

## INTERHANDEL CASE (INTERIM PROTECTION)

Order of 24 October 1957

In the Interhandel case (Switzerland v. the United States of America), the Court found that there was no need to indicate interim measures of protection.

The Interhandel case was brought before the Court by an Application of the Swiss Government of October 2nd, 1957, by which the Court was asked to declare that the Government of the United States was under an obligation to restore to Interhandel, a company entered in the Commercial Register of Basle, its assets which had been vested in the United States as from 1942. On October 3rd, the Swiss Government asked the Court to indicate, as an interim measure of protection, and for as long as the case was pending, that the United States should not part with those assets and, in particular, not sell the shares of the General Aniline and Film Corporation.

The Request for the indication of interim measures of protection was dealt with as a matter of priority. During hearings on October 12th and 24th, the Court heard oral argument by the Parties on the subject. The Court also took cognisance of written statements subsequently presented by the Parties. The decision made by the Court relied upon a statement of October 19th by which the Government of the United States declared that it was not taking action at the present time to fix a time schedule for the sale of the shares in question.

The Government of the United States had contended that the Court had no jurisdiction to deal with the matter of the sale or disposition of the shares. On that point, the Order issued by the Court states that Preliminary Objections are dealt with by applying a procedure other than that which has been provided for requests for the indication of interim measures of protection; if the contention of the United States were maintained, it would fall to be dealt with by the Court in

due course. In this connection, the Order states that this procedure in no way prejudices the jurisdiction of the Court to deal with the merits of the case and leaves unaffected the right of the respondent to submit arguments against such jurisdiction.

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Attached to the Order are:

—a Separate Opinion of Judge Klaestad who considers that the Court has no jurisdiction, in which Opinion President Hackworth and Judge Read concur;

—a Separate Opinion of Judge Sir Hersch Lauterpacht who, while being in agreement with the operative part of the Order also considers that the Court is without jurisdiction;

—a Declaration by Judge Wellington Koo who agrees with the operative part without sharing the reasons upon which it is based, and finally,

—a Declaration by Judge Kojevnikov who is unable to agree with the Order.

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On October 24th, 1957, the Court also issued an Order fixing time limits for the presentation of the Memorial of the Swiss Government on the merits and for the presentation of the Counter-Memorial or any Preliminary Objections of the Government of the United States. The rest of the procedure is reserved for further decision.