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POLI 140A: International Law

CASE MEMORANDUM (v4)*

Case History:

The state of Eastlandia is a colonial empire that expanded across the world. During the age of exploration, the subjects of the Eastlandian King discovered the island of Westmont in 1550. The island was inhabited by fierce warriors who didn't trust the foreigners. Due to their small number, the Eastlandians left the island, but they returned with a larger naval force in 1610 and forcefully colonized it in the name of the Eastlandian King by defeating the local chieftains and executing them. Until 1615, the island was governed by the conquering admirals, but the King appointed a governor and judges who would administer the island in the name of the King.

During a war with the Republic of Northistan in 1830, Eastlandians lost control of Westmont. In a subsequent peace treaty signed in 1832, Northistan received the island of Westmont. At the time of Northistan's acquisition of Westmont, the Eastlandians on the island, who had settled and intermixed with the locals since the 17th century, developed a distinct identity as Westmontians. They began to see themselves as a nation, and with the spread of nationalist sentiment following the French Revolution, they initiated nationalist movements in the 1850s, aiming to achieve independence. In 1875, the Republic of Northistan collapsed due to civil war and subsequently dissolved, giving rise to the formation of several new nations. Being one of the administrative regions of the Northistani republic, Westmont gained its independence.

Around the early 1920s, British petroleum exploration companies discovered that the uninhabited archipelago in the north of Westmont contained a large oil and gas reserve. This archipelago is located 40 nautical miles off the Westmontian coast and 40 miles from Greenistan, a republic that became independent after the dissolution of Northistan, similar to Westmont. Greenistan was ruled by the Kings of Northistan before Northistan became a republic. There wasn't any activity of Northistanis or Greenistanis in the archipelago before Northistan's conquest of Westmont. Before the conquest in 1830, however, the Eastlandian governors of Westmont sent their navy to collect wood from the archipelago, and Westmontian fishermen had been using these islands, including those in the north and south of the archipelago, as resting points for their fishing expeditions. Although Westmontian activities were limited to the fishing season, the Eastlandian governors regularly appointed police officers and judges to these archipelagos to ensure that disputes between fishermen were resolved according to the law. Eastlandian tax officers also collected taxes from the fishermen on these islands before they sold their fish to other states. After Northistan's conquest, Northistani governors and officers maintained these activities in the archipelago from their administrative center in Westmont. After

* Hypothetical case and fictional states and names. Assume that these events take place in our history, in our timeline, in which international law was developed along with the international organizations of our history.

the conquest and peace agreement, the archipelago appeared on Northistan's maps for the first time. After independence, Westmont continued these official activities in the archipelago.

When Northistan was a unified republic, which administrative unit (Westmont or Greenistan) controlled the archipelago wasn't an issue because both regions were part of Northistan's territory. With the discovery of oil, the archipelago became important for both states. Westmont made its seasonal operations on the islands permanent by appointing a governor in 1925 to reside in the region permanently. In addition to that, the Westmontian Navy established permanent bases on multiple islands in the archipelago.

Around the same time in 1925, Greenistan sent its navy to take over some of the islands in the northern part of the archipelago by establishing naval bases. These islands were the ones where Westmontians hadn't set up permanent settlements yet. In 1927, Greenistan adopted a constitutional amendment, declaring the entire archipelago one of its administrative units. Soon after, they appointed their governors and judges and created smaller villages on some of the islands under their control. Westmont has continuously protested the actions of Greenistan since Greenistan's first actions in 1925.

Both parties attempted to resolve the dispute multiple times. Following World War II and the establishment of the United Nations, both states became members of the UN and signed the UN Charter. With the mediation of the UN Secretary-General, a negotiation process was initiated in 1992. Greenistan stated that it owned the northern islands it occupied because these islands in the archipelago were considered terra nullius. Westmont objected to the argument by stating that Westmont asserted sovereignty over the entirety of the archipelago through its regulations and regular use of the islands. Westmont also claims that the archipelago has belonged to Westmont since the time of Eastlandian rule, as it has always been administered by governors in Westmont.

