEVELOPING COUNTRIES

The General Assembly,
Recalling its resolutions 626 (VII) of 21 December 1952, 1803 (XVII) of 14 December 1962, 2158 (XXI) of 25 November 1966, 2386 (XXIII) of 19 November 1968 and 2692 (XXV) of 11 December 1970 concerning permanent sovereignty over natural resources,
Reaffirming the need of further examination of these vital issues by the General Assembly, Emphasizing the great importance for the economic progress of all countries, especially the developing countries, of their fully exercising their rights so as to secure the maximum yield from their natural resources, both on land and in their coastal waters, Taking into account principles II and XI of resolution 46 (III) of 18 May 1972 adopted by the United Nations Conference on Trade and Development at its third session, Also taking into account resolution 45 (III) of 18 May 1972, adopted by the United Nations Conference on Trade and Development at its third session, entitled "Charter of the economic rights and duties of States", and having regard to the relevant principles of the Declaration of the United Nations Conference on the Human Environment, 1. Reaffirms the right of States to permanent sovereignty over all their natural resources, on land within their international boundaries, as well as those found in the seabed and the subsoil thereof within their national jurisdiction and in the superjacent waters; 2. Further reaffirms its resolution 2625 (XXV) of 24 October 1970, containing the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, which proclaims that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind; 3. Declares that actions, measures or legislative regulations by States aimed at coercing, directly or indirectly, other States engaged in the change of their internal structure or in the exercise of their sovereign rights over their natural resources, both on land and in their coastal waters, are in violation of the Charter and of the Declaration contained in resolution 2625 (XXV) and contradict the targets, objectives and policy measures of the International Development Strategy for the Second United Nations Development Decade; 4. Calls upon Governments to continue their efforts at the implementation of the principles and recommendations contained in the aforementioned resolutions of the General Assembly and, in particular, of the principles enunciated in paragraphs 1 to 3 above; 5. Takes note of the report of the Secretary-General on permanent sovereignty over natural resources and requests him to supplement it with a further detailed study on recent developments, taking into account the right of States to exercise permanent sovereignty over their natural resources, as well as the factors impeding States from exercising this right; 6. Requests the Economic and Social Council to accord high priority, at its fifty-fourth session, to the item entitled "Permanent sovereignty over natural resources of developing countries", together with the report of the Secretary-General and the present resolution, and to report to the General Assembly at its twenty-eighth session.
Meetings at Panama City

The Security Council,
Recalling General Assembly resolutions 1803(XVII) of 14 December 1962 and 3016(XXVII) of 18 December 1972 concerning permanent sovereignty over natural resources,
Reaffirming General Assembly resolution 2625(XXV) of 24 October 1970, which states that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind,
Further recalling General Assembly resolution 2993(XXVII) of 15 December 1972 on implementation of the Declaration on the Strengthening of International Security, in particular paragraph 4 thereof,
Noting with deep concern the existence and use of coercive measures which affect the free exercise of permanent sovereignty over the natural resources of Latin American countries,
Recognizing that the use or encouragement of the use of coercive measures may create situations likely to endanger peace and security in Latin America,
1. Urges States to adopt appropriate measures to impede the activities of those enterprises which deliberately attempt to coerce Latin American countries;
2. Requests States, with a view to maintaining and strengthening peace and security in Latin America, to refrain from using or encouraging the use of any type of coercive measures against States of the region.

********

GA Resolution 3167 (XXVIII), 17 December 1973
UNITED NATIONS REVOLVING FUND FOR NATURAL RESOURCES EXPLORATION

The General Assembly,
Having considered the recommendation of the Economic and Social Council, contained in resolution 1762 (LIV) of 18 May 1973, that the General Assembly should decide to establish a United Nations revolving fund for natural resources exploration at its twenty-eighth session, and the relevant documents prepared by the Secretary-General,
Recognizing the need to extend and intensify the activities of the United Nations system to meet the need for increased natural resources exploration in developing countries to accelerate their economic development,
Bearing in mind the need to ensure the revolving nature of the fund derived from the self-help principles for the mutual benefit of the developing countries,
noting the essential importance of voluntary contributions to the revolving fund at the initial stage, which are to be made without prejudice to the growth of resources of the United Nations Development Programme,

1. Decides to establish a United Nations Revolving Fund for Natural Resources Exploration as a trust fund, placed in charge of the Secretary-General and administered on his behalf by the Administrator of the United Nations Development Programme and based on the principles and objectives contained in paragraph 1 of Economic and Social Council resolution 1762 (LIV);

2. Request the Secretary-General, in close collaboration with the Administrator of the United Nations Development Programme, and taking due account of the views of appropriate organs and agencies of the United Nations system, to prepare operational procedures and administrative arrangements of the Revolving Fund for approval by the Governing Council of the United Nations Development Programme at its eighteenth session;

3. Requests the Secretary-General to intensify his efforts aimed at exploring possible sources of financial assistance to the Revolving Fund and to organize, if necessary, pledging conferences for the Fund;

4. Invites the International Bank for Reconstruction and Development to co-operate with the Revolving Fund and, initially, to participate in the preparation of the procedural arrangements to be carried out under paragraph 2 above;

5. Authorizes the Secretary-General to receive contributions to the Revolving Fund, as far as possible in convertible currency;

6. Requests the Administrator of the United Nations Development Programme, in consultation with the Secretary-General, to start operational activities in 1974, as soon as the preparation of the above-mentioned procedural arrangements to be carried out has been completed.

********

GA Resolution 3171 (XXVIII), 17 December 1973
PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES

The General Assembly,

Reiterating that the inalienable right of each State to the full exercise of national sovereignty over its natural resources has been repeatedly recognized by the international community in numerous resolutions of various organs of the United Nations,

Reiterating also that an intrinsic condition of the exercise of the sovereignty of every State is that it be exercised fully and effectively over all its natural resources whether found on land or in the sea,

Reaffirming the inviolable principle that every country has the right to adopt the economic and social system which it deems most favourable to its development,

Recalling further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations which proclaims that no State may use or encourage the use of economic, political or any other type of measure to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind,

Considering that the full exercise by each State of sovereignty over its natural resources is an essential condition for achieving the objectives and targets of the Second United Nations Development Decade and that this exercise requires that action by States aimed at achieving a better utilization and use of those resources must cover all stages, from exploration to marketing,

Taking note of section VII of the Economic Declaration of the Fourth Conference of Heads of State or Government of Non-Aligned Countries, held at Algiers from 5 to 9 September 1973,

Taking note also of the report of the Secretary-General on permanent sovereignty over natural resources,

1. Strongly reaffirms the inalienable rights of States to permanent sovereignty over all their natural resources, on land within their international boundaries, as well as those in the seabed, in the subsoil thereof, within their national jurisdiction and in the superjacent waters;

2. Supports resolutely the efforts of the developing countries and of the peoples of the territories under colonial and racial domination and foreign occupation in their struggle to regain effective control over their natural resources;

3. Affirms that the application of the principle of nationalization carried out by States, as an expression of their sovereignty in order to safeguard their natural resources, implies that each State is entitled to determine the amount of possible compensation and the mode of payment, and that any disputes which might arise should be settled in accordance with the national legislation of each State carrying out such measures;

