

**The 2005 Philip C. Jessup
International Law Moot Court Competition**

Republic of Appollonia

v.

Kingdom of Raglan

The Case Concerning the Vessel The Mairi Maru

2005 Jessup Problem

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

**BETWEEN THE REPUBLIC OF APPOLLONIA (APPLICANT)
AND THE KINGDOM OF RAGLAN (RESPONDENT)
TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE
THE DIFFERENCES BETWEEN THE TWO STATES
CONCERNING THE VESSEL *THE MAIRI MARU***

jointly notified to the Court on 1 June 2004

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

**ENTRE LA RÉPUBLIQUE D'APPOLLONIA (REQUÉRANT)
ET LE ROYAUME DE RAGLAN (RÉPONDANT)
VISANT À SOUMETTRE À LA COUR INTERNATIONALE DE JUSTICE
LES DIFFÉRENDS QUI OPPOSENT LES DEUX ÉTATS
CONCERNANT LE NAVIRE «*LA MAIRI MARU*»**

notifié conjointement à la Cour le 1^{er} juin 2004

**JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT:**

The Hague, 1 June 2004

On behalf of the Republic of Appollonia and the Kingdom of Raglan, in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour to transmit to you an original of the Special Agreement for Submission to the International Court of Justice of the Differences between the Republic of Appollonia and the Kingdom of Raglan Concerning the Vessel *The Mairi Maru*, signed in Chicago, Illinois, U.S.A., on 15 May 2004.

Ambassador of the Republic of Appollonia
to the Kingdom of The Netherlands

Ambassador of the Kingdom of Raglan
to the Kingdom of The Netherlands

**SPECIAL AGREEMENT
BETWEEN THE REPUBLIC OF APPOLLONIA AND THE KINGDOM OF RAGLAN
FOR SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE
OF THE DIFFERENCES BETWEEN THEM CONCERNING
THE VESSEL *THE MAIRI MARU***

Appollonia and Raglan,

Considering that differences have arisen between them concerning the wreck of the vessel *The Mairi Maru* and other matters;

Recognizing that the Parties concerned have been unable to settle these differences by negotiation;

Desiring further to define the issues to be submitted to the International Court of Justice;

Therefore, Appollonia and Raglan have concluded the following Special Agreement:

Article 1

The Parties submit the questions contained in the Compromis (together with Clarifications to follow) to the International Court of Justice pursuant to Article 40(1) of the Statute of the Court.

Article 2

(a) The Court is requested to decide the Case on the basis of the rules and principles of general international law, as well as any applicable treaties.

(b) The Court is also requested to determine the legal consequences, including the rights and obligations of the Parties, arising from its judgment on the questions presented in the Case.

Article 3

(a) All questions of procedure and rules shall be regulated in accordance with the provisions of the Official Rules of the 2005 Philip C. Jessup International Law Moot Court Competition.

(b) The Parties request the Court to order that the written proceedings should consist

of Memorials presented by each of the parties not later than 17 January 2005.

Article 4

(a) The Parties shall accept any Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.

(b) Immediately after the transmission of any Judgment, the Parties shall enter into negotiations on the modalities for its execution.

In witness whereof, the undersigned, being duly authorized to do so, have signed the present Special Agreement and have affixed thereto their respective seals of office.

Done in Chicago, Illinois, U.S.A., this 15th day of May 2004, in triplicate in the English language.

Special Representative of
the Republic of Appollonia

Special Representative of
the Kingdom of Raglan

THE 2005 PHILIP C. JESSUP INTERNATIONAL LAW MOOT COURT COMPETITION

****COMPROMIS****

THE REPUBLIC OF APPOLLONIA V. THE KINGDOM OF RAGLAN

**THE CASE CONCERNING THE
VESSEL *THE MAIRI MARU***

1. The Republic of Appollonia (Applicant in this matter) is a small, technologically-advanced, coastal nation. The Democratic Republic of Maguffin (not a party to this case) is a large, developed island nation located about 1440 kilometers off the coast of Appollonia. The Kingdom of Raglan (Respondent here) is an underdeveloped archipelago nation, lying roughly halfway between Appollonia and Maguffin. For a map of the three countries and the position of other events relevant to this dispute, *see* Annex I.

