International Law and International Relations

Edited by Beth A. Simmons
and Richard H. Steinberg

CAMBRIDGE www.cambridge.org/9780521861861

a democratic polity, can be seen as a creative enterprise through which the parties not only weigh the benefits and burdens of commitment but explore, redefine, and sometimes discover their interests. It is at its best a learning process in which not only national positions but also conceptions of national interest evolve.

This process goes on both within each state and at the international level. In a state with a well-developed bureaucracy, the elaboration of national positions in preparation for treaty negotiations requires extensive interagency vetting. Different officials with different responsibilities and objectives engage in what amounts to a sustained internal negotiation. The process can be seen in every major U.S. international negotiation. For example, at the end of what Ambassador Richard Benedick calls "the interagency minuet" in preparation for the Vienna Convention for the Protection of the Ozone Layer, the final U.S. position "was drafted by the State Department and was formally cleared by the Departments of Commerce and Energy, The Council on Environmental Quality, EPA [Environmental Protection Agency], NASA, NOAA [National Oceanographic and Atmospheric Administration], OMB [Office of Management and Budget], USTR [U.S. Trade Representative], and the Domestic Policy Council (representing all other interested agencies)."[9] In addition to this formidable alphabet soup, White House units, like the Office of Science and Technology Policy, the Office of Policy Development, and the Council of Economic Advisers, also got into the act. According to Trimble, "each agency has a distinctive perspective from which it views the process and which influences the position it advocates.... All these interests must be accommodated, compromised or overriden by the President before a position can even be put on the table."[10]

In the United States in recent years, increasing involvement of Congress and with it nongovernmental organizations (NGOs) and the broader public has introduced a new range of interests that must ultimately be reflected in the national position.[11] Similar developments seem to be occurring in other democratic countries.

[9] Richard Benedick, *Ozone Diplomacy: New Directions in Safeguarding the Planet* (Cambridge, Mass: Harvard University Press, 1991), pp. 51–53. Other states, at least in advanced industrialized societies, exhibit similar, if perhaps not quite as baroque, internal practices in preparation for negotiations. Developing countries, with small resources to commit to bureaucratic coordination, may rely more on the judgment and inspiration of representatives on the scene.

[10] Trimble, "Arms Control and International Negotiation Theory," p. 550.

[11] See Benedick, *Ozone Diplomacy*, p. 57; Robert O. Keohane and Joseph S. Nye, *Power and Interdependence*, 2d ed. (Glenview, Ill.: Scott, Foresman, 1989). p. 35.

In contrast to day-to-day foreign policy decision making that is oriented toward current political exigencies and imminent deadlines and is focused heavily on short-term costs and benefits, the more deliberate process employed in treaty making may serve to identify and reinforce longer range interests and values. Officials engaged in developing the negotiating position often have an additional reason to take a long-range view, since they may have operational responsibility under any agreement that is reached.[12] What they say and how they conduct themselves at the negotiating table may return to haunt them once the treaty has gone into effect. Moreover, they are likely to attach considerable importance to the development of governing norms that will operate predictably when applied to the behavior of the parties over time. All these convergent elements tend to influence national positions in the direction of broad-based conceptions of the national interest that, if adequately reflected in the treaty, will help to induce compliance.

The internal analysis, negotiation, and calculation of the benefits, burdens, and impacts are repeated, for contemporary regulatory treaties, at the international level.[13] In anticipation of negotiations, the issues are reviewed in international forums long before formal negotiation begins. The negotiating process itself characteristically involves intergovernmental debate often lasting years and involving not only other national governments but also international bureaucracies and NGOs. The most notable case is the UN Conference on the Law of the Sea, in which that process lasted for more than ten years, spawning innumerable committees, subcommittees, and working groups, only to be torpedoed in the end by the United States, which had sponsored the negotiations in the first place.[14] Current environmental negotiations on ozone and on global warming follow very much the Law of the Sea pattern. The first conference on

[12] Hudec uses the examples of the General Agreement on Tariffs and Trade (GATT) and the International Trade Organization (ITO): "For the better part of the first decade, GATT meetings resembled a reunion of the GATT/ITO draftsmen themselves. Failure of the code would have meant a personal failure to many of these officials, and violation of rules they had helped to write could not help being personally embarrassing." See p. 1365 of Robert E. Hudec, "GATT or GABB? The Future Design of the General Agreement of Tariffs and Trade," *Yale Law Journal* 80 (June 1971), pp. 1299–386. See also Robert E. Hudec, *The GATT Legal System and World Trade Diplomacy*, 2d ed. (Salem, N. H.: Butterworth Legal Publishers, 1990), p. 54.