4. Deplores acts of States which use force, armed aggression, economic coercion or any other illegal or improper means in resolving disputes concerning the exercise of the sovereign rights mentioned in paragraphs 1 to 3 above;

5. Re-emphasizes that actions, measures or legislative regulations by States aimed at coercing, directly or indirectly, other States or peoples engaged in the reorganization of their internal structure or in the exercise of their sovereign rights over their natural resources, both on land and in their coastal waters, are in violation of the Charter of the United Nations and of the Declaration contained in resolution 2625 (XXV) and contradict the targets, objectives and policy measures of the International Development Strategy for the Second United Nations Development Decade,
and that to persist therein could constitute a threat to international peace and security;

6. **Emphasizes** the duty of all States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the territorial integrity of any State and the exercise of its national jurisdiction;

7. **Recognizes** that, as stressed in Economic and Social Council resolution 1737 (LIV) of 4 May 1973, one of the most effective ways in which the developing countries can protect their natural resources is to establish, promote or strengthen machinery for cooperation among them which has as its main purpose to concert pricing policies, to improve conditions of access to markets, to coordinate production policies and, thus, to guarantee the full exercise of sovereignty by developing countries over their natural resources;

8. **Requests** the Economic and Social Council, at its fifty-sixth session, to consider the report of the Secretary-General mentioned in the eighth preambular paragraph above and further requests the Secretary-General to prepare a supplement to that report in the light of the discussions that will take place at the fifty-sixth session of the Council and of any other relevant developments, and to submit that supplementary report to the General Assembly at its twenty-ninth session.

******

GA Resolution 3175 (XXVIII), 17 December 1973
PERMANENT SOVEREIGNTY OVER NATIONAL RESOURCES IN THE OCCUPIED ARAB TERRITORIES

*The General Assembly,*

*Bearing in mind* the relevant principles of international law and the provisions of the international conventions and regulations, and especially the fourth Geneva Convention, concerning the obligations and responsibilities of the occupying Power,

*Recalling* its previous resolutions on permanent sovereignty over natural resources, including resolution 1803 (XVII) of 14 December 1962 which declares the right of peoples and nations to permanent sovereignty over their natural wealth and resources,

*Recalling* the pertinent provisions of the International Development Strategy for the Second United Nations Development Decade,

*Recalling also* its resolution 3005 (XXVII) of 15 December 1972, in which the General Assembly affirmed the principle of the sovereignty of the population of the occupied territories over their national wealth and resources and called upon all States, international organizations and specialized agencies not to recognize or cooperate with, or assist in any manner in, any measures undertaken by the occupying Power to exploit the resources of the occupied territories or to effect any changes in the demo-
graphic composition or geographic character or institutional structure of those territories,

1. **Affirms** the right of the Arab States and peoples whose territories are under foreign occupation to permanent sovereignty over all their natural resources;
2. **Reaffirms** that all measures undertaken by Israel to exploit the human and natural resources of the occupied Arab territories are illegal and calls upon Israel to halt such measures forthwith;
3. **Affirms** the right of the Arab States and peoples whose territories are under Israeli occupation to the restitution of and full compensation for the exploitation and looting of, human resources, and damages to, the natural resources, as well as the exploitation and manipulation of the of the occupied territories;
4. **Declares** that the above principles apply to all States, territories and peoples under foreign occupation, colonial rule or apartheid.

********

**GA Resolution 3201 (S-VI), 1 May 1974**  
**Excerpts from the DECLARATION ON THE ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER**

*The General Assembly,*  
**Adopts** the following Declaration:

4. The new international economic order should be founded on full respect for the following principles:
   
e. Full permanent sovereignty of every State over its natural resources and all economic activities. In order to safeguard these resources, each State is entitled to exercise effective control over them and their exploitation with means suitable to its own situation, including the right to nationalization or transfer of ownership to its nationals, this right being an expression of the full sovereignty of the State. No State may be subjected to economic, political or any other type of coercion to prevent the free and full exercise of this inalienable right;
   
f. All States, territories and peoples under foreign occupation, alien and colonial domination or apartheid have the right to restitution and full compensation for the exploitation and depletion of, and damages to, the natural and all other resources of those States, territories and peoples;
   
g. Regulation and supervision of the activities of transnational corporations by taking measures in the interest of the national economies of the countries where such transnational corporation operate on the basis of the full sovereignty of those countries;
h. Right of the developing countries and the peoples of territories under colonial and racial domination and foreign occupation to achieve their liberation and to regain effective control over their natural resources and economic activities;

i. Extending of assistance to developing countries, peoples and territories under colonial and alien domination, foreign occupation, racial discrimination or apartheid or which are subjected to economic, political or any other type of measures to coerce them in order to obtain from them the subordination of the exercise of their sovereign rights and to secure from them advantages of any kind, and to neo-colonialism in all its forms and which have established or are endeavouring to establish effective control over their natural resources and economic activities that have been or are still under foreign control;

j. Just and equitable relationship between the prices of raw materials, primary products, manufactured and semi-manufactured goods exported by developing countries and the prices of raw materials, primary commodities, manufactures, capital goods and equipment imported by them with the aim of bringing about sustained improvement in their unsatisfactory terms of trade and the expansion of the world economy;

q. Necessity for all States to put an end to the waste of natural resources, including food products;

r. The need for developing countries to concentrate all their resources for the cause of development;

t. Facilitating the role which producers associations may play, within the framework of international cooperation, and in pursuance of their aims, inter alia, assisting in promotion of sustained growth of world economy and accelerating development of developing countries.

********

GA Resolution 3202 (S-VI), 1 May 1974

Excerpts from the

PROGRAMME OF ACTION ON THE

ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER

I. Fundamental problems of raw materials and primary commodities as related to trade and development

1. Raw materials

   All efforts should be made:

   a. To put an end to all forms of foreign occupation, racial discrimination, apartheid, colonial, neo-colonial and alien domination and exploitation through the exercise of permanent sovereignty over natural resources.
VIII. Assistance in the exercise of permanent sovereignty of States over natural resources

All efforts should be made:

a. To defeat attempts to prevent the free and effective exercise of the rights of every State to full and permanent sovereignty over its natural resources;

b. To ensure that competent agencies of the United Nations system meet requests for assistance from developing countries in connexion with the operation of nationalized means of production.

*********

GA Resolution 3281 (XXIX), 12 December 1974

Excerpts from the

CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES

Chapter II

Economic Rights and Duties of States

Article 1

Every State has the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems in accordance with the will of its people, without outside interference, coercion or threat in any form whatsoever.

Article 2

1. Every State has and shall freely exercise full permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities.

2. Each State has the right:

a. To regulate and exercise authority over foreign investment within its national jurisdiction in accordance with its laws and regulations and in conformity with its national objectives and priorities. No State shall be compelled to grant preferential treatment to foreign investment;

b. To regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply with its laws, rules and regulations and conform with its economic and social policies. Transnational corporations shall not intervene in the internal affairs of a host State. Every State should, with full regard for its sovereign rights, co-operate with other States in the exercise of the right set forth in this subparagraph;

c. To nationalize, expropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the State adopting such measures, taking into account its relevant laws and regulations and all circumstances that the State considers pertinent. In any case where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals, unless it is freely and mutual-
ly agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States and in accordance with the principle of free choice of means.