2. Located in a region of ocean approximately 350 kilometers southeast from the southernmost Raglanian island are a small group of uninhabited sandbars, unclaimed by any nation, known as the "Norton Shallows." This region has long been the basis for internationally renowned sport fishing, diving, and eco-tourism industries. These activities are largely conducted by private Raglanian firms, and provide the government of Raglan with more than 80 million Euro in tax revenue annually.

3. In 1990, a geographical survey funded by Appollonia State University revealed significant uranium deposits beneath Appollonia's inland desert. Since Appollonia has no domestic sources of coal or gas, it has aggressively developed nuclear power as an inexpensive

source for domestic power. In 1995, the Appollonian Ministry of Energy built a nuclear reactor, which supplies a substantial majority of the electric power needs of the country. The Appollonian government owns and operates the reactor to this day, as well as all of the nuclear materials used and produced by the reactor. In 1996, Appollonia concluded a "safeguards agreement" with the International Atomic Energy Agency (IAEA), in fulfillment of its obligations under Article III.1 of the Nuclear Non-Proliferation Treaty. The safeguards agreement conformed to the guidelines in IAEA Information Circular 153, entitled "The Structure and Content of Agreements Between the Agency and States Required in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons."

4. As a result of its normal operation, the Appollonian power plant produces a significant amount of plutonium, a by-product of the nuclear reaction. In 1999, the Appollonian Ministry of Energy ordered that the plutonium be mixed with depleted uranium, to produce fresh mixed oxide fuel (MOX). The Ministry of Energy envisioned that MOX could then be used as a nuclear fuel source.

5. In April 2001, the Appollonian Ministry of Energy entered into a five-year agreement to sell surplus MOX to Maguffin Atomic Recycling Company, Ltd. (MARC). MARC is a privately-owned company in Maguffin which operates several nuclear power facilities in that country. This agreement was duly reported to the IAEA by both Appollonia and Maguffin, as were all shipments of MOX made pursuant to it. Under the terms of the agreement, the Ministry of Energy shipped the MOX to its resident agent in Maguffin, who inspected the shipment and transferred ownership of the MOX to MARC.

6. In 1995, several bands of technologically-advanced pirates began preying upon ships in the straits formed by the islands of the Raglanian Archipelago. Over the course of the next several years, the frequency of attacks increased. The pirates attacked vessels traveling to and from Raglanian ports, as well as ships traveling through the archipelago. In its 1998 Annual Piracy Report, the International Maritime Bureau (IMB), a division of the International Chamber of Commerce, reported that in 1997 alone, there were 40 separate instances of pirate attacks against ships in the Raglanian Archipelago.

7. On September 30, 1998, the Insurers of Lading and Shipping Association (ILSA), the leading international association of insurers and underwriters of merchant vessels, issued a "strong warning" to its members concerning shipping routes through the Raglan islands. The communication was styled a "five-point warning" on a five-point scale, the highest level of caution the Association can give, indicating to insurers and re-insurers that ILSA considered the routes to present an unreasonable risk of loss. In the press release announcing its warning, ILSA stated, "over 150 million Euro worth of cargo have been stolen or lost as a result of attacks on shipping in the last two months. No ship is safe, and insurance applications for voyages through the Raglan islands should be viewed as posing high risks of total loss." The warning has been reviewed by ILSA on a quarterly basis.

8. After the ILSA warning, the amount of shipping traffic using Raglanian ports plummeted, as did the number of vessels traveling through the archipelago. The Raglanian Ministry of Economy estimated that in 1999, Raglan lost the equivalent of 80 million Euro in revenues directly attributable to the decrease in shipping. Appollonia, however, continued to ship MOX via private carriers through the archipelago during this period, without reported incident.

9. In 1999, representatives from the IAEA inspected Appollonia's nuclear program, at the invitation of the Ministry of Energy. The IAEA concluded that the program was in compliance with international standards, but noted its concern regarding procedures used in Appollonia's exportation of MOX. The IAEA's final report, publicly issued on July 31, 1999, concluded, "Appollonia gives no notice to affected States such as Raglan that MOX will be transported through their territorial waters or exclusive economic zones. MOX is shipped without adequate safeguards on private vessels through waters known to be frequented by pirates."

10. In an official response to the IAEA Report, dated August 20, 1999, the Appollonian Energy Minister, Ms. Antonieta Ybarra, stated:

Appollonia's navy is not equipped to protect the MOX shipments in any meaningful way. It is our belief that the specialist private carriers we use are in a better position to fund and coordinate the transport and protection of MOX. We notify the IAEA of shipments as required. But in order to maintain the highest level of security, we do not otherwise publicize the shipments or identify the cargo.

