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THE CHANGING ATTITUDES IN THE WORLD OIL COMMUNITY

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There has been a change, in recent years, in the reactions of both oil producing states and foreign corporations to expropriation. In the past, nations which were unable or unwilling to pay prompt, adequate and effective compensation often became involved in power struggles and other retaliatory measures which were fostered by the foreign corporation and/or their state of incorporation.

Today, however, there is a growing realization by many countries in the world community and in the foreign corporations themselves, that oil producing nations are entitled to take an active part in the control and profit of their own resources. This realization plus an understanding of the circumstances in which past concession agreements have been made are bringing about reforms. The oil producing states and the foreign corporations are now more willing to enter peacefully into participation agreements whereby both play an active role in the production and marketing of oil.

This paper will examine the process of reform, focusing on the actions of the oil producing states and the rationale for the recent acts of expropriation and nationalization. The role international law has played and is now playing will also be examined. Finally, the attitudes of the states in which the oil companies are incorporated will be analyzed. Special attention will be given to the United States.

I. RECENT ACTS OF NATIONALIZATION

Among the developing nations, all oil producing states have expropriated or nationalized oil production within their territories, negotiated or renegotiated "participation" agreements, or revised, or sought to revise, concession agreements. Last February, Libya nationalized the local operations of Atlantic Richfield, Texaco and Standard Oil of California, which together produce nine percent of Libya's daily output of two million barrels of oil.[1] It was announced that the American companies concerned would be compensated for the nationalization of their facilities, but the details of these payments have not been forthcoming.[2] Libyan oil has been developed by many oil companies, mostly American, rather than by a single consortium, as in Saudi Arabia and Iran.

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1. TIME, Feb. 25, 1974, at 28.
2. N.Y. Times, March 20, 1974, at 26, col. 1.

In 1971 Libya nationalized the operations of the British Petroleum Company, Ltd. because Great Britain had supported Iran's ambitions in the Persian Gulf.[3]

In June 1973, the Libyan government nationalized Texas Independent and Nelson Bunker Hunt, both small American companies, in retaliation against continued U.S. support of Israeli occupation of Arab territories. In August 1973, Occidental Petroleum Corporation agreed to a 51 percent nationalization of its interests in Libya and in September Libya nationalized 51 percent of all oil companies within its territories,[4] including 51 percent of Exxon's wholly-owned Esso Libya.

Saudi Arabia, in March 1972, acquired a 25 percent share in Aramco, a consortium of four American companies including Exxon, Standard Oil of California, Texaco and Mobil. Prior to the Saudi expropriation, Exxon, Texaco and Socal held 30 percent respectively and Mobil 10 percent of the multinational enterprise. The expropriation, however, reduced each American company's share to 22.5 percent and 7.5 percent respectively. Petromin, Saudi Arabia's national company is the heir to Aramco for the estimated reserve of 150 billion barrels. The Saudi Arabian government has contracted to take over 51 percent of Aramco by 1982. Demands for the acceleration of participation and 100 percent control have been made. Currently, Saudi Arabia gets participating oil and sells it back to Aramco's partners at 93 percent of the posted price, $10.83 per barrel.

This participation agreement, referred to as the Riyadeh Agreement is no longer satisfactory to Saudi Arabia, and as participation agreements change in other oil producing countries, Saudi Arabia will be under increasing pressure to demand revision of its current participation agreement. As one Aramco official in Saudi Arabia puts it:

> The majors are rapidly gravitating to the point where they will be merely buyers of crude oil from the governments of producing areas. These governments are going to leave just enough in terms of profits to keep the majors operating here. The governments are going to own the oil, set the price and get as much money as they can for it. The majors are simply going to lose production control outside the United States.[5]

Saudi Arabia has agreed to pay $500 million for its 25 percent ownership of Aramco. This amount is based on book value, as the oil in the ground is owned by the state and not the company. There are political and economic reasons for the cutback of production enforced by oil produc-

3. Iran and Libya support different factions in Muscat and Oman. Iran is involved in a serious dispute with Iraq, and Iran had occupied Arab islands in the Persian Gulf.