[13] Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42 (Summer 1988), pp. 427–60.

[14] See James K. Sebenius, *Negotiating the Law of the Sea* (Cambridge, Mass.: Harvard University Press, 1984); and William Wertenbaker, "The Law of the Sea," parts 1 and 2, *The New Yorker*, 1 August 1983, pp. 38–65, and 8 August 1983, pp. 56–83, respectively.

stratospheric ozone was convoked by the UN Environment Program (UNEP) in 1977, eight years before the adoption of the Vienna Convention on the Protection of the Ozone Layer.[15] The formal beginning of the climate change negotiations in February 1991 was preceded by two years of work by the Intergovernmental Panel on Climate Change, convened by the World Meteorological Organization and the UNEP to consider scientific, technological, and policy response questions.[16]

Much of this negotiating activity is open to some form of public scrutiny, triggering repeated rounds of national bureaucratic and political review and revision of tentative accommodations among affected interests. The treaty as finally signed and presented for ratification is therefore likely to be based on considered and well-developed conceptions of national interest that have themselves been shaped to some extent by the preparatory and negotiating process.

Treaty making is not purely consensual, of course. Negotiations are heavily affected by the structure of the international system, in which some states are much more powerful than others. As noted, the Convention of the Law of the Sea, the product of more than a decade of international negotiations, was ultimately derailed when a new U.S. administration found it unacceptable. On the other hand, a multilateral negotiating forum provides opportunities for weaker states to form coalitions and exploit blocking positions. In the same UN Conference on the Law of the Sea, the caucus of what were known as "land-locked and geographically disadvantaged states," which included such unlikely colleagues as Hungary, Switzerland, Austria, Uganda, Nepal, and Bolivia, had a crucial strategic position. The Association of Small Island States, chaired by Vanuatu, played a similar role in the global climate negotiations. Like domestic legislation, the international treaty-making process leaves a good deal of room for accommodating divergent interests. In such a setting, not even the strongest state will be able to achieve all of its objectives, and some participants may have to settle for much less. The treaty is necessarily a compromise, "a bargain that

[15] As early as 1975, the UNEP funded a World Meteorological Organization (WMO) technical conference on implications of U.S. ozone layer research. But the immediate precursor of the negotiating conference in Vienna came in March 1977, when the UNEP sponsored a policy meeting of governments and international agencies in Washington, D.C., that drafted a "World Plan of Action on the Ozone Layer." See Benedick, *Ozone Diplomacy*, p. 40.

[16] The Intergovernmental Panel of Climate Change was set up by the UNEP and WMO after the passage of UN General Assembly Resolution 43/53, A/RES/43/53, 27 January 1989, "Resolution on the Protection of the Global Climate."

[has] been made."[17] From the point of view of the particular interests of any state, the outcome may fall short of the ideal. But if the agreement is well designed, sensible, comprehensible, and with a practical eye to probable patterns of conduct and interaction–compliance problems and enforcement issues are likely to be manageable. If issues of noncompliance and enforcement are endemic, the real problem is likely to be that the original bargain did not adequately reflect the interests of those that would be living under it, rather than mere disobedience.[18]

It is true that a state's incentives at the treaty-negotiating stage may be different from those it faces when the time for compliance rolls around. Parties on the giving end of the compromise, especially, might have reason to seek to escape the obligations they have undertaken. Nevertheless, the very act of making commitments embodied in an international agreement changes the calculus at the compliance stage, if only because it generates expectations of compliance in others that must enter into the equation.

Moreover, although states may know they can violate their treaty commitments in a crunch, they do not negotiate agreements with the idea that they can do so in routine situations. Thus, the shape of the substantive bargain will itself be affected by the parties' estimates of the costs and risks of their own compliance and expectations about the compliance of others. Essential parties may be unwilling to accept or impose stringent regulations if the prospects for compliance are doubtful. The negotiation will not necessarily collapse on that account, however. The result may be a looser, more general engagement. Such an outcome is often deprecated as a lowest-common-denominator outcome, with what is really important left on the cutting room floor. But it may be the beginning of increasingly serious and concerted attention to the problem.