When the negotiations failed in 1995, Greenistan launched a surprise attack in the same year and expelled the Westmontian Navy from the archipelago. Westmont wasn't expecting any attack due to the negotiations. After protesting Greenistan's invasion, the Westmontian Navy launched counterattacks to take the archipelago back a month later, but due to Greenistan's preparations on the archipelago and the advantage provided by the fortifications on the islands, the Westmontian Navy failed to take the archipelago back in this initial attack. Before Westmont launched another attack, the UN Security Council adopted a resolution, calling on both parties to conclude a ceasefire and withdraw to their pre-conflict positions.

Although Greenistan initially resisted the resolution, after the formation of the US-led UN coalition to expel Greenistan from the islands, Greenistan handed over the islands it had conquered during the surprise attack. Westmont regained control of these islands in 1996. Due to the pressure from the UN Security Council, Greenistan and Westmont agreed to bring the dispute before the ICJ. Both states have signed Article 36(2) declarations under the Statute of the ICJ and have agreed to submit the dispute for binding adjudication.

Task:

Final Legal Memo (Due August 2, 5:59pm)

Your law firm was hired by the Government of Greenistan. The partners in your law firm want you to write a memorandum, assessing the elements of the dispute. This memo is critically important for our strategy in the dispute before the Court. In this memo, you must objectively explain the following legal issues.

Your memorandum should be typed, with at least 1-inch margins all around, a typeface of between 11 and 12 points, and between 5-6 pages long (at least 1.5-spaced). You must cite cases in the following format: (State/State, Year). Example: (Indonesia/Malaysia, 2002). You do not need a bibliography. Your memo will be read by partners in your law firm and the lawyers of the Republic of Greenistan. You can use legal language. Remember, we want an objective assessment. We want to avoid misleading our clients by using persuasive language instead of objective language. Be objective! **Please complete your memo and submit it through Canvas by 5:59 p.m. on Saturday, August 3, 2025.**[2]

Initial Assessment (Due July 28)

The law firm has a quick meeting with our clients, the representatives of Greenistan, this Tuesday. **The partners want an initial assessment (case strategy) of the case by 11:59 p.m. on Monday, July 28, 2025.** Please see the additional instructions below for the initial assessment.

The Use of AI & ChatGPT & Late Policy

If you use ChatGPT or other GenAI, you must explain how you used it in your submission comments. Please prepare to produce your chat history about the assignment in case we request to see it. If you use ChatGPT or other GenAI and fail to declare your use, or if you fail to produce your chat history once requested, your failure to declare constitutes cheating and will result in a failing grade. For late submission and appeal policies, see the syllabus.

Legal Issues and Analysis

You should, at least, address the following legal issues in your final memorandum:

- Whether Eastlandia established sovereignty over Westmont and whether the archipelago was under Eastlandia's sovereignty;
- Whether Eastlandian transfer of the title to Northistan was valid and whether it included the archipelago;
- Whether Westmont had established sufficient sovereignty over the archipelago prior to 1925;

[2] All submitted essays will be included as source documents in the Turnitin.com reference database solely for the purpose of detecting plagiarism of such papers.

- Whether Greenistan's conduct in 1925–1927 establishes sovereignty over the entire archipelago or a part of it; and
- Whether Greenistan's use of force to conquer the entire archipelago was legal;
- Whether the 1995 conflict affects the legal status of the islands.

Finally, please assess our chances of winning the dispute before the ICJ. There is no need to discuss whether the ICJ has jurisdiction over the issue. Assume that it does. Analyze these substantive issues.

Legal Memorandum

Legal memoranda are typically produced by lawyers at law firms upon the request of partners and clients, and they are used by them to decide on a course of action. They should be objective. A good memo begins with a statement of issues in the case and a short answer or summary in response to the issues. This is the quick answer to the broader task at hand. Then, a good memo presents the critically important facts of the case, not all facts. A good lawyer finds important facts among the unimportant and irrelevant ones. After the facts, a good memo conducts the legal analysis. The analysis is usually divided into parts. Each part analyzes each issue by presenting the issue, presenting the applicable rule, applying that rule to the facts, and coming to a conclusion about the issue in question. After the analysis of each issue is completed, a good memo concludes the discussion by considering all issue-level conclusions and coming to a probabilistic assessment about our likelihood of winning the case before the court. Again, objectivity is important. If we may not win the case, then use probabilistic language (very likely, likely, hard to predict, unlikely, very unlikely) so that we do not feel overconfident and mislead our client.