Article 3
In the exploitation of natural resources shared by two or more countries, each State must cooperate on the basis of a system of information and prior consultations in order to achieve optimum use of such resources without causing damage to the legitimate interest of others.

Article 16
1. It is the right and duty of all States, individually and collectively, to eliminate colonialism, apartheid, racial discrimination, neo-colonialism and all forms of foreign aggression, occupation and domination, and the economic and social consequences thereof, as a prerequisite for development. States which practise such coercive policies are economically responsible to the countries, territories and peoples affected for the restitution and full compensation for the exploitation and depletion of, and damages to, the natural and all other resources of those countries, territories and peoples. It is the duty of all States to extend assistance to them.
2. No State has the right to promote or encourage investments that may constitute an obstacle to the liberation of a territory occupied by force.

********

Second General Conference of the United Nations Industrial Development Organization
27 March 1975
Excerpt from the LIMA DECLARATION AND PLAN OF ACTION ON INDUSTRIAL DEVELOPMENT AND COOPERATION

[Solemnly declare]
32. That every State has the inalienable right to exercise freely its sovereignty and permanent control over its natural resources, both terrestrial and marine, and over all economic activities for the exploitation of these resources in the manner appropriate to its circumstances, including nationalization in accordance with its laws as an expression of this right, and that no State shall be subjected to any forms of economic, political or other coercion which impedes the full and free exercise of that inalienable right;

********
GA Resolution 3517 (XXX), 15 December 1975

Excerpt from the
MIDTERM REVIEW AND APPRAISAL OF PROGRESS IN
THE IMPLEMENTATION OF THE INTERNATIONAL DEVELOPMENT
STRATEGY FOR THE SECOND UNITED NATIONS DEVELOPMENT DECADE

73. Free and effective exercise by all countries of permanent sovereignty over their natural resources and economic activities will play an important role in the achievement of the goals and objectives of the Decade. Developing countries will take steps to develop the full potential of their natural resources. Concerted efforts will be made in the defence of the free and effective exercise of the right of every State to full and permanent sovereignty over its natural resources. Competent agencies of the United Nations system will assist developing countries, at their request, in connexion with the operation of nationalized means of production.

*******

GA Resolution 32/176

MULTILATERAL DEVELOPMENT ASSISTANCE FOR THE EXPLORATION OF NATURAL RESOURCES

The General Assembly,

Recalling the provisions of its resolution 3201 (S-VI) of 1 May 1974 which relate to permanent sovereignty over natural resources,

Reaffirming that the effective discovery, exploration, development and conservation of their natural resources by developing countries is indispensable to the mobilization of their resources for development,

Bearing in mind especially the over-all impact of natural resources on the development of developing countries and the connexion thereof with the flow of capital and the transfer of technology,

Emphasizing the link between the improvement of the structure of the raw materials markets, taking into account the interest of developing countries, and the adequate flow of investment into the raw materials sector,

Noting that several developing countries desiring to do so have been unable to undertake systematically the survey of their natural resources,

Taking into account the work of the Committee on Natural Resources,

Emphasizing also the need to increase, inter alia, the resources of the United Nations Revolving Fund for Natural Resources,

Recalling also the Charter of Economic Rights and Duties of States,

Recalling further the International Development Strategy for the Second United Nations Development Decade,

Emphasizing further the need for urgent specific action in order to establish the new international economic order,
1. **Requests** the Secretary-General to prepare, with the assistance of a group of high-level experts appointed by him on the recommendation of Governments and with due regard to equitable geographical distribution, a report on the following, including conclusions and recommendations, taking into account studies already undertaken within the United Nations system:
   a. An estimate of the financial requirements over the next ten to fifteen years for the exploration and location of natural resources in developing countries which indicate to the Secretary-General their interest;
   b. The availability of multilateral mechanisms for the provision of adequate finance for the exploration of natural resources with special reference to the availability of soft loans with an element of subsidy for developing countries, bearing in mind, *inter alia*, the special needs of the least developed, land-locked, island developing countries and the most seriously affected among them;
   c. The availability of mechanisms for the transfer of technology to developing countries for exploration and exploitation of natural resources;

2. **Also requests** the Secretary-General to provide the group with material for their consideration, in consultation with the Secretary-General of the United Nations Conference on Trade and Development and other interested bodies of the United Nations system;

3. **Decides** to consider the report of the Secretary-General at its thirty-third session.

********

**GA Resolution 33/194, 29 January 1979**

**MULTILATERAL DEVELOPMENT ASSISTANCE FOR THE EXPLORATION OF NATURAL RESOURCES**

The General Assembly,

Recalling its resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, containing the Declaration and the Programme of Action on the Establishment of a New International Economic Order, 3281 (XXIX) of 12 December 1974, containing the Charter of Economic Rights and Duties of States, and 3362 (S-VII) of 16 September 1975 on development and international co-operation,

Recalling also its resolutions 3175 (XXVIII) of 17 December 1973, 3336 (XXIX) of 17 December 1974, 3516 (XXX) of 15 December 1975 and 31/186 of 21 December 1976 on the permanent sovereignty of States over natural resources,

Emphasizing the need for specific measures to support the efforts of developing countries in the exploration for and development of natural resources,

Cognizant of the importance of natural resources exploration and development to the economies of the developing countries,

Recognizing the need to ensure an adequate flow of investment into the natural resources sector in the developing countries, in particular from the developed countries,
Noting that several developing countries desiring to do so have been unable to undertake systematically the exploration for and survey of their natural resources,
Recalling its resolution 32/176 of 19 December 1977,
1. Takes note of the report of the Secretary-General on multilateral development assistance for the exploration of natural resources;
2. Requests the Secretary-General to organize and undertake, in cooperation with the Administrator of the United Nations Development Programme, missions to developing countries that so request to assist in the assessment of the needs of those countries in the field of natural resource exploration and development, including an estimate of the costs involved, taking into account the proposals made in paragraph 13 of his report, and to report to the General Assembly at its thirty-fourth session on the progress achieved in this undertaking;
3. Takes note of the findings of the intergovernmental group of experts as transmitted by the Secretary-General in his report;
4. Requests the Economic and Social Council, in consultation with the Governing Council of the United Nations Development Programme, to consider the advisability of adjusting the operating procedures of the United Nations Revolving Fund for Natural Resources Exploration, taking into account the views in paragraphs 87-92 of the report of the inter-governmental Group of Experts on Mineral and Energy Exploration in Developing Countries and the basic principles of the Fund;
5. Invites the World Bank to explore ways in which its activities in financing natural resources can be made increasingly responsive to the needs of developing countries, and to examine whether new approaches would be useful, taking into account the views set out by the intergovernmental Expert Group in paragraphs 80 to 84 of its report, and bearing in mind the sovereignty of States over their natural resources;
6. Decides, in the light of the importance for developing countries of the transfer of the technologies required for natural resources exploration and exploitation, that the Committee on Natural Resources and the United Nations Conference on Trade and Development review the recommendations concerning the transfer of technology in the natural resources field;
7. Requests the Secretary-General to keep developments in the field of exploration and development of natural resources under review, and to submit to the General Assembly at its thirty-fourth session, a report on the experience gained in the activities mentioned in this resolution.