Finally, the treaty that comes into force does not remain static and unchanging. Treaties that last must be able to adapt to inevitable changes in the economic, technological, social, and political setting. Treaties may be formally amended, of course, or modified by the addition of a protocol, but these methods are slow and cumbersome. Since they are subject to the same ratification process as the original treaty, they can be blocked or

[17] Susan Strange, "Cave! Hic Dragones: A Critique of Regime Analysis," in Stephen D. Krasner, ed., *International Regimes* (Ithaca, N.Y.: Cornell University Press, 1983), pp. 337–54; at 353.

[18] Systems in which compliance can only be achieved through extensive use of coercion are rightly regarded as authoritarian and unjust. See Michael Barkun, *Law Without Sanctions: Order in Primitive Societies and the World Community* (New Haven, Conn.: Yale University Press, 1968), p. 62.

avoided by a dissatisfied party. As a result, treaty lawyers have devised a number of ways to deal with the problem of adaptation without seeking formal amendment. The simplest is the device of vesting the power to "interpret" the agreement in some organ established by the treaty. The U.S. Constitution, after all, has kept up with the times not primarily by the amending process but by the Supreme Court's interpretation of its broad clauses. The International Monetary Fund (IMF) Agreement gives such power to the Governing Board, and numerous key questions including the crucial issue of "conditionality," whether drawings against the fund's resources may be conditioned on the economic performance of the drawing member have been resolved by this means.[19]

A number of treaties establish authority to make regulations on technical matters by vote of the parties (usually by a special majority), which are then binding on all, though often with the right to opt out. The International Civil Aeronautics Organization has such power with respect to operational and safety matters in international air transport.[20] In many regulatory treaties, "technical" matters may be relegated to an annex that can be altered by vote of the parties.[21] In sum, treaties characteristically contain self-adjusting mechanisms by which, over a significant range, they can be and in practice are commonly adapted to respond to shifting interests of the parties.

NORMS

Treaties are acknowledged to be legally binding on the states that ratify them.[22] In common experience, people, whether as a result of socialization

[19] Articles of Agreement of the IMF, 27 December 1945, as amended, Article 8, sec. 5, in *United Nations Treaty Series (UNTS),* vol. 2, Treaty no. 20 (New York: United Nations, 1947), p. 39. For the conditionality decision, see decision no. 102-(52/11) 13 February 1952, "Selected Decisions of the Executive Directors and Selected Documents," p. 16.

[20] Convention on International Civil Aviation, 7 December 1944, Article 90, in UNTS, vol. 15, Treaty no. 102, 1948, p. 295.

[21] Montreal Protocol on Substances that Deplete the Ozone Layer, in *International Legal Materials,* vol. 26, 1987, p. 1541, Article 2(9) (signed 16 September 1987 and entered into force 1 January 1989; hereafter cited as Montreal Protocol) as amended, London Adjustment and Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer, in *International Legal Materials,* vol. 30, 1991, p. 537 (signed 29 June 1990 and entered into force 7 March 1991; hereafter cited as London Amendments).

[22] The Vienna Convention on the Law of Treaties, signed 23 May 1969 (entered into force on 27 January 1980), Article 2(1)(a), states that "'treaty' means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation." See UN Doc. A/CONF. 39/27.

or otherwise, accept that they are obligated to obey the law. So it is with states. It is often said that the fundamental norm of international law is *pacta sunt servanda* (treaties are to be obeyed).[23] In the United States and many other countries, they become a part of the law of the land. Thus, a provision contained in an agreement to which a state has formally assented entails a legal obligation to obey and is presumptively a guide to action.

This proposition is deeply ingrained in common understanding and often reflected in the speech of national leaders. Yet the realist argument that national actions are governed entirely by calculation of interests (including the interest in stability and predictability served by a system of rules) is essentially a denial of the operation of normative obligation in international affairs. This position has held the field for some time in mainstream international relations theory (as have closely related postulates in other positivist social science disciplines).[24] But it is increasingly being challenged by a growing body of empirical study and academic analysis.

