



THIRD NUALS NATIONAL MOOT COURT COMPETITION

ON

MARITIME LAW

February 26 – 28, 2016

NUALS Campus, Kalamassery

MOOT PROPOSITION

Adriatic sea is bordered by independent and sovereign states Borduria, Amalea, Reverentia and Alopia. The straits of Turmeria and Aresia are the only points of entry into the Adriatic which is otherwise surrounded by the said States on all four sides. Strait of Turmeria passes through the city of Eqbool the capital of State Amalea, further leading to the Sea of Garia which in turn opened to the Atlantic Ocean. Strait of Aressia lay on the other side of the Adriatic sea opposite to straitof Turmeria and leads to the Blue Sea and to the Port of Sevastapol which is the main naval base of State Akeria which is a naval power.

Recent explorations on the sea bed of the Adratic had revealed extensive deposits of natural gas and poly metallic nodules. Being a technology rich state Republic of Borduria had been in the forefront of the marine exploration and had expended considerable revenue on such efforts.

Private Corporations in the State of Borduria were also permitted to undertake explorations in the Adriatic and were promised exclusive user rights spanning 100 years. There existed a deep gorge along the entire length of the coast of State of Borduria which cut off the submerged areas of its land mass from the sea bed of the Adriatic. Extensive continental shelf claims were put forth by Republic of Borduria reasoning that under-water areas adjacent to its coast are the natural prolongations of its land mass. Movable vessel rigs were erected by State Borduria on the continental shelf and oil drilling was commenced.

The discovery of poly metallic nodules in the sea bed of the Adriatic had spurred the interest of the entrepreneurs in State of Reverentia and at their instance a consortium 'THE ENTERPRISE' was floated by Reverentia. Reverentia had the narrowest coast line to the Adriatic and eager to exploit the manganese nodules in the sea bed, Reverentia through the consortium commenced construction of a string of artificial islands on the Adriatic. Works of three islands were completed and of four were underway.

Republic of Amalea which is situated on the northern side of the Adriatic is a less developed state with very limited marine scientific & technological resources at its disposal. Citizens of Amalea primarily relied on the living resources of the Adriatic for their livelihood and the Adriatic squid endemic to the area which has its habitat in the deep sea, has been their primary source of food for citizens of Amalea. They also relied on the Deep blue Marlin fishing which was a fish belonging to the anadromous specie largely exported from State Amalea. A major portion of Deep blue Marlin's

life cycle was spent on the submarine portions of the sea along the continental shelf of State Borduria.

Combined activities of Borduria and Reverentia had a deep impact on the living resources of the Adriatic which in turn affected the lives of citizens of Amalea. The life cycle of the Adriatic squids were detrimentally affected leading to substantial fall in its harvest. Fishing was no longer profitable and large number of fishing boats and skiffs lay redundant. Depletion of living resources from the Adriatic lead to starvation and famine along the coast of Amalea. Law and order collapsed and the residents along the coast of Amalea eager to earn a living turned to plundering and pillaging vessels plying along the coast. Apathy of government lead the people to revolt and overturn the government of Amalea. A military junta under Gen. Exparansa seized power. His Government though was recognized by Alopia was not approved by Borduria & Reverentia who termed him as an usurper with no support of his people. Immediately on taking over Gen. Exparansa, declared Strait of Turmeria to be the internal waters of Amalea and demanded that all vessels passing through the strait ought to obtain prior permission from Amalea for passage and that a stipulated fee should be remitted for using the services of the strait. Under Gen. Exparansa Amalea also claimed an exclusive Economic Zone up to 400 nautical miles from the Adriatic Coast. The area thus claimed as EEZ overlapped the portions of the Adriatic sea wherein Reverentia was constructing artificial islands and also those waters above the Continental shelf claimed by Borduria. Activities of both Borduria & Reverentia were objected by Gen. Exparansa and by notification, the

Penal Code of Amalea was extended to the entire EEZ. Amalea also enacted the SUA Act, 2002 purportedly for protecting interest of vessels navigating its coast.

On 1st June, 2015 MV C Pride flying the flag of Zentia which is a flag of convenience, and owned by 'THE ENTERPRISE' carrying among other things private merchandise and equipment owned by Reverentia passed through strait of Turmeria after notifying Amalea. While the passing through the city of Maqbool, the Customs Department of Amalea boarded the vessel claiming to exercise the right to visit. Among the merchandise onboard, the customs detected explosives and detonators used for mining work as part of the construction of artificial islands. Terming the goods carried as contraband and injurious to the interests of Amalea, MV C Pride was detained with its crew and cargo on board was confiscated. Reverentia demanded the immediate release of the vessel and its crew members who were its nationals. Upon the request being turned down by Gen. Exparansa, Reverentia resolved to move the ITLOS seeking prompt release.

In retaliation to the action by Amalea of detaining MV C Pride, Reverentia objected to the presence of the Naval Vessels of Amalea along the security zones of its artificial Islands. One such Naval vessel 'BNS SLING SHOT', which ventured close to an artificial island was intercepted by military personnel of Reverentia in charge of security of the artificial island and was instructed to halt for carrying out a search. BNS SLING SHOT ignored the instructions and was hence pursued by the military personnel on a gun boat. Once on the high seas, there was an exchange of gun fire and

a crew on board BNS SLING SHOT was killed and the military personnel on the gun boat were injured. The injured military personnel were taken to Amalea on board BNS SLING SHOT and once in Amalea, they were arrested and charged under Sec. 3 of the S.U.A. Act, 2002 for murder and commission of other offences under the Act.

Gen. Exparansa vowed to stop the expansionist designs of Borduria and Reverentia and instigated the people to attack vessels flying the flags of these two states while they pass through strait of Eqbool. When a vessel MV H VELOCITY belonging to Akeria was passing through the strait a mob attacked the vessel on boats. They boarded the vessel and damaged the communication gear of the vessel. Private Armed guards on board the vessel intervened and detained three members of the mob, rest of whom escaped. The said three citizens of Amalea were taken to Akeria and tried for acts of piracy against MV H VELOCITY. Amalea objected to the jurisdiction exercised by Akeria and sought for immediate release of its nationals.

Since the affairs in the Adriatic sea were chaotic and detrimentally affecting its interests, Alopia brokered a deal between all the contending parties. It was agreed in a multi lateral agreement that State Borduria, Amalea, Reverentia & Akeria will refer their inter se disputes to arbitration as envisaged under the UNCLOS. The following issues were raised before the Arbitrators:

1. Can Borduria claim continental shelf as presently claimed by them and what would be the maximum extent of its Continental shelf?

2. Whether the construction of artificial islands by the Enterprise is sustainable under international law?
3. Whether the detention of MV C Pride, its crew and confiscation of law by Amalea legally sustainable? If not are they to be compensated?
4. Whether Strait of Turmeria can be termed as the part of Internal waters of Amalea?
5. Whether the extension of Penal Code of Amalea to the EEZ is sustainable under international law?
6. Whether Reverentia can seek prompt release of MV C Pride and its crew?
7. Can the military personnel of Reverentia be tried under the SUA Act, 2002 by Amalea?
8. Can citizens of Amalea be tried by Akeria for the offence of piracy?