*********
GA Resolution 35/56, 5 December 1980
Excerpts from the
INTERNATIONAL DEVELOPMENT STRATEGY FOR
THE THIRD UNITED NATIONS DEVELOPMENT DECADE

6. The International Development Strategy for the Third United Nations Development Decade is an integral part of the continuing efforts of the international community to accelerate the development of developing countries and to establish a new international economic order and is directed towards the achievement of its objectives. These call, in particular, for equitable, full and effective participation by developing countries in the formulation and application of all decisions in the field of development and international economic cooperation with a view to bringing about farreaching changes in the structure of the present international economic system on a just and equitable basis and the full and permanent sovereignty of every State over its resources and economic activities.

32. In a growing world economy and without prejudice to the principle of full and permanent sovereignty of each State over its natural resources, the rational development, management and utilization of natural resources should be encouraged in order, inter alia, to prevent early exhaustion of finite resources and overburdening of renewable resources. It will be necessary, particularly for the industrialized countries, which bear the heaviest responsibility for the use of natural resources, to encourage new patterns of consumption and production.

126(b). In conformity with the principle of the full and permanent sovereignty of each country over its natural resources, the exploration and rational exploitation of energy resources, both conventional and nonconventional, should be promoted in accordance with the national plans and priorities of each country. The international community should support and facilitate the effective participation of developing countries in the production, processing, marketing and distribution of those resources.

********

GA Resolution 38/144, 19 December 1983
Excerpt from the
PERMANENT SOVEREIGNTY OVER NATIONAL RESOURCES
IN THE OCCUPIED PALESTINIAN AND OTHER ARAB TERRITORIES

3. Condemns Israel for its exploitation of the national resources of the occupies Palestinian and other Arab territories;
4. Reaffirms that Convention IV of The Hague and the fourth Geneva Convention are applicable to the occupied Palestinian and other Arab territories;
5. Emphasizes the right of the Palestinian and other Arab peoples whose territories are under the Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities;
6. Also reaffirms that all measures undertaken by Israel to exploit the human, natural and all other resources, wealth and economic activities in the occupied Palestinian and other Arab territories are illegal, and calls upon Israel to desist immediately from such measures;
7. Further reaffirms the right of the Palestinian and other Arab peoples subjected to Israeli aggression and occupation to the restitution of and full compensation for the exploitation, depletion and loss of and damages to their natural, human and all other resources, wealth and economic activities, and calls upon Israel to meet their just claims;
8. Calls upon all States to support the Palestinian and other Arab peoples in the exercise of their above-mentioned rights;
9. Calls upon all States, international organizations, specialized agencies, business corporations and all other institutions not to recognize, or co-operate with or assist in any manner in, any measures undertaken by Israel to exploit the national resources of the occupied Palestinian and other Arab territories or to effect any changes in the demographic composition, the character and form of use of their natural resources or the institutional structure of those territories;

********

GA Resolution 41/65, 3 December 1986
Excerpt from the
PRINCIPLES RELATING TO REMOTE SENSING OF THE EARTH FROM SPACE
Principle IV

Remote sensing activities shall be conducted in accordance with the principles contained in article I of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, which in particular provides that the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and stipulates the principle of freedom of exploration and use of outer space on the basis of equality. These activities shall be conducted on the basis of respect for the principle of full and permanent sovereignty of all States and peoples over their own wealth and natural resources, with due regard to the rights and interests, in accordance with international law, of other States and entities under their jurisdiction. Such activities shall not be conducted in a manner detrimental to the legitimate rights and interests of the sensed State.

********
GA Resolution 41/128, 4 December 1986
Excerpts from the
DECLARATION ON THE RIGHT TO DEVELOPMENT

Recalling also the right of peoples to exercise, subject to relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources,

Article 1
2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

******

United Nations Conference on Environment and Development,
14 June 1992
Excerpts from the
RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

Principle 2
States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 3
The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4
In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 7
States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.
Principle 8
To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

Principle 12
States should cooperate to promote a supportive and open international economic system than would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

Principle 15
In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 23
States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

Principle 27
States and people shall cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.
Appendix III:
Table of Multilateral Treaties

This list includes treaties which are relevant to this study. Under the various headings the treaties are listed in a chronological order.

I. Constitutions of world-wide institutions

*Articles of Agreement of the International Monetary Fund (IMF)*, Bretton Woods, 22 July 1944, in force 27 December 1945, 2 *UNTS*, p. 39 and 726 *UNTS*, p. 266.


II. Constitutions of regional economic institutions and other forms of (inter-) regional co-operation


Agreement, Declaration and Treaty on the Association of South-East Asian Nations (ASEAN), Bali, 24 February 1976.


III. Regulation of International Trade in Goods and Services


General Agreement on Trade-Related Investment Measures (TRIMs), 15 December 1993, not yet in force.

IV. International Commodity Co-operation

Appendix III


International Wheat Agreement, 1986, comprising of:


V. International Regulation of Foreign Investment


VI. Human and Peoples’ Rights Treaties


VII. Global Environmental Treaties


VIII. Regional Environmental Treaties


Agreement Concerning the Protection of the Waters of the Mediterranean Shores, Monaco, 10 May 1976, in force 1 January 1981.


IX. Conventions on the Law of the Sea and on Outer Space


X. Conventions on the Antarctic


XI. The Law of Treaties


XII. Conventions on International Dispute Settlement

Appendix IV:
Excerpts from Selected Multilateral Treaties
Relevant to Sovereignty over Natural Resources

THE CHARTER OF THE UNITED NATIONS
24 June 1945

Chapter I
Purposes and Principles

Article 1
The Purposes of the United Nations are:
2. To develop friendly relations among nations based on respect for the principles
   of equal rights and self-determination of peoples, and to take other appropriate
   measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an
   economic, social, cultural, or humanitarian character, and in promoting and encour-
   aging respect for human rights and for fundamental freedoms for all without distinc-
   tion as to race, sex, language or religion;

Chapter IX
International Economic and Social Co-operation

Article 55
With a view to the creation of conditions of stability and well-being which are
necessary for peaceful and friendly relations among nations based on respect for the
principle of equal rights and self-determination of peoples, the United Nations shall
promote:
   a. higher standards of living, full employment, and conditions of economic and
      social progress and development;
   b. solutions of international economic, social, health, and related problems; and
   c. universal respect for, and observance of, human rights and fundamental free-
      doms for all without distinction as to race, sex, language, or religion.

Article 56
All Members pledge themselves to take joint and separate action in co-operation
with the Organization for the achievement of the purposes set forth in Article 55.

*******

421
The Governments of . . .

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods,

Part II

National Treatment on Internal Taxation and Regulation

Article XX  General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

b. necessary to protect human, animal or plant life or health;
g. relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
h. undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the Contracting Parties and not disapproved by them or which is itself so submitted and not so disapproved;

Part IV

Trade and Development

Article XXXVI  Principles and Objectives

4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.