Such scholars as Elinor Ostrom and Robert Ellickson show how relatively small communities in contained circumstances generate and secure compliance with norms, even without the intervention of a supervening sovereign authority.[25] Others, like Frederick Schauer and Friedrich Kratochwil, analyze how norms operate in decision-making processes, whether as "reasons for action" or in defining the methods and terms of discourse.[26] Even Jon Elster says "I have come to believe that social norms provide an important kind of motivation for action that is irreducible to rationality or indeed to any other form of optimizing mechanism."[27]

[23] The Vienna Convention on the Law of Treaties, Article 26, specifies that "every treaty in force is binding upon the parties to it and must be performed in good faith." See also chap. 30 of Arnold Duncan McNair, *The Law of Treaties* (Oxford: Clarendon Press, 1961), pp. 493–505.

[24] William Eskridge, Jr., and G. Peller, "The New Public Law: Moderation as a Postmodern Cultural Form," *Michigan Law Review* 89 (February 1991), pp. 707–91.

[25] See Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990): and Robert C. Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Cambridge, Mass.: Harvard University Press, 1991).

[26] See Frederick F. Schauer, *Playing by the Rules: A Philosophical Examination of Rule-based Decision-making in Law and Life* (Oxford: Clarendon Press, 1991): Kratochwil, *Rules, Norms and Decisions;* and Sally Falk Moore, *Law as Process* (London: Routledge & Kegan Paul, 1978).

[27] Jon Elster, *The Cement of Society: A Study of Social Order* (Cambridge: Cambridge University Press, 1989), p. 15. See also Margaret Levi, Karen S. Cook, Jodi A. O'Brien, and Howard Fay, "Introduction: The Limits of Rationality," in Cook and Levi, *The Limits of Rationality*, pp. 1–16.

The strongest circumstantial evidence for the sense of an obligation to comply with treaties is the care that states take in negotiating and entering into them. It is not conceivable that foreign ministries and government leaders could devote time and energy on the scale they do to preparing, drafting, negotiating, and monitoring treaty obligations unless there is an assumption that entering into a treaty commitment ought to and does constrain the state's own freedom of action and an expectation that the other parties to the agreement will feel similarly constrained. The care devoted to fashioning a treaty provision no doubt reflects the desire to limit the state's own commitment as much as to make evasion by others more difficult. In either case, the enterprise makes sense only on the assumption that, as a general rule, states acknowledge an obligation to comply with agreements they have signed. In the United States and other Western countries, the principle that the exercise of governmental power in general is subject to law lends additional force to an ethos of national compliance with international undertakings.[28] And, of course, appeals to legal obligations are a staple of foreign policy debate and of the continuous critique and defense of foreign policy actions that account for so much of diplomatic interchange and international political commentary.

All this argues that states, like other subjects of legal rules, operate under a sense of obligation to conform their conduct to governing norms.

VARIETIES OF NONCOMPLYING BEHAVIOR

If the state's decision whether or not to comply with a treaty is the result of a calculation of costs and benefits, as the realists assert, the implication is that noncompliance is the premeditated and deliberate violation of a treaty obligation. Our background assumption does not exclude that such decisions may occur from time to time, especially when the circumstances underlying the original bargain have changed significantly.[29] Or, as in the

[28] It is not clear, however, that democracies are more law-abiding. See Diggs v. Shultz, 470 F. 2d 461 (D.C. Cir. 1972): "Under our constitutional scheme, Congress can denounce treaties if it sees fit to do so, and there is nothing the other branches of the government can do about it. We consider that is precisely what Congress has done in this case" (pp. 466–67).

[29] International law recognizes a limited scope for abrogation of an agreement in such a case. See the Vienna Convention on the Law of Treaties, Article 62. Generally, however, the possibility of change is accommodated by provisions for amendment, authoritative interpretation, or even withdrawal from the agreement. See, for example, the withdrawal provision of the ABM Treaty, Article 25(2), or the Limited Test Ban Treaty, Article 4. None of these actions poses an issue of violation of legal obligations, though they may weaken the regime of which the treaty is a part.

area of international human rights, it may happen that a state will enter into an international agreement to appease a domestic or international constituency but have little intention of carrying it out. A passing familiarity with foreign affairs, however, suggests that only infrequently does a treaty violation fall into the category of a willful flouting of legal obligation.[30]

At the same time, general observation as well as detailed studies often reveal what appear or are alleged to be significant departures from established treaty norms. If these are not deliberate violations, what explains this behavior? We discuss three circumstances, infrequently recognized in discussions of compliance, that in our view often lie at the root of behavior that may seem prima facie to violate treaty requirements: (1) ambiguity and indeterminacy of treaty language, (2) limitations on the capacity of parties to carry out their undertakings, and (3) the temporal dimension of the social and economic changes contemplated by regulatory treaties.

