

## ALGERIA, IRAN and NIGERIA

The laws of Algeria, Iran and Nigeria do not have any provisions concerning lawsuits against a foreign state within their territorial jurisdiction. Despite our thorough search, we were unable to find any case in the courts of these countries nor any decision from a court in which the immunity of a foreign country was challenged.

However, the doctrine of absolute immunity in Nigerian law was inherited from colonial days. The government used to enjoy absolute immunity until the enactment of the new constitution on September 21, 1978, which is to come into force on the 1st day of October 1979. This new constitution recognizes the right of individuals to sue the government in Nigerian courts. The law is silent concerning lawsuits against foreign states. Since this is the first step away from absolute sovereign immunity, we think that the principle of international law concerning immunity will apply in Nigeria, in the future.

It is an accepted fact that states enjoy sovereign immunity. However, according to an established rule of international law, this immunity is no longer absolute. Immunity is denied to states involved in commercial activities or contractual obligations. Sovereign immunity is limited to cases where the state is strictly involved in political and public acts. The court determines whether the act which gave rise to the lawsuit is an act of state or a commercial transaction. This distinction determines

the jurisdictional competence of the court in which the foreign state is sued.

Today the general tendency is this: property of a foreign state, used for commercial activities and not related to government (political, administrative or legislative) activity, may be attached and seized. Assets used for commercial activity are not immune.

[You will find attached a list of articles concerning anti-trust and sovereign immunity rules, and copies of three articles related to the subject.]

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## LIST OF ARTICLES

1. Cappelli-Perciballi, Lionello. "The Application of the New York convention of 1958 to disputes between states and between state entities and private individuals: the problem of sovereign immunity." The International lawyer, v. 12, no. 1, Winter 1978:197.
2. Cartoon, Bernard J. "Sovereign immunity in international law: a review of the more important trends and their place in South Africa." The Cosparative and international law journal of southern Africa, v. 11, no. 2, July 1978:168.
3. Falk, Bernard. "The Immunity of foreign sovereigns in U.S. courts: proposed legislation." New York University journal of international law and politics, v. 6, no. 3, Winter 1973:473.
4. Joelson, Mark R. "Extra-territorial effects of anti-trust laws panel discussion: extra-territorial effects of United States tax laws." The International lawyer, v. 12, no. 3, Summer 1978:616.
5. Joelson, Mark R. and Joseph P. Griffin. "The Legal status of nation-state cartels under United States anti-trust and public international law." The International lawyer, v. 9, no. 4, Fall 1975:617. [Copy attached.]
6. Jones, Robert T. "Extra-territoriality in U.S. anti-trust: an international "hot potato". " The International lawyer, v. 11, no. 3, Summer 1977:415. [Copy attached.]
7. Leigh, Monroe. "Sovereign immunity: the case of the "imias". " American journal of international law, v. 68, no. 2, April 1974:280.
8. Sklaver, Harvey H. "Sovereign immunity in the United States: an analysis of s. 566." The International lawyer, v. 8, no. 2, April 1974:406. [Copy attched.]
9. Timberg, Sigmund. "An International anti-trust convention: a proposal to harmonize conflicting national policies toward the multi-national corporation." The Journal of international law and economics, v. 8, no. 1, June 1973:157.

## GABON

A search of national and international sources indicates that Gabon, a newly independent, developing country, has no available statutory provisions and no published court decisions containing information on the subject of government immunity and liability involving litigation with a foreign state or the attachment of foreign government property.

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IRAQ, KUWAIT, LIBYA, QATAR, SAUDI ARABIA & UNITED ARAB EMIRATES

Having searched all of the legal materials pertaining to the countries of Iraq, Kuwait, Libya, Qatar, Saudi Arabia and the United Arab Emirates, we did not find any provision which allows a citizen of the countries involved to sue any foreign country for tort and contract liability, nor did we find any court decision initiating that sort of action.

In this connection, it should be noted that Iraq and Libya are two countries in which the private sectors of their economy are under government control. An individual's commercial activity with foreign concerns is very limited.

With regard to a law of sovereign immunity and the distinction to be made between an act of state and a commercial act, no provision has been found.

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