5. The rapid expansion of the economies of the less-developed contracting parties will be facilitated by a diversification of the structure of their economies and the avoidance of an excessive dependence on the export of primary products currently or potentially of particular export interest to less-developed contracting parties.
Article XXXVII  Commitments
1. The developed contracting parties shall to the fullest extent possible—that is, except when compelling reasons, which may include legal reasons, make it impossible—give effect to the following provisions:
   a. accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less-developed contracting parties, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms;

Article XXXVIII  Joint Action
2. In particular, the Contracting Parties shall:
   a. where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products;

********

CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE
29 April 1958

Article 1
1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article 2
The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

********

CONVENTION ON THE CONTINENTAL SHELF
29 April 1958

Article 1
For the purpose of these articles, the term "continental shelf" is used as referring to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas;
b. to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Article 2
1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

********

CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND NATIONALS OF OTHER STATES
18 March 1965

Article 27
1. No contracting State shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its nationals and another Contracting State shall have consented to submit or shall have submitted to arbitration under this Convention, unless such other Contracting State shall have failed to abide by and comply with the award rendered in such dispute.
2. Diplomatic protection, for the purposes of paragraph (1), shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

*******
INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
16 December 1966

Article 1
1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Article 25/Article 47
Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
10 December 1982

Part II
Territorial Sea and Contiguous Zone

Article 2
Legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil
1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.
2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.
3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.
Part V

Exclusive Economic Zone

Article 55

Specific legal régime of the exclusive economic zone

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Article 56

Rights, jurisdiction and duties of the coastal State in the exclusive economic zone

1. In the exclusive economic zone, the coastal State has:
   a. sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
   b. jurisdiction as provided for in the relevant provisions of this Convention with regard to:
      i. the establishment and use of artificial islands, installations and structures;
      ii. marine scientific research;
      iii. the protection and preservation of the marine environment;
   c. other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article with respect to the sea-bed and subsoil shall be exercised in accordance with Part VI.

Article 57

Breadth of the exclusive economic zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Part VI

Continental Shelf

Article 76

Definition of the continental shelf

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.
Appendix IV

Article 77

Rights of the coastal State over the continental shelf
1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.
3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

Part XI

The Area

Article 136

Common heritage of mankind
The Area and its resources are the common heritage of mankind.

Article 137

Legal status of the Area and its resources
1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized.
2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority.
3. No State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized.

Article 140

Benefit of mankind
1. Activities in the Area shall, as specifically provided for in this Part, be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of developing States and of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.
2. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism, on a non-discriminatory basis, in accordance with article 160, paragraph 2(f)(i).

Article 141
Use of Area exclusively for peaceful purposes
The Area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination and without prejudice to the other provisions of this Part.

Article 142
Rights and legitimate interests of coastal States
1. Activities in the Area, with respect to resource deposits in the Area which lie across limits of national jurisdiction, shall be conducted with due regard to the rights and legitimate interests of any coastal State across whose jurisdiction such deposits lie.
2. Consultations, including a system of prior notification, shall be maintained with the State concerned, with a view to avoiding infringements of such rights and interests. In cases where activities in the Area may result in the exploitation of resources lying within national jurisdiction, the prior consent of the coastal State concerned shall be required.
3. Neither this Part nor any rights granted or exercised pursuant thereto shall affect the rights of coastal States to take such measures consistent with the relevant provisions of Part XII as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline, or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or cause by any activities in the Area.

Part XII
Protection and Preservation of the Marine Environment

Article 192
General obligation
States have the obligation to protect and preserve the marine environment.

Article 193
Sovereign right of States to exploit their natural resources
States have the sovereign right to exploit their natural resources pursuant to their environment policies and in accordance with their duty to protect and preserve the marine environment.

*******
VIENNA CONVENTION ON SUCCESSION OF STATES IN RESPECT OF TREATIES
23 August 1978

Article 13

The present Convention and permanent sovereignty over natural wealth and resources

Nothing in the present Convention shall effect the principles of international law affirming the permanent sovereignty of every people and every State over its natural wealth and resources.

********

VIENNA CONVENTION ON SUCCESSION OF STATES
IN RESPECT OF STATE PROPERTY, ARCHIVES AND DEBTS
8 April 1983

Article 15 (Part II. State Property)

Newly independent State

4. Agreements concluded between the predecessor State and the newly independent State to determine succession to State property otherwise than by the application of paragraphs 1 to 3 shall not infringe the principle of the permanent sovereignty of every people over its wealth and natural resources.

Article 38 (Part IV. State Debts)

Newly independent State

2. The Agreement ... shall not infringe the principle of the permanent sovereignty of every people over its wealth and natural resources, nor shall is implementation endanger the fundamental economic equilibria of the newly independent State.

********

AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS
27 June 1981

Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.

3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.
4. States parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
5. States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monop-olies so as to enable their peoples to fully benefit from the advantages derived from their natural resources.

********

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE
9 May 1992

The Parties to this Convention
Acknowledge that change in the Earth’s climate and its adverse effects are a common concern of humankind,
Recalling also that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,
Reaffirming also the principle of sovereignty of States in international cooperation to address climate changes,
Determined to protect the climate system for present and future generations,

Article 2 Objective
The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

Article 3 Principles
In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following:
1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.
2. The specific needs and special circumstances of developing country parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country parties, that would have to bear a disproportionate or abnormal burden under the Conventions, should be given full consideration.

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.

4. The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change.

5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Article 4 Commitments

1. All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall:
   a. Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems.
   b. Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods.
CONVENTION ON BIOLOGICAL DIVERSITY
5 June 1992

The Contracting Parties

Affirming that the conservation of biological diversity is a common concern of humankind,

Reaffirming that States have sovereign rights over their own biological resources,

Reaffirming also that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner,

Article 1 Objectives

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

Article 3 Principle

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Article 4 Jurisdictional Scope

Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party;

a. In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and

b. In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

********

AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION
15 April 1994

Preamble

. . . allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development, seeking both to protect and to preserve the envi-
environment and enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.

********

UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA
17 June 1994

Preamble

Reaffirming the Rio Declaration on Environment and Development which states, in its Principle 2, that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

********

EUROPEAN ENERGY CHARTER TREATY
17 December 1994

Preamble

Wishing to implement the basic concept of the European Energy Charter initiative which is to catalyse economic growth by means of measures to liberalize investment and trade in energy.

Recognizing the necessity for the most efficient exploration, production, conversion, storage, transport, distribution and use of energy.

Article 1 Definitions
10. ‘Area’ means with respect to a State that is a Contracting Party:
   a. the territory under its sovereignty, it being understood that territory includes land, internal waters and the territorial sea; and
   b. subject to and in accordance with the international law of the sea: the sea, sea-bed and its subsoil with regard to which that Contracting Party exercises sovereign rights and jurisdiction.
Article 18  Sovereignty over energy resources

1. The Contracting Parties recognize State sovereignty and sovereign rights over energy resources. They reaffirm that these must be exercised in accordance with and subject to the rules of international law.

2. Without affecting the objectives of promoting access to energy resources, and exploration and development thereof on a commercial basis, the Treaty shall in no way prejudice the rules in Contracting Parties governing the system of property ownership of energy resources.