- *Header:*

  MEMO

  TO: Senior Partner
  FROM: [your name]
  RE: [name this dispute]
  DATE: [date your text]

- *Issue Statement:* This section is a very brief statement of the core issues in the legal dispute. In this memo, you are asked to analyze multiple issues. Your general issue statement should include all of them. For the relevant issues, see the legal issues above. Your issue statement can state the points the partner sent you, along with the applicable rule(s). Example:

  > The issue here is whether State A acquired the disputed territory through the doctrine of *effectivites* by taking actions X, Y, and Z.

- *Short Answer* or *Summary*: This section is usually the part where you answer each issue with a single sentence and give us an early conclusion.

- *Facts of the Case*: This section should include the facts that you use in your analysis and exclude the ones that are not important for your analysis.
- *Legal Analysis*: This section is the part where you focus on each issue one by one and analyze them. A good analysis first reminds the specific issue being analyzed, then presents the applicable rule, and then applies that rule to the facts to reach a conclusion about the specific issue. (The example below is completely made up. Don't try to put words where the capital letters are.)

  > The issue here is whether State A acquired the disputed territory through the doctrine of *effectivites* by taking actions X, Y, and Z. The doctrine of effectivites applies in the situation of K. It has the following requirements: a, b, and c. In our case, the dispute is a form of K. State A took actions X and Y, which may satisfy the requirements a and b.

- *Conclusion*: After the sub-conclusions about each issue in the legal analysis, the conclusion of the memo considers all important issues and comes to a conclusion about the possible outcome of the case before the court.

Several small tips for a good memo:

- Read the case history carefully. You have already been provided with the list of issues. By examining the events and issues, determine the applicable laws and match them with the relevant facts and circumstances.
- Complete your initial assessment before starting to write the memo.
- First, start with writing an issue statement to make a list to follow in your analysis. Follow the logical order. Some issues are conditional on others. Then, write your legal analysis.
- After your legal analysis is completed, write your conclusion.
- At the very end, summarize your conclusion in the short answer and write the facts of the case by looking at which facts you used in your analysis.

Additional Instructions for Initial Assessment (Case Strategy)

Your initial assessment paper will lay out your initial answer to each legal issue. In this document, please do the following:

- Have at least one sentence response to each issue by stating the applicable rule and the outcome of your initial analysis for each issue.
- Moving from these conclusions, make an initial assessment about the likelihood of winning this case.

Your initial assessment is not a contract. You can change your answer later in the final submission. It aims to get you to start working on the assignment. This submission should be at least a paragraph in length and no more than one page. It is due on Monday, July 28, 2025, at 11.59 pm.

The same instructions regarding submission through Canvas, declaration of AI usage, and other policies outlined in the syllabus apply.

Where to Find the Relevant Caselaw

- Start from the coursebook. The coursebook can give you most, if not all, of the relevant legal principles.
- Do not limit yourself to the coursebook. Proceed to the caselaw of the ICJ. Remember, our case is going to the ICJ. The caselaw of the ICJ and the Permanent Court of Arbitration (PCA) can be useful.
- Do not try to read everything from case histories and archives. Look for case summaries that can help you understand the dispute, states' arguments, and the court's decision.
- Here is a list of cases and the important principles that can be useful for your analysis:
    - Island of Palmas (United States v. Netherlands, 1928), PCA, link
        - Terra nullius, discovery, occupation, inchoate title, effectivites
    - Minquiers and Ecrehos (France v. United Kingdom, 1953), ICJ, link
        - Immemorial possession, effectivites, treaty law (cession)
    - Temple of Preah Vihear (Cambodia v. Thailand, 1962), ICJ, link
        - Effectivites
    - Frontier Dispute (Burkina Faso/Mali, 1986), ICJ, link
        - Uti possidetis
    - Territorial Dispute (Libya/Chad, 1994), ICJ, link
        - Treaty law (cession and border delimitation), uti possidetis
    - Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia, 2002), ICJ, link
        - Effectivites
    - Land and Maritime Boundary (Cameroon v. Nigeria, 2002), ICJ, link
        - Treaty law (cession and border delimitation), uti possidetis
    - Armed Activities on the Territory of the Congo (DRC v. Uganda, 2005), link
        - Conquest, Acquisition of territory by force
- If you need help with researching and interpreting some of the caselaw, please reach out.