INTERNATIONAL CONcessions, a problem of
INTERNATIONAL ECONOMIC LAW

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Before this war one would at intervals read in the newspapers something about concessions. State A had granted a concession to a national of State X, or to a foreign company. Or State B had cancelled previously granted concessions. Or State C and D had agreed to settle their dispute over some concessions by referring it to arbitration. But when one tried to find out what it all meant, one was at a loss. Text-books on economics may mention concessions as a means of production but the definition provided and the effects studied are purely of an economic character. Text-books on administrative law (in countries where it exists) take the trouble to investigate the legal character of concessions. But definition and effects are peculiar to municipal law and even in a more restricted way, are peculiar to the municipal law of one particular country, and are to help whatever in the international field. However, they have the advantage of showing the legal side of the problem next to the economic one. As to text-books in international law, they may mention concessions in relation with change of sovereignty (so-called state succession) or in connection with the much debated rules on confiscation of property. They contain, however, no definition but for a vague »concessions-contracts« in some american writers, nor explanation of an economic and legal phenomenon which has such influence and such effects on international relations of all kind.

Concessions are of that class of economic phenomenons which need a legal background to be born in, grow and prosper and finally to end. Their very existence depends on legal conditions and they cannot disappear without the accomplishment of other legal conditions, the disregard of which may bring about uncalculable trouble. The legal background may be national or international or both.

In this paper I intend to study international concessions, that is to say, concessions granted by a state to the national(s) (indi-
viduals or corporations) of another state. These may be called
»foreign concessions«, but the word »foreign« does not bring to
light an all important element which the word »international«
conveys. International concessions have a distinctive international
background and the influence of international law on their existence
is all pervading. The bare fact that a concession is granted to a
foreigner implies already a whole set of rules of international law
on the relations between the granting state and the state of which
the concessionnaire is a national.

It implies general or special treaties as to the treatment of each
others nationals, capital, raw materials and so on. It may imply
general or special arbitration treaties or clauses providing for the
settlement of disputes arising between them. These states may also
have signed or taken part in multilateral treaties such as the Hague
Conventions or general postal and telegraphic conventions. When
there are no such treaties, one must however assume that all the
customary rules of international law are applicable to the case, spe-
cially those on the protection of citizens abroad, state responsi-
bility, state succession, the pacific settlement of disputes and so on.

In addition to these are to be pointed out a certain number of
treaties and international agreements on concessions.

First of all agreements between to or several states on mutual
support in obtaining concessions from a third state.¹)

Other treaties or agreements contain a direct granting of one or
several concessions by one state to another or to the nationals of
another state.²)

¹) For example: Agreement signed on December 13, 1906 between France,
Great-Britain and Italy, with a view of obtaining agricultural, trading
or industrial concessions from the Emperor of Abyssinia. (M.N.R.G.
3rd série V. p. 734). Agreement between France and Great-Britain on
Rumanian oil concessions, signed at San-Remo on April 24, 1920 (M.N.
R.G. 3rd série XII. p. 579). Agreement on Anatolia between Great-
Britain, France and Italy reserving some coal mines to Italy, signed at

²) For instance: The Dickinson-Brian treaty of June 21, 1867 by which
Nicaragua granted to the United States the right of transit between the
Atlantic and Pacific Oceans by any route of communication whether
natural or artificial (Moore, Int.Arb.III, p. 184). The French-Chinese
agreement of November 16, 1898, by which France obtained the Kouang-
Tcheou-Wan territory for a period of 99 years as well as the right to
establish a railway, a coal depot at On-Pou on the gulf of Tonkin and
the exclusive right to work mine in Kao-Tcheou, Loui-Tcheou, King-
Tcheou etc. (See the French Livre Jaune 1898—1900). The Treaty of
Addis-abeba of May 15, 1902, by which Great-Britain was granted the