4. Bus. Week, Dec. 15, 1973, at 60.

5. *Id.*

ing countries. The tax take from Aramco is increased by boosting the artificial "posted price" on which corporate taxes are calculated.

The Kuwait National Petroleum Company operates a refinery, markets oil abroad, and may purchase a tanker fleet. Gulf and British Petroleum, the two companies holding a joint concession in Kuwait, agreed to sell the Kuwait government 25 percent of their interest in 1972, and the rest by 1982. Now the firms have agreed to sell a 60 percent interest immediately for $112 million and the remainder in six years.

Quatar wants 60 percent participation with its major crude oil producers, including British Petroleum, Shell, Mobil, Exxon and Cie Francaise des Petroles.[6]

Abu Dhabi abrogated a 25 percent agreement this fall. The Iraq National Oil Company was established after the government in 1972 seized almost all the concessions, equipment and pipelines of the Iraq Petroleum Co., a consortium which included British Petroleum, Shell, Exxon and Mobil. Iraq estimated reserves of 31.5 billion barrels of oil. The Iraq National Oil Company now manages exploration and production, and it sells some oil to the majors.

Iran nationalized its petroleum in 1951. The National Iranian Oil Co. (N.I.O.C.) controls oil production, pricing and exploration. British Petroleum, Gulf and Exxon buy most of the oil produced. Of 5.7 million barrels pumped daily, approximately 600,000 barrels go to the N.I.O.C. for refining and marketing in Iran. The N.I.O.C. also operates four refineries in Iran and has interests in other refineries in India and South Africa. There is a growing interest in petrochemicals and chemicals by the national company.

Nigeria produces 2.2 million barrels of crude oil every day. Nigerian National Oil Co. (N.N.O.C.) is the state's oil company. The Nigerian government has declared its intention to control the petroleum industry by 1982 and N.N.O.C. has already bought 35 percent of Shell and British Petroleum.

The Indonesian state company, Pretamina, receives 42 percent of all Indonesian oil produced for sale. Petramina is renegotiating its contracts with foreign concerns in an effort to increase the government's share to 60 percent or more.

The Venezuelan government has declared that it intends to nationalize foreign concessions before current agreements expire in 1983. The Venezuelan Petroleum Corporation (CVP) will be the primary developer of huge reserves along the Orinoco River. One commentator views the situation in Venezuela as follows:

> Nationalization is generally recognized as inevitable, even by the industry. The essential questions are when and how the companies will

6. BUS. WEEK. March 2, 1974, at 55.

be nationalized and whether there will continue to be a role for them.[7]

The establishment of a two year deadline for working out a "national consensus" on nationalization reinforces this view.[8]

Algeria, which nationalized its oil and gas industry, is seeking to renegotiate its natural gas contracts with its U.S. and European customers to increase prices.[9]

Nationalization has not been limited to petroleum, but has extended to other mineral resources as well. In 1967 Chile entered into an agreement with Kennecott Copper Corporation to buy 51 percent of its equity, and two years later Anaconda agreed to sell 51 percent of its equity to Chile. Chile was given the right to purchase the remaining 49 percent between 1972 and 1981. In 1971, these arrangements were terminated by President Allende's expropriation of the major copper companies.[10]

II. THE REASONS FOR NATIONALIZATION

On December 21, 1952, the United Nations General Assembly adopted Resolution 626 which affirmed the inherent sovereign right of peoples to freely use and exploit their natural resources. In the course of debate the United States had submitted an amendment to the effect that member states should refrain from action contrary to both the principles and practice of international law and the provisions of international agreements. The U.S. proposal was defeated, and the General Assembly adopted Resolution 626, although the United States, Great Britain, New Zealand and the Union of South Africa all voted against the Resolution. Interestingly enough, reference to international law is made in subsequent resolutions passed by the Assembly. General Assembly Resolution 1803 (XVII) was founded on the recommendations of the Commission on Permanent Sovereignty Over Natural Resources created by Resolution 1314 (XIII) of December 12, 1958. At least two states relied on the United Nations Resolutions in their nationalization of mineral and natural resources—Chile, in the case of nationalization of the copper industry,[11] and Guatemala, when it took certain real property of the United Fruit Company.