Ms. Mobius also made reference to reliable evidence indicating that there had been no pirate attacks against the more than 20 MOX shipments from Appollonia to Maguffin in the previous two years.

11. On October 15, 1999, the Prime Minister of Raglan, Robert Price, announced that his government would establish "a comprehensive new anti-piracy program." He summarized the program as follows:

Upon request by any vessel entering or leaving Raglan's archipelagic waters – or departing from any Raglanian port – the Raglanian Royal Navy will provide a naval officer to serve as pilot. The officer will board the vessel, and will pilot it throughout the entire course of its voyage through Raglanian archipelagic waters. Raglan will cover all associated costs. The Royal Navy will electronically monitor the progress of such ships, and the pilot will be in constant contact with appropriately armed navy vessels. We

believe we can respond with air and naval support within 30 minutes to a distress call from one of our pilots. This program will take effect immediately.

Under the new program, participating vessels would display a specially-designed flag, indicating that they were under naval protection.

12. The program was immediately popular. Nearly every vessel traveling in or through Raglanian archipelagic waters requested a Royal Navy pilot. It was also immensely successful. In the program's first two years, no vessel piloted by a Royal Navy officer was attacked by pirates. The few pirate attacks that did occur happened only at night, and only in the sparsely populated western edge of the Raglanian Archipelago. As a result of the decrease in the frequency of pirate attacks, ILSA reduced its alert level to a "four-point warning," and indicated that it might consider a further reduction in the future.

13. On November 30, 2001, Prime Minister Price announced that the Royal Navy was no longer able to provide enough officers to meet every request for an escort. He declared that the Navy would begin selecting and training private contractors to serve as pilots. These contractors would be paid by the Raglanian government and would be used interchangeably with naval officers in the anti-piracy program. Pilots, whether naval officers or private contractors, would continue to be assigned by the Royal Navy and would be able to request armed intervention by the Navy if and when needed. About 100 private citizens of Raglan were thus trained and deployed under the program.

14. *The Mairi Maru* is a privately-owned, Appollonian-flagged vessel, and is one of the largest double-hulled ocean-going cargo ships in Appollonia. On July 26, 2002, *The Mairi Maru*,

manned by a small crew, left Appollonia's largest port, headed for Maguffin, on a course which took it through the Raglanian Archipelago. The ship's Captain later reported that he had planned his route to minimize the risk of pirate attack. In particular, he chose a route that traversed the center of the archipelago, adhering to a schedule that would not require *The Mairi Maru* to travel at night. He did not make a request for a Raglanian naval pilot as he approached Raglan's territorial waters.

15. According to the ship's manifest, the craft was laden with several canisters of MOX. The only persons or entities aware that *The Mairi Maru* was carrying MOX were the Appollonian Ministry of Energy, the headquarters of the IAEA, which had been cabled about the impending shipment, and the Captain and First Officer of the vessel.

16. Because of a severe storm, *The Mairi Maru* was delayed by several hours after its departure, and neared Raglanian archipelagic waters three hours before dusk on July 27. Realizing that he would now be forced to traverse the archipelago at night, the Captain then radioed the Raglanian Royal Navy and requested a pilot. The assigned pilot, a private contractor who identified himself as Thomas Good, arrived two hours later and boarded the ship, along with two men he identified as his assistants.

17. According to survivors, at 2300 hours on July 27, Mr. Good revealed to *The Mairi Maru's* Captain that he had brought on board a small explosive device. He threatened to detonate the device if the Captain and crew did not surrender control of the ship. Aware that Raglanian pirates did not generally harm their victims, and in order to minimize the loss of life, the Captain agreed. He ordered his entire crew, most of whom were asleep or below-deck at the time, into the

ship's galley. Mr. Good and his assistants locked the crew in the galley and assumed control over *The Mairi Maru*.

18. Based upon reports from the crew and evidence left behind, it appears that Mr. Good navigated the ship to a predetermined rendezvous location, where he met with confederates. Mr. Good and his colleagues removed all the technical navigation and communication equipment from *The Mairi Maru*, as well as the ship's safe. They then disabled *The Mairi Maru's* aft propeller shaft, making it impossible to safely steer the ship under its own power. They did not disturb the MOX, which was contained in a locked hold. Mr. Good and the other attackers then disembarked, leaving *The Mairi Maru* to drift on a south-easterly course toward international waters.