3. Each State continues to hold in particular the rights to decide the geographical areas within its area to be made available for exploration and development of its energy resources and the rate at which they may be depleted or otherwise exploited, to specify and enjoy any taxes, royalties or other financial payments payable by virtue of such exploration and exploitation and to regulate the resource conservation and the environmental and safety aspects of such exploration, development and reclamation within its area, and to participate in such exploration and exploitation, inter alia, through direct participation by the government or through State enterprises.

4. The Contracting Parties undertake to facilitate access to energy resources inter alia by allocating in a non-discriminatory manner on the basis of published criteria authorizations, licenses, concessions and contracts to prospect and explore for or to exploit or extract energy resources.
Appendix V:
Survey of Main Cases

(See next page)
<table>
<thead>
<tr>
<th>Name of the case and parties</th>
<th>Court/tribunal and year of judgment/award</th>
<th>Nature of the dispute</th>
<th>Main points of law relevant to this study</th>
<th>Main findings with respect to States' rights and duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norwegian Shipowners' Claims Arbitration (Norway v. USA)</td>
<td>Permanent Court of Arbitration, ad hoc international tribunal, 1922</td>
<td>Requisitioning of alien property for US wartime purposes</td>
<td>Concept of taking of property. Applicable law. Requirements of compensation.</td>
<td>US action constituted exercise of eminent domain. Municipal law (of US) was applicable as long as international public order was not thereby violated. 'Just compensation' to be determined by fair actual value at the time and place in view of all surrounding circumstances.</td>
</tr>
<tr>
<td>Mavrommatis Palestine Concessions Case (Greece v. Great Britain)</td>
<td>PCU, 1924-25</td>
<td>Concession agreement</td>
<td>Diplomatic protection. Exhaustion of local remedies.</td>
<td>Right of home State to protect its nationals abroad.</td>
</tr>
<tr>
<td>Chorzów Factory Case and Certain German Interests in Polish Upper Silesia (Germany v. Poland)</td>
<td>PCU, 1926. PCU, 1925-29</td>
<td>Liquidation and transfer of assets of the German Reich</td>
<td>Non-exhaustion of negotiations. Liquidation of property rights.</td>
<td>Liquidation pursuant to peace treaties constitutes an exception to general rule of international law of no expropriation without indemnity. In the case of a lawful taking, the deprived party is entitled to the value of the undertaking that has been taken, including any potential future profits; in the case of an unlawful taking, the injured party is entitled to restitution of his property and, if restitution is impossible or impracticable, the full value.</td>
</tr>
<tr>
<td>North American Dredging Co. of Texas (USA v. Mexico)</td>
<td>US-Mexican General Claims Commission, 1926</td>
<td>Breach of contract</td>
<td>Calvo clause. Diplomatic protection. Compensation Exhaustion of local remedies.</td>
<td>Purpose of Calvo Clause is to prevent abuse of the right to diplomatic protection. An alien cannot deprive his government of its right to exercise diplomatic protection in the case of violations of international law. However, in this case, the Company had fully ignored legal remedies under Mexican law and could therefore not rightfully present a breach of contract claim to the home Government.</td>
</tr>
<tr>
<td>Neer Claim (USA v. Mexico)</td>
<td>US-Mexican General Claims Commission, 1926</td>
<td>Murder of a US national</td>
<td>State responsibility. Treatment of aliens. International minimum standard.</td>
<td>Treatment of an alien could be said to amount to an outrage, to bad faith, to wilful neglect or duty, or to an insufficiency of governmental action, so far short of international standards that every reasonable and impartial man would readily recognize its insufficiency.</td>
</tr>
<tr>
<td>Trail Smelter Arbitration (USA v. Canada)</td>
<td>Tribunal, First decision 1938. Second decision 1941</td>
<td>Transboundary air pollution and damage as a result of sulphur dioxide discharges by Canadian Company</td>
<td>State responsibility. Compensation. Alleged violation of sovereignty.</td>
<td>Canada was held responsible for the hazardous activities. USA was awarded compensation and a permanent regime was established over the smelter's emissions to prevent future damage.</td>
</tr>
<tr>
<td>Name of the case and parties</td>
<td>Court/tribunal and year of judgment/award</td>
<td>Nature of the dispute</td>
<td>Main points of law relevant to this study</td>
<td>Main findings with respect to States' rights and duties</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-----------------------------------------</td>
<td>----------------------</td>
<td>------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Corfu Channel Arbitration (UK v. Albania)</td>
<td>ICJ, First judgment 1948, Second judgment 1949, Third judgment 1949</td>
<td>Explosion of mines in Albanian waters causing loss of human life and damage to British naval vessels during mine-sweeping operations</td>
<td>Right of passage through sea straits. State responsibility.</td>
<td>Previous authorization of coastal State not necessary for innocent passage. Albania was under an obligation to notify and to warn of the imminent dangers. Albania was held responsible for the damage and loss of human life.</td>
</tr>
<tr>
<td>Anglo-Iranian Oil Company Case (UK v. Iran)</td>
<td>ICJ, 1951 (interim measures) 1952 (jurisdiction)</td>
<td>Annulment of a 1933 concession agreement Nationalization</td>
<td>Jurisdiction of the ICJ.</td>
<td>Concessionary contract cannot be considered to be an international treaty. ICJ has no jurisdiction to deal with the merits of the case.</td>
</tr>
<tr>
<td>Qatar Case (Ruler of Qatar v. International Maritime Oil Company Ltd.)</td>
<td>Tribunal, 1953, Sir Buckville as sole arbitrator</td>
<td>Amount of money in exchange for oil concessions</td>
<td>Applicable law.</td>
<td>Agreement not to be governed by Islamic law but by principles of justice, equity and good conscience.</td>
</tr>
<tr>
<td>Lac Lanoux Arbitration (France v. Spain)</td>
<td>Tribunal, 1957</td>
<td>Diversion of water flow from Lac Lanoux for generating electricity</td>
<td>Rights and duties of riparian States in relation to an international watercourse.</td>
<td>France was under obligation to provide information to and consult with Spain. France had taken sufficient measures to safeguard the rights and interests of Spain. No prior agreement of Spain required, since this would amount to essential restriction on sovereignty of France.</td>
</tr>
<tr>
<td>Aramco Case (Saudi Arabia v. the Arabian American Oil Company)</td>
<td>Tribunal, 1958</td>
<td>Transportation of oil as part of the oil concession</td>
<td>Applicable law.</td>
<td>The law governing the arbitration itself is international law; the law governing the merits is the law of Saudi Arabia but to be interpreted and supplemented by the general principles of law, by the custom and practice in the oil business and by notion of pure jurisprudence. Acquired rights should be respected. The concession only covered Aramco's transport activities within Saudi Arabian territory.</td>
</tr>
<tr>
<td>Name of the case and parties</td>
<td>Court/tribunal and year of judgment/award</td>
<td>Nature of the dispute</td>
<td>Main points of law relevant to this study</td>
<td>Main findings with respect to States' rights and duties</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>------------------------------------------</td>
<td>----------------------</td>
<td>------------------------------------------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td>Sapphire Int. Petroleum v. NIOC (Sapphire International Petroleum Ltd. v. the National Iranian Oil Company)</td>
<td>Tribunal, 1963</td>
<td>Non-performance of contract</td>
<td>Applicable law Compensation State responsibility.</td>