The Resolutions of the General Assembly affirm the propriety and

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7. Howe, *Venezuelan Nationalization*, N.Y. Times, March 11, 1974, at 43, col. 7.

8. Goodsell, *Venezuela Acts to Nationalize Wealthy Petroleum Industry*, Christian Science Monitor, March 28, 1974, at 2.

9. N.Y. Times, March 20, 1974, at 59, col. 6.

10. Stern, *The Judicial and Administrative Procedures Involved in the Chilean Copper Expropriations*, 66 Proc. Am. Soc. Int'l L. 205, 205-06 (1972).

11. Vicuna, *Some International Law Problems Posed by the Nationalization of the Copper Industry in Chile*, 67 Am. J. Int'l L. 711, 711-27 (1973).

validity of nationalization which cannot be questioned under applicable principles of international law. The principle of compensation is generally declared when property is taken by the state. The basic issue that has been the subject of differing interpretations is: when alien rights are involved, does international law place certain restraints on the exercise of a state's power? If the taking of property is neither arbitrary nor discriminatory, it does not amount to a denial of justice. Although legal writers invoke the argument of discrimination between aliens and nationals, in practice this question does not arise in present day nationalization because the subject is usually a giant foreign corporation of one nationality, and the action is directed against the nationals of a particular foreign state. On the other hand, there are situations of arbitrary acts against both nationals and aliens without discrimination, such as the agrarian reform acts in East Europe and property taking in the U.S.S.R. after 1917. However, some of these measures amounted to confiscation, which is beyond the scope of this article.[12]

While international lawyers have engaged themselves in long debates as to the validity of nationalization and a state's sovereign right to control its natural resources, few have attempted to ascertain the cause of these governmental actions. It was a political scientist, in a debate with international lawyers, who elucidated these important issues. Professor Theodore H. Moran, of the Center for International Affairs at Harvard University, stated:

> A company like Anaconda or Kennecott enters a country with . . . capital, technology, managerial expertise, access to markets - that the country lacks. The country needs these resources and must accept terms very favorable to the company in order to get them . . . . So the relative balance of power between the host country and the foreign investor is initially very much tilted in favor of the foreigner . . . . To argue that [concession agreements] should [last] because of "sanctity of contract" is only to argue that agreements should always be frozen in terms very favorable to foreigners . . . .[13]

The important role that one company may play in the state is also a matter of great significance. The alleged role of ITT in Chile is an example. When nationalizing the Suez Canal, President Abdel Nasser of Egypt, on July 26, 1956, said:

> [W]henever we look behind, we do so to destroy the traces of the past, the traces of slavery, exploitation and domination.
>
> Today, citizens, rights have been restored to their owners. Our rights in the Suez Canal have been restored to us after 100 years.

12. Carlston, *Concession Agreements and Nationalization*, 52 AM. J. INT'L L. 260, 274 (1958).

13. Moran, *The Politics of Economic Nationalism and the Evolution of Concession Agreements*, 66 PROC. AM. SOC. INT'L L. 216, 217-19 (1972).