19. On July 28, an intense storm altered the course of the powerless *Mairi Maru*, which ran aground on one of the partially-submerged sandbars in the Norton Shallows. Damage to the ship's hulls ruptured the secure compartment holding the MOX canisters, several of which were also damaged. The canisters leaked over fifty kilograms of highly radioactive MOX pellets directly onto the sandbar and into the surrounding waters.

20. In the hours following the crash, members of the crew were able to free themselves from the galley. On July 29, a patrol boat of the Raglanian Royal Navy was conducting training near the sandbar. The crew spotted the grounded ship and approached *The Mairi Maru* to offer assistance. As they approached, crew members noted a large number of dead fish and sea birds in the vicinity. Freed from the galley, the Captain of *The Mairi Maru* reported the leaking radioactive materials to the commander of the patrol vessel. The commander immediately

ordered his vessel to retreat a safe distance and radioed Raglanian Royal Navy headquarters. Naval reports indicate that several members of crew of *The Mairi Maru* were dead, and others were exhibiting signs of acute radiation syndrome. The patrol boat radioed for a medical support vessel, which arrived within the hour. Royal Navy doctors rescued and sequestered the surviving crew of *The Mairi Maru*, and recovered and quarantined the bodies of the dead.

21. On July 31, 2002, Raglanian Prime Minister Price sent a diplomatic message to Judith Stark, the President of Appollonia. He announced that the Raglanian Royal Navy had confirmed the presence of radioactive materials and hundreds of dead fish and sea birds in the area surrounding the sandbar up to 15 kilometers from the site of the wreck of *The Mairi Maru*. Mr.

Price stated:

The radioactive material that is leaking from the Appollonian ship will not stay in the vicinity for long. Because we are entering the rainy season, strong storms will soon spread the contamination across a wide area. Therefore, Raglan has no choice but to quickly isolate the radioactive danger and, to the extent possible, to clean up the area surrounding the sandbar. The entire region, which is vital to our thriving tourism industry, is already heavily damaged. Furthermore, shifting winds and ocean currents will likely spread the contamination to inhabited Raglanian islands over the next several weeks.

22. Mr. Price concluded the message by blaming Appollonia for the damage to the site:

Appollonia caused MOX to be shipped through Raglan's archipelagic waters without any notice to our authorities. Given the well-known dangers of such shipments, had we known in advance of Appollonia's plans, Raglan would have either denied *The Mairi Maru* access to Raglanian waters or provided, in addition to the pilot, armed naval escort vessels to ensure its safe passage through the Raglanian Archipelago. Appollonia must therefore pay for the cleanup of the sandbar and the surrounding waters. Appollonia must also compensate us for the resulting financial losses suffered by our tourism and sport fishing industries.

23. On August 2, President Stark responded by diplomatic note, asserting that her government had fully met its obligations concerning the radioactive materials aboard *The Mairi*

Maru. She placed the responsibility for the damage squarely with Raglan, stating: "It is Raglan that bears the responsibility for the crash and its consequences. An agent of the Raglanian government orchestrated the boarding of *The Mairi Maru*, disabled it, and set it adrift."

24. On August 4, Prime Minister Price sent another diplomatic note to President Stark, indicating that Raglan had determined to scuttle *The Mairi Maru*. It read, in relevant part:

With every passing day, more noxious material leaks into the open waters. Cleanup is impossible in a short time-span. Our only choice is to put this material on the deep ocean floor, out of the reach of winds and currents, where it will not present a continuing danger.

Later that week, a destroyer, acting under the direct order of Prime Minister Price, towed *The Mairi Maru* less than a kilometer to the southeast and scuttled it. *The Mairi Maru* sank to a depth of over 9000 meters, to the bottom of the Sand Deep. After the ship was scuttled, Prime Minister Price sent a note to President Stark notifying her of the action.