<td>Iranian law not applicable, but the principles of law generally recognized by civilized nations.</td>
</tr>
<tr>
<td>Fisheries Jurisdiction Cases (UK v. Iceland; FRG v. Iceland)</td>
<td>ICJ, 1972 and 1973 (interim protection) 1973 (jurisdiction) 1974 (merits)</td>
<td>Establishment of a 50-mile fishery zone beyond 12 miles.</td>
<td>Lawfulness of exclusive fishery zone</td>
<td>Coastal State has right to preferential exploitation in adjacent waters in situations of special dependence on their fisheries, but should have due regard to established fishing rights. Mutual obligation to undertake negotiation in good faith to agree on an equitable apportionment of fishery resources.</td>
</tr>
<tr>
<td>BP v. Libya (British Petroleum Exploration Company v. the Libyan Arab Republic)</td>
<td>Tribunal, 1973 Lagergren as sole arbitrator</td>
<td>Nationalization</td>
<td>Applicable law. Interpretation and application of a “stabilization clause” in a concession agreement. Compensation.</td>
<td>General principles of law applicable in case of difference between Libyan law and international law. Libya had violated both Libyan and international law by terminating unilaterally the agreement. Libya was liable to pay damages.</td>
</tr>
<tr>
<td>Texaco v. Libya (or TOPCO Case) (The Texaco Overseas Oil Company and the California Asiatic Oil Company v. the Libyan Arab Republic)</td>
<td>Tribunal, 1975 (jurisdiction) 1977 (merits) Dupuy as sole arbitrator</td>
<td>Nationalization</td>
<td>Applicable law. Interpretation and application of a “stabilization clause” in a concession agreement. Nature and amount of compensation.</td>
<td>‘Appropriate’ compensation is required under current international law for a lawful expropriation. In case of unlawful expropriation restitution in integrum compensation is due. The latter is required in this case. Dispute is directly governed by international law. International arbitration as evidence of the internationalization of the contract.</td>
</tr>
<tr>
<td>Name of the case and parties</td>
<td>Court/tribunal</td>
<td>Nature of the dispute</td>
<td>Main points of law relevant to this study</td>
<td>Main findings with respect to States' rights and duties</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>----------------</td>
<td>----------------------</td>
<td>------------------------------------------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td><strong>Liamco v. Libya</strong> (Libyan American Oil Company v. Libya)</td>
<td>Tribunal, 1977 Mahmassani as sole arbitrator</td>
<td>Nationalization</td>
<td>Applicable law. Interpretation and application of a &quot;stabilization clause&quot; in a concession agreement. Compensation.</td>
<td>Acquired rights should be respected. No requirement to compensate loss of profits. Equitable compensation to be paid.</td>
</tr>
<tr>
<td><strong>Revere Copper v. OPIC</strong> (Revere Copper and Brass Inc. v. Overseas Private Investment Corporation)</td>
<td>Tribunal, 1978</td>
<td>Extra-contractual payments amounting to creeping expropriation in Jamaica</td>
<td>Concept of expropriation. Stabilization clause. Applicable law.</td>
<td>Jamaican law applicable for all ordinary purposes of the Agreement. International law principles applicable for some purposes (e.g. responsibility of States for injuries to aliens), because the Agreement could be regarded as belonging to the category of long-term economic development contracts (internationalized contract). Stabilization clause was lawful. Repudiation of the Agreement by the Government constituted an expropriatory action. Compensation had to be paid.</td>
</tr>
<tr>
<td><strong>AGIP v. Congo</strong></td>
<td>ICSID Tribunal, 1979</td>
<td>Expropriation of an Italian oil distribution company</td>
<td>Applicable law. Standard of compensation.</td>
<td>Applicable law is in first instance Congolese law, supplemented by international law. Nationalization was irregular and according to Congolese law AGIP should be compensated for the damage it suffered (damnum emergens and -only nominal- lucrum cessans).</td>
</tr>
<tr>
<td><strong>Kuwait v. Aminoil</strong> (The American Independent Oil Company v. Kuwait)</td>
<td>Tribunal, 1982 (Reuter as President)</td>
<td>Compensation for nationalization</td>
<td>Applicable law. Stabilization clause. Compensation. 'Reasonable' rate of return. Distinction between 'lawful' and 'unlawful' expropriation.</td>
<td>Appropriate compensation formula is opinio iuris communis. Factors in determining it include fair market value, reasonable rate of return, unjust enrichment, taxation and royalties due to Kuwait, reasonable rate of interest (7.5 per cent), and inflation rate. Compensation for lost profits is not required. Both Kuwaiti law and public international law being a part of Kuwaiti law are applicable. Host States' attitude towards compensation should not be such as to render foreign investment useless, economically.</td>
</tr>
<tr>
<td><strong>Klöckner v. Cameroon</strong> (Klöckner Industrie-Anlagen GmbH v. United Republic of Cameroon)</td>
<td>ICSID, 1983 annulled in 1995 and second award in 1988</td>
<td>Frustration of the construction of a factory in Cameroon by German company</td>
<td>Applicable law.</td>
<td>Applicable law is first of all law of the contracting State Party to the dispute. Principles of international law have a dual role: complementary or corrective. International law can only be resorted to after identification and application of the rules of the State's law.</td>
</tr>
<tr>
<td>Name of the case and parties</td>
<td>Court/tribunal and year of judgment/award</td>
<td>Nature of the dispute</td>
<td>Main points of law relevant to this study</td>
<td>Main findings with respect to States' rights and duties</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>------------------------------------------</td>
<td>----------------------</td>
<td>------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td><strong>AIG Case</strong> (American International Group Inc. v. Iran)</td>
<td>Iran–US Claims Tribunal, 1983</td>
<td>Large-scale nationalization of American interests in Iranian insurance company in 1979</td>
<td>Lawfulness of nationalization. Standard of compensation. Applicable law.</td>
<td>General principles of public international law are applicable and require compensation for the property taken. Nationalization was lawful. Appropriate compensation standard for a lawful expropriation/nationalization is the going concern value, taking into account the netbook value of the assets, the goodwill and likely future profitability of the company. This is also due in case of lawful large-scale nationalization of an entire industry. Not correct that modern developments in international law required that only a 'partial' compensation standard be applied. Relevant factors in determining the value of the enterprise taken include prior changes in the general political, social and economic conditions which might have affected the enterprise's business prospects as of the date the enterprise was taken.</td>
</tr>
<tr>
<td><strong>INA Corporation v. Iran</strong></td>
<td>Iran–US Claims Tribunal, 1985</td>
<td>Formal nationalization of a 20% interest in Iranian insurance company pursuant to Iranian 'Law of Nationalization and Credit Enterprises'</td>
<td>Standard and valuation methods of compensation.</td>
<td>First case to apply the 1955 Treaty of Amity standard. Full compensation not ipso facto required under international law, but in present case 'full equivalent standard' applied, i.e. claimant's purchase price for the shares one year before the nationalization of Iranian insurance industry. In the event of large-scale nationalization of a lawful character, international law has undergone a gradual reappraisal, the effect of which may be to undermine the doctrinal value of any 'full' or 'adequate' compensation standard. 'Full equivalent of property taken' means in the case at issue the fair market value of the shares at the date of nationalization.</td>
</tr>
<tr>
<td><strong>SEDCO Case</strong> (Sedco Inc. v. National Iranian Oil Company and Iran)</td>
