

2-2-1989

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Recommended Citation

Neagle, John. "U.S. Supreme Court Rules Argentina Cannot Be Sued For Attacking Neutral Oil Tanker In 1982." (1989).
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U.S. Supreme Court Rules Argentina Cannot Be Sued For Attacking Neutral Oil Tanker In 1982

by John Neagle

Category/Department: General

Published: Thursday, February 2, 1989

On Jan. 23, the Supreme Court ruled in a 9-0 decision that Argentina may not be sued in US courts for attacking a neutral oil tanker. The case stems from an attack on the oil tanker Hercules by the Argentine air force on June 8, 1982, when Argentina was at war with Britain over the Malvinas-Falkland Islands. The ship was 600 miles from the Argentine coast and nearly 500 miles from the islands. The Hercules was owned by United Carriers Inc. and chartered by Amerada Hess Shipping Corp. to carry oil from Alaska around the southern tip of South America to a refinery in the US Virgin Islands. Both companies are Liberian corporations. The ship was attacked despite a US alert to both parties in the conflict that it was among neutral vessels traveling in the South Atlantic. The badly damaged tanker made it to port in Rio de Janeiro, Brazil. However, officials scuttled the ship on July 20, 1982, because an unexploded bomb was embedded in one of its tanks. United Carriers sued Argentina for \$10 million for the destroyed tanker and Amerada Hess sued for \$2 million in lost cargo. The suit was filed in federal court in New York City after Buenos Aires re-fused to consider the claims. The companies were unable to hire Argentine attorneys to pursue a suit in that nation's courts. After a federal judge dismissed the suit, it was accepted for adjudication in 1987 by the 2nd US Circuit Court of Appeals. The case is Argentine Republic vs. Amerada Hess, 87-1372. The Reagan administration had urged the Supreme Court to dismiss the suit. Chief Justice William H. Rehnquist, writing for the court, said Argentina enjoys immunity from suit under the Foreign Sovereign Immunity Act of 1976. Nothing in the law permits a ship owner to sue over an "injury...on the high seas some 5,000 miles off the nearest shores of the United States," Rehnquist said. He also rejected arguments that treaties between Argentina and the US created an exception to the immunity granted by the law. (Basic data from AFP, AP, 01/23/89)

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