25. President Stark held a press conference the next day, explaining the situation to her people, and denouncing Raglan's treatment of the incident. In answer to a question from a reporter, she said:

We hold Raglan responsible for the attack on *The Mairi Maru*. Raglan's inadequacy in policing its waters for pirates, and its negligence in screening the civilian pilots in its so-called anti-pirate program, make it liable as a matter of international law for the loss of the vessel and her cargo, and the deaths and injuries of her crew. I call upon the government of Raglan to pay compensation to the crew members injured by this accident, to the families of those killed, as well as to the owners of the ship *The Mairi Maru*.

26. The Appollonian Minister of Foreign Affairs, Mrs. Ernestine Navorocki, sent a diplomatic email message to her counterpart in Raglan. The subject line read, "London Convention on the Prevention of Marine Pollution." The note said, in relevant part:

The owners and insurers of *The Mairi Maru* have suffered direct and substantial financial losses as a result of Raglan's choice, freely made, to scuttle this vessel. Raglan must compensate these Appollonian citizens for their losses. Although Appollonia is not a party to the London Convention, we also note with grave concern that the scuttling of *The Mairi Maru* with cargo aboard violates Raglan's obligations under that Convention. This violation precludes your government from justifying its actions as lawful.

27. On August 11, Prime Minister Price delivered his government's response, contending that Appollonia was at fault by shipping hazardous materials in violation of applicable international law. He stated that, "Raglan condemns the attack, and strongly denies any responsibility for it. The responsible parties were not acting with the authority of Raglan, which has invested considerable effort and resources to combat maritime hijackings throughout its territory and its seas."

28. In the same response, Prime Minister Price accused Appollonia of violating its duties as an exporter of nuclear materials:

Appollonia is a member of the IAEA, which requires members who choose to transport nuclear materials through other states' territories to notify those states and to obtain their prior consent. Appollonia has done neither. In case I have not made myself clear, we demand that Appollonia cease shipping MOX through Raglan's archipelagic waters immediately, and we make this demand without prejudice to our claims with respect to *The Mairi Maru* and her cargo and crew.

29. Following the Prime Minister's remarks, the Foreign Ministry of Appollonia sent a cable to its counterpart in Raglan, which stated in relevant part:

Appollonia has not breached any of its obligations under the Non-Proliferation Treaty or under the IAEA regime. However, even if we had breached these obligations, your country is not a member of the IAEA and so is without standing to raise these issues. Furthermore, your government was aware that MOX had been transported through your territory in the past, and has never objected. In such circumstances, Appollonia owes Raglan no duties under these treaties. Furthermore, the harm you allege occurred outside of Raglan's territorial waters. No state is responsible for hypothetical or remote damages under international law, whether or not its actions were lawful.

30. On October 28, 2002, the owners and insurers of *The Mairi Maru* initiated a civil lawsuit against the government of Raglan in a Raglanian civil court for compensation for the loss of *The Mairi Maru*. All of the plaintiffs were corporations registered and headquartered in Appollonia. The suit claimed the local equivalent of 15 million Euro for the loss of the ship. The trial court dismissed the action, relying upon the judicial immunity traditionally enjoyed by the Raglanian armed forces in actions seeking money damages for actions taken as part of national defense activities. The decision was upheld by the Supreme Court of Raglan, and no further appeal was available.

31. On November 1, 2002, the surviving *Mairi Maru* crew members and the families of those who had died also filed a lawsuit against Raglan in a Raglanian civil court, alleging negligence in Raglan's failed efforts to protect *The Mairi Maru* while it was in Raglanian archipelagic waters. All the plaintiffs were citizens and residents of Appollonia. The trial court dismissed the action on the same theory of judicial immunity as the insurers' and owners' suit. The plaintiffs appealed to the Raglanian civil court of last resort, which summarily affirmed the trial court's determination.

32. On April 5, 2003, the President of Appollonia signed into law a legislative enactment entitled "The Commemoration of *The Mairi Maru* Act of 2003 (COMMA)." The Preamble to COMMA recited the events surrounding the attack and scuttling of *The Mairi Maru* and alluded to "Raglan's unwillingness to assume its legal responsibility for the attack on the ship, or to compensate Appollonia's citizens for their economic and personal losses." The Act cancelled all student exchange programs between Appollonia and Raglan, and suspended the issuance of new student visas to Raglanian citizens seeking to study in Appollonia. On May 28, 2003, Prime

Minister Price announced that he was withdrawing Raglan's national football team from the Olympic qualifier tournament, scheduled to be held in Appollonia in February 2004.

