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Labor - Soviet Invasion of Afghanistan - Longshoremen's Boycott - Jurisdiction of National Labor Relations Board - Unlawful Conduct NLRB; International Longshoremen's Association AFL-CIO

acts did not occur in Taiwan. The disclosure was not in Taiwan, and the alleged conspirators were not based in Taiwan. It further noted that Avon's initial attempt to contact Manu occurred in New York and that the alleged false representations were made in London. Next, it concluded that most of the witnesses were not in Taiwan; they spoke English and the documents were in English.

Weighing the public concerns, the court further noted that New York was the defendant's forum.

> It [would be] a perversion of the *forum non conveniens* doctrine to remit a plaintiff, in the name of expediency, to a forum in which, realistically, it will be unable to bring suit when the defendant would not be genuinely prejudiced by having to defend at home in the plaintiff's chosen forum.[3]

Finally, the court thought the need to apply foreign law was not, in itself, a reason to apply the doctrine of forum non conveniens.

LABOR — SOVIET INVASION OF AFGHANISTAN — LONGSHOREMEN'S BOYCOTT —JURISDICTION OF NATIONAL LABOR RELATIONS BOARD — UNLAWFUL CONDUCT — *NLRB; International Longshoremen's Association, AFL-CIO*, 257 N.L.R.B. No. 151 (Aug. 28, 1981).

In response to the Soviet invasion of Afghanistan, the International Longshoremen's Association (ILA) issued an order suspending the handling of cargo destined for or originating from the Soviet Union. This action was instituted by businesses challenging the lawfulness of ILA's suspension order. The administrative law judge (ALJ) determined that the ILA's act was not within the National Labor Relations Board's (NLRB) jurisdiction. The ALJ, interpreting Supreme Court decisions, concluded that the Board's jurisdiction was limited when the disputed conduct interfered with the maritime operations of foreign vessels.

In this appeal, the NLRB concluded that it possessed jurisdiction to entertain a challenge to the legality of a labor union's actions in the absence of an express jurisdictional bar from the Supreme Court. The

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3. *Id.* at 67.

NLRB further noted that Congress intended the Board to formulate a uniform national labor policy, and by limiting its jurisdiction, third parties adversely affected by the ILA's order would seek state remedies.

Turning to its contention that the ILA order violated section 8(b)(4) of the National Labor Relations Act,[1] which proscribes economic pressure on neutral third parties, the Board argued that the ILA's sole dispute was with the USSR, notwithstanding the fact that the complaining companies had suffered substantial cessation of business. The NLRB found that the ILA was attempting to pressure the USSR through those parties doing business with it, "the very tactic [section] 8(b)(4) was enacted to prohibit."[2]

The NLRB distinguished *Winward Shipping v. American Radio Association, AFL-CIO*[3] and *American Radio Association, AFL-CIO v. Mobile Steamship Association*[4] by reasoning that they prohibited intrusions by the NLRB into activity that primarily involved foreign maritime relations. The Board supported their conclusion by pointing out that none of ILA's activities were undertaken directly against the USSR.

In a dissent, Board member Jenkins would have affirmed the dismissal of the complaint under the analysis of the administrative law judge.

1. National Labor Relations Act, 29 U.S.C. §§ 151-168 (1973 & Supp. III 1979).
2. Int'l Longshoremen's Ass'n, AFL-CIO, 257 N.L.R.B. No. 151 (Aug. 31, 1981).
3. 415 U.S. 104 (1974).
4. 419 U.S. 215 (1974).