

Arbitration Assignment

Suppose the Marshall Islands Government wanted to reassert its claim over Wake Island (Enen-kio) based on its traditional and historic use of the island. How should the arbitration board be set up? After reviewing the material above and in earlier sections, prepare arguments for the following competing perspectives:

A. Now that the Trust has been terminated and the Compact is in place, the Marshall Islands Government has the power and authority to assert a claim for territorial possession of Wake (Enen-kio). This claim lay dormant during the period the Marshalls were occupied by foreign powers (1885-1986), and now can be reasserted.

B. The United States claim to sovereignty over Wake (Enen-kio) is well founded in international law and cannot now be questioned by the Marshall Islands or any other country.

Additional Questions

(1) How effective will the Conference and Dispute Resolution Procedures be at actually resolving disputes? When is the decision of the arbitration board binding?

(2) Can a party to the dispute who is not satisfied with the decision of the arbitration board appeal its case to the International Court of Justice or any other court? What are the other alternatives?

(3) Are nonbinding arbitral decisions useful? Are they enforceable? What effect would they have on an on-going dispute?