These factors might be considered "causes" of noncompliance. But from a lawyer's perspective, it is illuminating to think of them as "defenses" – matters put forth to excuse or justify or extenuate a prima facie case of breach. A defense, like all other issues of compliance, is subject to the overriding obligation of good faith in the performance of treaty obligations.[31]

AMBIGUITY

Treaties, like other canonical statements of legal rules, frequently do not provide determinate answers to specific disputed questions. Language often is unable to capture meaning with precision. Treaty drafters do not foresee many of the possible applications, let alone their contextual settings. Issues that are foreseen often cannot be resolved at the time of treaty negotiation and are swept under the rug.

Economic, technological, scientific, and even political circumstances change. All these inescapable incidents of the effort to formulate rules to

[30] Keohane surveyed two hundred years of U.S. foreign relations history and identified only forty "theoretically interesting" cases of "inconvenient" commitments in which there was a serious issue of whether or not to comply. See the chapter entitled "Commitments and Compromise," in Robert O. Keohane, "The Impact of Commitments on American Foreign Policy," manuscript, 1993, pp. 1–49.

[31] See Vienna Convention on the Law of Treaties, Article 26; Lassa Oppenheim, *International Law: A Treatise,* 8th ed., ed. H. Lauterpacht (London: Longmans, 1955), p. 956; and McNair, *The Law of Treaties*, p. 465.

govern future conduct frequently produce a zone of ambiguity within which it is difficult to say with precision what is permitted and what is forbidden.

Of course, treaty language, like other legal language, comes in varying degrees of specificity. The broader and more general the language, the wider the ambit of permissible interpretations to which it gives rise. Yet there are frequently reasons for choosing a more general formulation of the obligation: the political consensus may not support more precision, or, as with certain provisions of the U.S. Constitution, it may be wiser to define a general direction, to try to inform a process, rather than seek to foresee in detail the circumstances in which the words will be brought to bear. If there is some confidence in those who are to apply the rules, a broader standard defining the general policy behind the law may be more effective in realizing it than a series of detailed regulations. The North Atlantic Treaty has proved remarkably durable, though its language is remarkably general: "In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack."[32]

Detail also has its difficulties. As in the U.S. Internal Revenue Code, precision generates loopholes, necessitating some procedure for continuous revision and authoritative interpretation. The complexities of the rule system may give rise to shortcuts that reduce inefficiencies when things are going well but may lead to friction when the political atmosphere darkens.

In short, there will often be a considerable range within which parties may reasonably adopt differing positions as to the meaning of the obligation. In domestic legal systems, courts or other authoritative institutions are empowered to resolve such disputes about meaning. The international legal system can provide tribunals to settle such questions if the parties consent. But compulsory means of authoritative dispute resolution by adjudication or otherwise are not generally available at the international level.[33] Moreover, the issue of interpretation may not arise in the context of an adversarial two-party dispute. In such cases, it

[32] North Atlantic Treaty, Article 3, 63 stat. 2241, in UNTS, vol. 34, no. 541, 1949, p. 243.

[33] Abram Chayes and Antonia Handler Chayes, "Compliance Without Enforcement: State Behavior Under Regulatory Treaties," *Negotiation Journal* 7 (July 1991), pp. 311–31. See also Louis B. Sohn, "Peaceful Settlement of Disputes in Ocean Conflicts: Does UN Clause 3 Point the Way?" *Law and Contemporary Problems* 46 (Spring 1983), pp. 195–200.

remains open to a state, in the absence of bad faith, to maintain its position and try to convince the others.