> Today, we actually achieve true sovereignty, true dignity and true pride. The Suez Canal Company was a state within a state. It was an Egyptian Joint Stock Company, relying on imperialism and its stooges.
>
> The Suez Canal was built for the sake of Egypt and for its benefit. But it was a source of exploitation and the draining of wealth . . . .[14]

Many concessions were obtained when countries were under foreign occupation, when governments were weak, and when large scale corruption prevailed. As the people of these countries become educated, as the control currently concentrated in the hands of a few leaders diminishes, and contact and cooperation with other producers increases, concession agreements are reevaluated and revised. Other considerations include the policy of the industrialized nations who buy cheap raw materials from developing nations and sell high priced industrial goods to them in return, and the gross disparity between the level of wages of workers in the developing and developed nations.

III. INTERNATIONAL LAW AND EXPROPRIATION

There are a number of propositions which bring us closer to understanding the international law problems of expropriation. We start with Hans W. Baade's approach:

> (1) [A]cts in violation of international law are not void under the internal law of the actor state;
> (2) [I]nternational law does not regulate the "property" side of territorial expropriations, but merely imposes, in appropriate cases, an *obligatio* to offer monetary compensation; and
> (3) [T]he standard remedy for "illegal" expropriation is monetary compensation, not restitution.[15]

In 1958 the German courts considered the propriety of Indonesia's nationalization of Dutch property. In recognizing the Indonesian decrees, the German courts excluded the application of international law and refused to review either the constitutionality of foreign nationalization decrees, or their legality under international law. Furthermore, the German courts would not consider the issues of inadequate compensation of the former owners, discriminatory treatment, and the public policy of Indonesia. The Bremen court rejected the argument of Dutch companies that the Indonesian nationalization act was discriminatory and contrary to international law because it lacked provisions for com-

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14. *See* U.S. DEP'T OF STATE, THE SUEZ CANAL PROBLEM, A DOCUMENTARY PUBLICATION 28-29 (1956). *See also* M. FATHALLA, E. KHATIB AND O. GHOBASHY, THE SUEZ CANAL 9 (Arab Information Center, Feb. 1960).

15. Note, *The Validity of Foreign Confiscations: An Addendum*, 56 AM. J. INT'L L. 504, 504-07 (1962).

pensation.[16] The court held that even if the nationalization was contrary to international law, it was valid under municipal law.

In *Banco Nacional de Cuba v. Sabbatino,*[17] the United States Supreme Court declared that the judicial branch would not examine the validity of a foreign, sovereign government's expropriation of property within its own territory, even though the complaint alleged that the taking violated customary international law.

Another question focused on by international lawyers was whether the municipal legal remedies available to foreigners affected by property takings are adequate, and whether the measure of adequacy should be based on domestic or international standards. Some international lawyers maintain that the state must provide foreign claimants effective judicial or administrative machinery for the settlement of disputes arising out of the taking of property. Some concession agreements provide for arbitration of disputes while others impose a restraint on nationalization for a period of time. An issue may arise as to the binding effect of this limitation on sovereignty. There are very few contracts with this type of clause and foreign corporations are not so naive as to believe that such a clause will prevent nationalization by a successor regime to the one granting the concession. Given the degree of instability of regimes in the developing states, this clause does not afford a guarantee against nationalization, and if the contract is violated it comes under internal law as it is a contract between a state and an individual and not between two states. Therefore, it is not subject to international law except in the narrow area of international responsibility.

IV. CASE STUDIES OF ATTITUDES TOWARD NATIONALIZATION WITH EMPHASIS ON THE U.S. POSITION[18]

Acts of expropriation prior to 1917 had few international ramifications. Arbitration, diplomatic intervention or governmental pressure were among the methods used in settling controversies between the expropriating country and the country of the expropriated national. In the pre-1917 days, the ambition of international law was to create equality in the treatment given to citizens and foreigners. Mexico maintained that American nationals could not demand a different standard of treatment than that accorded Mexican nationals, stating that there is,

> in international law, no rule universally accepted in theory nor carried

16. *See* Domke, *Indonesian Nationalization Measures Before Foreign Courts*, 54 AM. J. INT'L L. 305, 305-23 (1960).