<td>Iran–US Claims Tribunal, 1986-87</td>
<td>Appointment of temporary government managers. Expropriation of oil drilling rights and interest in oil companies (SEDIRAN)</td>
<td>Interpretation of phrase 'interest in property'. Relevance of lawfulness of the taking in determining compensation under the treaty. Standard of compensation under customary international law.</td>
<td>Protection of nationals under Treaty of Amity also applies to claims of non-US companies, in which US nationals have a property interest. In the case of discrete expropriations of alien property, both customary international law and the Treaty of Amity require full compensation for the full value of expropriated interest regardless of whether or not the taking was lawful. Fair market value of the property is 'what a willing buyer and a willing seller would reasonably have agreed on as a fair price at the time of the taking in the absence of coercion on either party. General state of political, economic and social conditions must be considered.</td>
</tr>
<tr>
<td><strong>Letco v. Liberia</strong></td>
<td>ICSID Tribunal, 1986</td>
<td>Breach of concession agreement</td>
<td>Applicable law.</td>
<td>First of all, Liberian law is applicable and 'paramount within its own territory'. International law serves as 'regulator' of systems of national law and problems arising in case of a divergence. According to the Tribunal Liberian law was in conformity with international law.</td>
</tr>
<tr>
<td>Name of the case and parties</td>
<td>Court/tribunal and year of judgment/award</td>
<td>Nature of the dispute</td>
<td>Main points of law relevant to this study</td>
<td>Main findings with respect to States' rights and duties</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>------------------------------------------</td>
<td>----------------------</td>
<td>------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>AMOCO Case (or Khemco Case) (AMOCO International Finance Corporation v. Iran)</td>
<td>Iran–US Claims Tribunal, 1987</td>
<td>Nationalization of American share in joint stock company for installation and operation of a natural gas production plant on Khang island in Persian Gulf</td>
<td>Standard of compensation. Definition of expropriation and nationalization.</td>
<td>Right to nationalize foreign property is today unanimously recognized, while the rules of customary international law relating to the determination of the nature and amount of the compensation to be paid, as well as the conditions of its payment are less well settled. Lost profits not to be included in assessment of compensation for lawful takings and only required in unlawful takings. Value of the expropriated entity to be reduced by taking into account the economic effects of the possibility of future lawful taking. Treaty of Amity is lex specialis, customary international law is lex generalis and useful to fill the lacunae of the treaty and to aid interpretation and application of its provisions. Reference to ILA Seoul Declaration with respect to ‘appropriate compensation’ standard and to equitable compensation. Neither party should experience any unjust enrichment or deprivation.</td>
</tr>
<tr>
<td>Mobil Oil Case (Mobil Oil Iran, Inc. v. Iran)</td>
<td>Iran–US Claims Tribunal, 1987</td>
<td>Repudiation and breach (alternatively, expropriation) of rights under a 1973 sale and purchase agreement under which an American consortium was involved in extracting, refining and marketing Iranian oil and gas</td>
<td>Definition of what constitutes expropriation. Standard of compensation.</td>
<td>No repudiation of contract or expropriation of rights since Parties had agreed not to revive the 1973 sale and purchase agreement, in 1979 suspended by force majeure, but to negotiate a reconciliation of their interests. This was interrupted by the November 1979 events. Claimants are contractually entitled to compensation for the losses they could have expected to recover pursuant to their negotiations with the National Iranian Oil Company (NIOC).</td>
</tr>
<tr>
<td>Phillips Case (Phillips Petroleum Company Iran v. Iran)</td>
<td>Iran–US Claims Tribunal, 1989</td>
<td>Nullified oil agreement. Taking of contractual rights to share in the oil produced from the areas allocated to joint structure agreement</td>
<td>Definition of what constitutes expropriation. Standard of compensation.</td>
<td>Acts complained of by the claimants are ‘more closely suited to the assessment of the taking of foreign-owned property under international law than to the assessment of the contractual aspects of the relationship.’ Art. 4.2 of the Treaty of Amity prevails in principle as lex specialis over general rules, provides a single standard of compensation (‘just compensation’ representing the ‘full equivalent of the property taken’), regardless of whether that taking was lawful or unlawful.</td>
</tr>
<tr>
<td>Name of the case and parties</td>
<td>Court/tribunal and year of judgment/award</td>
<td>Nature of the dispute</td>
<td>Main points of law relevant to this study</td>
<td>Main findings with respect to States' rights and duties</td>
</tr>
<tr>
<td>----------------------------</td>
<td>------------------------------------------</td>
<td>----------------------</td>
<td>-------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td><strong>ELSI Case</strong> (Elettronica Sicula S.p.A.) (USA v. Italy)</td>
<td>Chamber of the ICI, 1989</td>
<td>Requisition of US company in Italy and alleged violation of bilateral FCN-treaty</td>
<td>Interpretation of FCN treaty, State responsibility, Compensation for damages, Exhaustion of local remedies.</td>
<td>Preventing a company to manage and control its affairs could amount to a 'disguised expropriation'. No compensation for the requisition in this case since it was not unlawful under international law. Local remedies rule is a principle of customary international law.</td>
</tr>
<tr>
<td><strong>AAPL v. Sri Lanka</strong></td>
<td>ICSID Tribunal, 1993 (with dissenting opinion by Asante)</td>
<td>Claims for damages following destruction of AAPL's installation by Sri Lankan forces in the civil war with the Tamils</td>
<td>Applicable law, Compensation of losses due to armed conflict.</td>
<td>Applicable law is law of the host State and international law. BIT is lex specialis. Lucrum cessans should not be allocated and compensated. Asante was of the opinion that Sri Lankan law should be applicable as source of law. International law, including the BIT is fully incorporated into the country's law.</td>
</tr>
<tr>
<td><strong>Ebrahimi v. Iran</strong></td>
<td>Iran-US Claims Tribunal, 1994 Arbitrators: G. Arangio-Ruiz, R.C. Allison, M. Aghahosseini</td>
<td>Alleged expropriation, Government’s appointment of temporary directors of construction company and interference with ownership rights, Impact of these measures on shareholders interests.</td>
<td>Concept of deprivation or taking of property, Applicable law, Standard and valuation of compensation.</td>
<td>Government took control by appointing provisional managers, thereby depriving claimants of their ownership rights in the company. State may not avoid liability for compensation by showing that its actions were carried out pursuant to or in accordance with national law. International law theory and practice do not support the conclusion that the 'prompt, adequate and effective' compensation standard represents the prevailing standard of compensation. Reference to para. 4 of GA Res. 1803 (XVII). The gradual emergence of the 'appropriate compensation' rule aims at ensuring that the amount of compensation is determined in a flexible manner that takes into account the specific circumstances of each case. The prevalence of the 'appropriate' compensation standard does not imply, however, that the compensation quantum should be always 'less than full' or always 'partial'. Compensation to be awarded must be appropriate to reflect the pertinent facts and circumstances of each case. In the case at issue, it includes damnum emergens but not lucrum cessans.</td>
</tr>
</tbody>
</table>