In many such disputes, a consensus may exist or emerge among knowledgeable professionals about the legal rights and wrongs.[34] In many others, however, the issue will remain contestable. Although one party may charge another with violation and deploy legions of international lawyers in its support, a detached observer often cannot readily conclude that there is indeed a case of noncompliance. In fact, it can be argued that if there is no authoritative arbiter (and even sometimes when there is), discourse among the parties, often in the hearing of a wider public audience, is an important way of clarifying the meaning of the rules.

In the face of treaty norms that are indeterminate over a considerable range, even conscientious legal advice may not avoid issues of compliance. At the extreme, a state may consciously seek to discover the limits of its obligation by testing its treaty partners' responses.

Justice Oliver Wendell Holmes said, "The very meaning of a line in the law is that you intentionally may come as close to it as you can if you do not pass it."[35] Perhaps a more usual way of operating in the zone of ambiguity is to design the activity to comply with the letter of the obligation, leaving others to argue about the spirit. The General Agreement on Tariffs and Trade (GATT) prohibits a party from imposing quotas on imports. When Japanese exports of steel to the United States generated pressures from U.S. domestic producers that the Nixon administration could no longer contain, U.S. trade lawyers invented the "voluntary restraint agreement," under which private Japanese producers agreed to limit their U.S. sales.[36] The United States imposed no official quota, although the Japanese producers might well have anticipated some such action had they not "volunteered." Did the arrangement violate GATT obligations?

Questions of compliance with treaty obligations ordinarily arise as [incidental obstacles] to objectives that decisionmakers regard as important.[37] Lawyers may be consulted or may intervene. Decisions about how the desired program is to be carried out emerge from a complex interaction of legal and policy analysis that generates its own subrules and

[34] Oscar Schachter, "The Invisible College of International Lawyers," *Northwestern University Law Review*, vol. 72, no. 2, 1977, pp. 217–26.

[35] Superior Oil Co. v. Mississippi, 280 U.S. 390 (1920), p. 395.

[36] Consumers Union v. Kissinger, 506 F. 2d 136 (D.C. Cir. 1974).

[37] Chayes and Chayes, "Living Under a Treaty Regime," pp. 197 and 200.

precedents. The process parallels that in a classic U.S. bureaucracy or corporation.

Even in the stark, high politics of the Cuban Missile Crisis, State Department lawyers argued that the United States could not lawfully react unilaterally, since the Soviet emplacement of missiles in Cuba did not amount to an "armed attack" sufficient to trigger the right of self-defense in Article 51 of the UN Charter. Use of force in response to the missiles would only be lawful if approved by the Organization of American States (OAS). Though it would be foolish to contend that the legal position determined President John Kennedy's decision, there is little doubt that the asserted need for advance OAS authorization for any use of force contributed to the mosaic of argumentation that led to the decision to respond initially by means of the quarantine rather than an air strike. Robert Kennedy said later, "It was the vote of the Organization of American States that gave a legal basis for the quarantine . . . and changed our position from that of an outlaw acting in violation of international law into a country acting in accordance with twenty allies legally protecting their position."[38] This was the advice he had heard from his lawyers, and it was a thoroughly defensible position. Nevertheless, many international lawyers in the United States and elsewhere disagreed because they thought the action was inconsistent with the UN Charter.[39]

CAPABILITY

According to classical international law, legal rights and obligations run among states and is an undertaking by them as to their future conduct. The object of the agreement is to affect state behavior. This simple relationship between agreement and relevant behavior continues to exist for many treaties. The LTBT is such a treaty. It prohibits nuclear testing in the atmosphere, in outer space, or underwater. Only states conduct nuclear weapons tests, so only state behavior is implicated in the undertaking. The state, by governing its own actions, without more, determines whether it will comply with the undertaking or not. Moreover, there is no doubt about the state's capacity to do what it has undertaken.

[38] Robert Kennedy, *Thirteen Days* (New York: W. M. Norton, 1971), p. 99. See also Abram Chayes "The Role of Law in the Cuban Missile Crisis."

[39] See, for example, Quincy Wright, "The Cuban Quarantine," *American Journal of International Law* 57 (July 1963), pp. 546–65; James S. Campbell, "The Cuban Crisis and the UN Charter: An Analysis of the United States Position" *Stanford Law Review* 16 (December 1963), pp. 160–76; and William L. Standard, "The United States Quarantine of Cuba and the Rule of Law," *American Bar Association Journal* 49 (August 1963), pp. 744–48.