17. 376 U.S. 398 (1964). *See also* Bahia de Nipe-Rich v. Naviera Vacuba, S.A., 197 F. Supp. 710 (E.D. Va. 1961), *aff'd per curiam*, 295 F.2d 24 (4th Cir. 1961).

18. This section is based on an article by the author in *Egyptian Economic and Political Review*. *See* Ghobashy, *A Case Study of United States Attitude Towards Nationalization*, EGYPTIAN ECON. & POL. REV. 39, 39-42 (1957).

> out in practice, which makes obligatory the payment of immediate compensation, nor even of deferred compensation, for expropriations of a general and impersonal character like those which Mexico has carried out for the purpose of redistribution of the land.[19]

The desire of Mexico to redistribute its farm lands and to bring its oil industry under public control and ownership was a basic policy which was considered to be more important than the rights of private foreign owners.[20]

During the years 1935-1939 Mexico was the subject of internal and external pressure from both Standard Oil Company of New Jersey and religious groups who hoped to cause a change in the policy of expropriation. Standard Oil published 13 pamphlets whose titles are of great interest when we compare that situation to present day reality. Included among the publications were: *Whose Oil is it?; Diplomatic Protection; They Took What They Wanted; The Fine Art of Squeezing; Empty Promises; The Solution of the Mexican Confiscation; Donald Richberg's Story; The Mexican Oil Seizure; Investment and Trade; Confiscation or Expropriation?; Present Status of the Mexican Oil; Expropriation 1940: The Reply of Mexico;* and *Denial of Justice.*

In the Mexican case, Mexico was unable to make payment. But Standard Oil did not rest its case on law. It continued to use every means to villify the Mexican government. The attitude of the Catholic Church coincided with that of the Company, both advocating the departure from the Good Neighbor Policy.[21] Even the American Ambassador in Mexico was attacked as incompetent. Though there was clamor for intervention, the U.S. Government took no measures other than strong representations and suspension of the silver buying policy. The Administration withstood the pressure in Congress for intervention. In a note of the United States to Mexico of April 3, 1940, it was stated that the Government of the United States viewed the legality of an expropriation as contingent upon adequate, effective and prompt compensation.[22]

While in the case of Mexico, the Governments of the United Kingdom and the Netherlands pressed the United States for a common policy on restitution, U.S. Under-Secretary of State Sumner Welles, in a conversation with the British Ambassador on February 9,

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19. Department of State Press Release (Aug. 25, 1938) in 32 AM. J. INT'L L. 191, 191-92 (Supp. 1948).

20. Support by the Dep't of State of Efforts of American Oil Companies to Reach an Agreement with the Mexican Government Regarding their Expropriated Properties, Jan. 2-Sept. 1, 1940, [1940] 5 FOR. REL. U.S. 976-1029 (1940).

21. F. ROOSEVELT, WANTED: GOOD NEIGHBORS 47-48 (National Foreign Trade Council Inc., N.Y. 1939).

22. Letter from the Secretary of State to the Mexican Ambassador, [1940] 5 FOR. REL. U.S. 1009, 1009-1013 (1940).

1940, disagreed with Britain's position of restoring the properties to its former owners.

> [W]hereas the United States in its representation to the Government of Mexico had never questioned the legal right of the Mexican Government to expropriate properties within its jurisdiction, but it insisted that if expropriation were undertaken there was inherent in the exercise of such right by Mexico the corresponding obligation to pay prompt, adequate and effective compensation for whatever properties that might be expropriated . . . .[23]

A similar view was expressed by the Department of State in a note to the government of Guatemala concerning the taking of real property of the United Fruit Company:

> Just compensation may be defined as that compensation which . . . is "prompt," is "adequate," and is "effective" . . . .
>
> The obligation of a state imposed by international law to pay just or fair compensation at the time of taking of property of foreigners cannot be abrogated from the international standpoint by local legislation. If the contrary were true, states seeking to avoid the necessity of making payment for property expropriated from foreign nationals could avoid all pecuniary responsibility simply by changing their local law . . . .[24]