33. On July 1, 2003, the plenary session of the Regional Organisation of Nations (RON), an intergovernmental assembly of which both Appollonia and Raglan are members, adopted a non-binding resolution, calling upon Appollonia and Raglan to resolve their differences and end the dispute. Shortly thereafter, President Stark and Prime Minister Price agreed to bring this case before the International Court of Justice. Maguffin has declined to participate, its Justice Ministry asserting that it has no stake in the outcome.

34. The Raglanian government estimates that it will take five years to decontaminate the area affected by radioactive materials spilled from *The Mairi Maru*. The process will cost the government of Raglan approximately 160 million Euro. During those five years, the area will be completely unusable for tourism or sport fishing, and the Raglanian tourism industry will lose approximately 100 million Euro. Appollonia does not dispute these figures.

35. Appollonia and Raglan are both members of the United Nations. Appollonia is a member of the IAEA, but Raglan is not. In addition, Appollonia and Raglan are parties to the following treaties, as indicated:

<u>Instrument</u>	<u>Appollonia</u>	<u>Raglan</u>
Charter of the United Nations	ratified 1 Jun 63	ratified 5 Aug 71
Statute of the International Court of Justice	ratified 1 Jun 63	ratified 5 Aug 71
Treaty on the Non-Proliferation of Nuclear Weapons (1968)	ratified 1 Mar 85	No
Vienna Convention on the Law of Treaties (1969)	ratified 3 Nov 77	ratified 6 Jan 80
United Nations Convention on The Law of the Sea (1982),	No	ratified 1 Jun 88

including Part XI Convention on the Territorial Sea and the Contiguous Zone (1958)	ratified 1 Feb 68	<i>No</i>
Convention on the High Seas (1958)	ratified 1 Feb 68	<i>No</i>
Convention on the Physical Protection of Nuclear Materials (1980)	ratified 30 Jun 95	<i>No</i>
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989)	<i>No</i>	ratified 5 May 90
London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)	<i>No</i>	ratified 31 May 90

Neither Raglan nor Appollonia has signed or ratified any other relevant instruments.

36. The parties have agreed that, following the determination of their respective rights and liabilities, if any, the calculation of any damages will be assigned to a special master to be named later.

37. Appollonia respectfully requests that the ICJ adjudge and declare:

(a) Raglan is responsible for the attack upon and wreck of *The Mairi Maru* and all consequences thereof by virtue of (1) its failure to respond appropriately to pirate activities in its archipelagic waters and (2) the acts of Thomas Good, which are imputable to Raglan;

(b) Raglan is responsible for the loss of *The Mairi Maru* and the MOX and other cargo that she carried, because its scuttling of the vessel was illegal, and therefore owes compensation to Appollonia on behalf of its citizens who suffered direct financial and other losses;

(c) Raglan does not have standing to seek compensation for economic losses resulting from acts that occurred wholly outside of its territorial waters and exclusive economic zone; and

(d) Appollonia did not violate any obligations owed to Raglan under international law in transporting MOX through the waters of the Raglanian Archipelago.

38. Raglan respectfully requests that the ICJ adjudge and declare:

(a) Raglan is not responsible for the attack on *The Mairi Maru* and owes no compensation to Appollonia for any injury resulting therefrom;

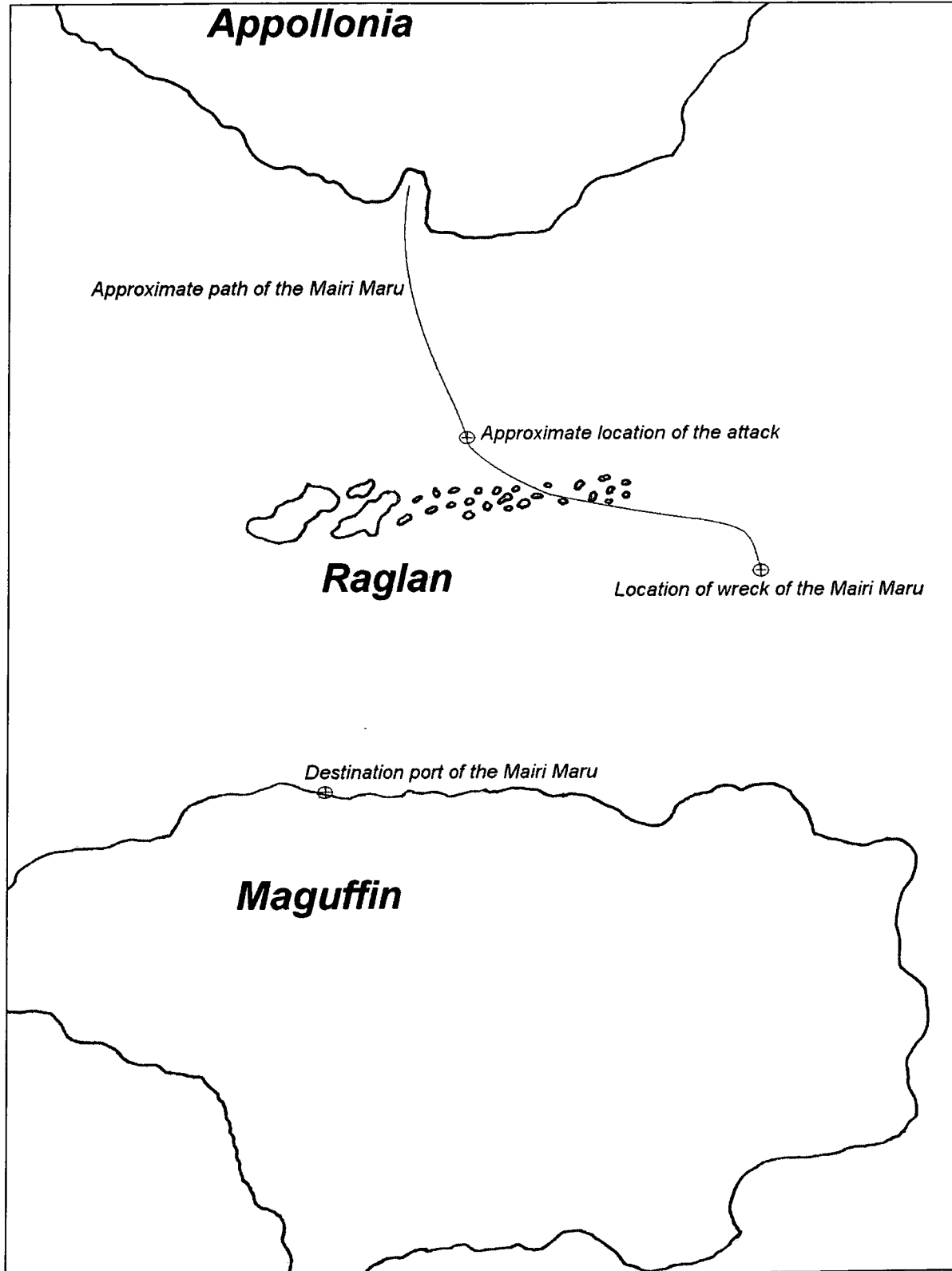
(b) Raglan did not violate any obligation owed to Appollonia under international law in the scuttling of *The Mairi Maru*;

(c) Appollonia violated international law by transporting MOX through Raglan's archipelagic waters without prior notification to or the consent of that state; and

(d) Appollonia is responsible for the damage to the sandbar and the surrounding waters as a result of its unlawful shipment of MOX, and must compensate Raglan for both the resulting injury to its fishing and tourist industries and the cost of decontaminating the area.

ANNEX I: MAP OF THE REGION DESCRIBED IN THE COMPROMIS

This map is for illustrative purposes only, and is not drawn to precise scale.



**The 2005 Philip C. Jessup
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Republic of Appollonia

v.

Kingdom of Raglan

The Case Concerning the Vessel The Mairi Maru

**Corrections and Clarifications
to the
2005 Jessup Problem**

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INTERNATIONAL LAW MOOT COURT COMPETITION**

CORRECTIONS AND CLARIFICATIONS TO THE COMPROMIS

The following corrections and clarifications have been agreed by the parties, and the *Compromis* should be considered amended accordingly. The clerk reminds all parties and participants of the following:

- a. The *Compromis* is, in essence, a stipulation of facts. Its words have been carefully chosen, and are the results of extensive negotiation. The parties decline to "clarify" the facts by providing conclusory characterizations, e.g. of the nature of their political systems. And, obviously, the parties will not stipulate as to what arguments are acceptable or unacceptable.
- b. The response to any request for a clarification not addressed in the following paragraphs is already included in the *Compromis* or has been considered inappropriate or immaterial, or the parties were unable to reach agreement on a mutually acceptable answer.
- c. Except to the extent that corrections and clarifications are set out below, participants are to assume that the *Compromis* is accurate and complete in all respects. In particular, both parties stipulate as to the authenticity of all documents referenced in the *Compromis*, and to the authorship and the authenticity of the signatures on all documents referenced in the *Compromis*.
- d. With respect to pronunciations of the various proper names used in the *Compromis*, it should be noted that these are generally-accepted Anglicizations of the names involved, submitted in English for the use of the Court. All relevant parties have agreed that they will not take formal or informal offense at any reasonable mispronunciation.

CORRECTIONS

1. The reference to "1999" in paragraph 4 should read "1995."
2. The reference to "April 2001" in paragraph 5 should read "April 1997."
3. The reference to "Ms. Mobius" in paragraph 10 should read "Ms. Ybarra"
4. All portions of the Norton Shallows are situated at least 250 nautical miles from the relevant archipelagic baseline of Raglan. Sand Deep is located in the High Seas.

CLARIFICATIONS

1. In March 1997, in anticipation of the MOX export agreement, Appollonia entered into separate Safeguards Agreements with the IAEA concerning the transfer of MOX from Appollonia.

2. Prior to sinking *The Mairi Maru* into Sand Deep, the Raglanian Royal Navy secured and encased the MOX canisters in conformity with international standard practice, to prevent any further MOX leakage.
3. Thomas Good and his two companions were transported to *The Mairi Maru* aboard a privately-owned and operated vessel which had been hired by the Raglanian Royal Navy for that purpose. He boarded *The Mairi Maru* on the High Seas. *The Mairi Maru* entered Raglan's archipelagic waters at 2200 hours on July 27, and did not leave Raglan's archipelagic waters again until several hours after Mr. Good disembarked.
4. The annexed map is properly oriented with north at the top. The Raglanian Archipelago is the entire group of islands lying between Appollonia and Maguffin on the map. The Norton Shallows are not shown on the map, but lie to the south-east of the Raglanian Archipelago. *The Mairi Maru* ran aground on a sandbar in the Norton Shallows, and was eventually towed to the location indicated on the map as the site of the wreck and scuttled there. The wreck now lies in this location, in Sand Deep, and will not move as it is protected from wind and ocean currents.
5. Appollonia and Maguffin each ratified the Statute of the IAEA in 1994. Raglan has neither signed nor ratified the Statute of the IAEA.
6. While ships from many States pass through the area of the Norton Shallows, only firms incorporated in Raglan engage in any commercial activities there. These activities, which began in the mid 1990s, are confined to eco-tourism and sport fishing.
7. Raglan has in the past captured several alleged pirates and prosecuted them under its domestic laws, resulting in two convictions. Mr. Good has not been located or apprehended. Raglan's domestic criminal code uses the definition of "piracy" contained in Article 101 of UNCLOS.
8. On the same day *The Mairi Maru* was scuttled, Raglan sent a memorandum, titled "London Convention Article V Notification," to the International Maritime Organization, informing the organization of the scuttling of the vessel.
9. The specially-designed flag is flown beneath the national flag of the vessel. Mr. Good, like all other pilots, brought the flag with him and it was flown on *The Mairi Maru*.
10. The planned route of *The Mairi Maru* passed through Raglanian archipelagic waters by use of sea lanes designated by Raglan for passage of foreign ships. After Mr. Good locked the crew in the galley, he steered the vessel out of these sea lanes.
11. The captain of *The Mairi Maru* was experienced at transporting nuclear materials, and the vessel itself had been used for this purpose on six previous occasions.

12. As of June 1, 2004, the contamination was concentrated in a radius of approximately 30 kilometers from the sandbar where *The Mairi Maru* had run aground, but there were traces of radiation detected as close as 25 kilometers from Raglan's Exclusive Economic Zone. Raglan began decontamination efforts immediately prior to the removal and scuttling of *The Mairi Maru*, and efforts continue to this day.

13. The prevailing ocean currents in the waters encompassing the Norton Shallows and the Raglanian Archipelago flow west to north-west throughout the year. The prevailing ocean winds flow in approximately the same direction as the ocean currents.

14. In paragraph 35, the designation "No" indicates that a State has neither signed nor ratified the indicated instrument.