The Secretary of State writing to the Minister of Foreign Affairs of Bolivia on May 7, 1937, stated:

> . . . I do very earnestly desire to . . . urge the expression of my sincere hope that steps may be taken by the Bolivian Government at an early opportunity to make it clear that the Government has every intention of offering just and equitable compensation for the properties owned by nationals of the United States; . . . or, failing an agreement between these nationals of the United States and the Government of Bolivia upon the form and amount of such compensation, that it will agree upon some method of adjudication of the rights and equities inherent.[25]

In this case the Standard Oil Company of New Jersey became involved after the seizure of its properties by Bolivia on March 15, 1937, following a claim that the company illegally exported a quantity of petroleum to Argentina during 1926-27. It also accused the company of avoiding payment of income tax. A settlement was eventually made on January 27, 1943, in which Bolivia paid Standard Oil of New Jersey $1,500,000.

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23. Memorandum of Conversation by the Under-Secretary of State (Welles), [1940] 5 FOR. REL. U.S. 994, 994-95 (1940).

24. DEP'T OF STATE BULL., Sept. 14, 1953, at 359-60. *See also* Hyde, *Permanent Sovereignty Over Natural Wealth and Resources*, 50 AM. J. INT'L L. 854, 864 (1956).

25. Telegram From the Secretary of State to the Minister in Bolivia, [1937] 5 FOR. REL. U.S. 284, 285 (1937).

In the Spanish nationalization of oil, the United States Government did not rest its case on law. The Charge d'Affaires informed the Secretary of State on December 28, 1927 that

> it is obvious that the legal opinions have . . . hardly more than an academic value, as the policy of the Spanish dictatorship takes little or no account of previously existing Constitution, Civil Code, or even of previous Royal Decrees.[26]

On February 18, 1928, the Charge d'Affaires informed the Department of State that "eminent legal authorities argue that, under existing conditions here, testing the royal decree's legality by bringing suit in Spanish courts would be impracticable . . . although it would strengthen diplomatic efforts."[27]

The American Ambassador suggested that "it might be better for the moment to pass over all the legal technicalities and endeavor to reach a practical settlement on business lines."[28] When it was apparent that the Spanish government would agree to submit the French claims to arbitration, the United States felt that it might profit by the French initiative. Thus the Secretary of State informed the Charge d'Affaires in Spain (Whithouse) on February 14, 1929, that:

> . . . The United States has no arbitration treaty with Spain and consequently its position as regards arbitration is less favorable than that enjoyed by France. However, it is obvious that should the Spanish Government arbitrate the matter with the French Government, this Government, in view of the repeated Spanish assurances as to equality of treatment, would expect the Spanish Government voluntarily to apply the principles established by the arbitration to the valuation and payment of the American interests concerned.[29]

Sometimes the state possesses a means for exerting pressure on another state, thereby influencing the settlement of a dispute. The possession of the United States, in 1948, of $46,800,000 of Yugoslav gold, blocked by the United States during the War was used to obtain a settlement on American claims arising out of Yugoslav nationalization. This also provided the source of payment of settlement.

In one incident the United States displayed force to protect the interest of Edward A. Hopkins in Paraguay. On December 8, 1957, a fleet was sent to Paraguay "to obtain redress, forcibly, if necessary." A

26. Letter from the Charge in Spain to the Secretary of State, [1927] 3 For. Rel. U.S. 724, 727 (1927).

27. Telegram from the Charge in Spain to the Secretary of State, [1928] 3 For. Rel. U.S. 852 (1928).

28. *Id.* at 872.

29. Letter from the Secretary of State to the Charge in Spain, [1929] 3 For. Rel. U.S. 773, 774 (1929).

Commissioner was sent with the fleet with instructions to make a pacific settlement and to accept $500,000 as a minimum or in the event that Paraguay refused, to consent to arbitration.

V. CONCLUSION

Acts of nationalization and expropriation are recognized under international law. The nationalization acts are matters which are within the exclusive, domestic jurisdiction of the producing states. This has been established in the Anglo-Iranian oil dispute before the International Court of Justice and the United Nations Security Council.

Recent nationalizations are always accompanied by an offer to pay prompt and adequate compensation. The ability to pay compensation is no longer a problem, particularly in the oil producing states. The problems arising in Latin America during pre-World War II nationalizations have almost ceased to exist. Valuation is now accepted at book value, and is normally resolved as oil companies accept the fact that the oil producing countries own the oil in the ground. Foreign corporations are no longer taking strong measures against producing nations. Rather than requesting governmental intervention to combat nationalization or to obtain greater amounts of compensation, the oil companies recognize the inevitability of nationalization and distinguish between participation agreements and nationalization. The oil companies negotiate with the producing states in good faith, on an arms-length basis, to achieve participation agreements which are not considered a unilateral abrogation of contracts by producing states but a revision of contracts by mutual consent which is valid under both internal and international law. Admittedly there is a degree of pressure by the state demanding change but we cannot deny the equal pressure of the foreign corporations and its state of incorporation. Foreign corporations no longer think in terms of retaliation, boycott of the expropriated natural resource abroad, the use of dirty tricks, or the placing of obstacles in the way of the marketing of these products.

Oil companies are blamed in the state of incorporation for adopting these realistic and practical policies, and yielding to the demands of the oil producing states. Few realize that they have no alternative and no options but to continue to be the buyers and distributors of natural resources, leaving production in the hands of these states. If the expropriating state fails to provide compensation or machinery for valuation, the act may amount to confiscation and may give rise to international responsibility. There are few cases in this category. The issue of arbitrary and discriminatory acts no longer arises, although arguments are made that nationalization in Libya was accompanied by statements that the action was retaliatory in nature against the nationals of a particular state. While boycott is a legitimate action in relation to harmful foreign policies, nationalization has far reaching international and legal consequences. Nationalization should be done, as in the case of Chile, with all machinery and procedure for compensation and valuation, without reference to causes or political considerations, in order to avoid a challenge of its validity or any accusation of a violation of international law.

The expropriating nation must have the ability to manage and operate its nationalized industry. While Iran had initially failed and Mexico was not completely successful in the managerial field, Iraq, Egypt and Algeria were able to place trained personnel in management and engineering positions and thereby achieve a degree of success in their nationalization actions. The other Arab and Islamic countries will draw on each other's resources and manpower. An embargo on technology will not curtail expropriation. Recruiting of foreign technicians is also possible. The developed countries which embarked on brain drains of developing nations are now facing the competition of vast funds in the hands of oil producing nations to attract the best available technicians. Iraq recently induced Arab immigrants who had settled in the United States and West Europe to return to the Arab world through the use of numerous incentives.

The oil companies, though admitting the inequities of old concessions and the desirability of their revision, are demanding that some guarantee, such as arbitration clauses, be given to the new agreements, particularly on the sale and marketing of oil. The oil producing states have been reluctant to submit to international arbitration, but they may be willing to do so if they are able to control production. The tendency is for state-owned corporations and the consuming states to negotiate for the purchase of oil in exchange for technical and industrial projects, and it may be that some of these new contracts are under international law within the purview of the report of the Special Rapporteur of the International Law Commission.[30]

30. Amado, *(Fourth) Report on International Responsibility*, [1959] 2 Y.B. INT'L L. COMM'N 1, U.N. Doc. A/CN. 4/119 (1959) and Amado, *(Fifth) Report on International Responsibility*, [1960] 2 Y.B. INT'L L. COMM'N 41, U.N. Doc. A/CN. 4/125 (1960).