

International Law Moot Court Competition *Asia Cup 2022*  
Case Concerning the Chelonia Trench and the Ocean Challenger  
(State of Archang/Republic of Rhotia)

1. The State of Archang (“Archang”) is a small island country located in the Nereus Sea. It is a developing country with a population of approximately 600,000 people. Archang is composed of a single island, the Island of Archang. The Island of Archang is the only landmass on a mid-ocean ridge known as the Nereus Ridge, which runs in a north-south direction in the middle of the Nereus Sea. Surrounded by the ocean, Archang’s economy is highly dependent on fisheries.
2. The Republic of Rhotia (“Rhotia”) is an industrialized country located on the eastern coast of the Allevantian continent, with a population of approximately 30 million people. It faces the Nereus Sea to the east and is approximately 550 nautical miles west of Archang. Although Rhotia’s economy had suffered from an economic depression in the mid-2010s, it is showing signs of recovery. Recent economic growth has been driven by new robotics and renewable energy technologies.
3. Archang and Rhotia face each other across the western part of the Nereus Sea. Between them lies a deep area of the ocean known as the Chelonia Trench, which runs in a direction parallel to the Nereus Ridge. The continental shelf of Archang gradually slopes down towards the Chelonia Trench. The continental shelf of Rhotia gradually descends to a point slightly beyond 200 nautical miles from the coast and then sinks steeply into the trench. The shortest distance to the Chelonia Trench is 330 nautical miles for Archang and 220 nautical miles for Rhotia. The Chelonia Trench represents the dividing line between two distinct parts of the continental shelf, geologically and geomorphologically.
4. Archang and Rhotia ratified the United Nations Convention on the Law of the Sea (UNCLOS) in December 1988 and June 1992, respectively. Both States then started to conduct surveys in areas beyond 200 nautical miles from their coast to collect information about their continental shelves. In the mid-1990s, both states realized that their claims to continental shelves beyond 200 nautical miles might overlap. However, apart from a few cases where concerns were expressed against unilateral survey activities conducted by the other side, no specific

actions were taken. No consultations were held between the two States on this matter.

5. In March 2009, Archang submitted information regarding its continental shelf beyond 200 nautical miles to the Commission on the Limits of the Continental Shelf (hereinafter, CLCS) in accordance with Article 76(8) of UNCLOS. The submission by Archang included the area around the Chelonia Trench and overlapped with the area to be covered by the submission of Rhotia, which was under preparation. Rhotia immediately sent a *note verbale* to the United Nations Secretary-General, informing the CLCS of the existence of a maritime boundary dispute and requesting it not to consider the submission of Archang, in accordance with Paragraph 5(a), Annex I of the CLCS's Rules of Procedure. Rhotia filed its own submission to the CLCS next April. In response, Archang sent a *note verbale* similar to that of Rhotia requesting the CLCS not to consider Rhotia's submission.
6. Both Archang and Rhotia's submission to the CLCS establishes the outer edge of the continental margin solely by using the formula under Article 76(4)(a)(ii) of UNCLOS, connecting points not more than 60 nautical miles from the foot of the continental shelf. Their submissions overlap in a narrow belt over and around the Chelonia Trench, which runs in a north-south direction and is about 40 nautical miles wide where it is the widest ("the Chelonia Trench area"). The limits of the continental shelf, according to Archang's submission, run close to the limits of Rhotia's exclusive economic zone (EEZ) but are entirely outside it.
7. In August 2012, the Ocean University of Archang, a private university in Archang, announced that its researchers conducted a research cruise in the Chelonia Trench area and found numerous hydrothermal vents on the seabed. According to a press release by the university, the vents are home to various marine creatures and might be rich in mineral resources such as copper, lead and zinc. It was noted that further research would be required to fully understand the ecosystem around the vents. After the research finding was reported in the news, Rhotia lodged a protest against Archang, pointing out that the research activity was conducted without the consent of Rhotia.
8. In January 2013, Archang and Rhotia entered into consultations regarding the Chelonia Trench area. The two States could not reach an agreement on the regulation of marine scientific research in the area, with Archang adopting the position that both sides should be allowed to conduct research freely and Rhotia taking the view that consent of both States should be required to avoid any

issues. However, they agreed to continue consultations, based on the understanding that a final resolution of their issues would require the Chelonia Trench area to be delimited. In the talks held in August 2013, the two States agreed that a solution would have to be found without waiting for the CLCS recommendations, since considerable time would be required for the CLCS to consider their submissions even if they agreed to retract their *notes verbales*. Eight rounds of consultations were subsequently held until 2019. However, an agreement could not be reached on how to delimit the overlapping claims to the continental shelf.

9. In August 2019, a press release outlining the following points was made public on the websites of the foreign ministries of Archang and Rhotia.
  - Both sides have reached an agreement that their continental shelves need to be delimited. It was also agreed that the area to be delimited is the area of overlap between the areas indicated in the submissions to the CLCS, commonly referred to as the Chelonia Trench area.
  - While both sides continued to consult with each other for a prolonged period of time from 2013 to 2019, an agreement could not be reached on how to delimit the overlapping maritime area. Archang takes the position that the area should be delimited based on natural prolongation. Rhotia takes the position that the area should be equally divided. It has been agreed that the only disagreement between the two sides is on the maritime delimitation method. There is agreement that there are no other circumstances that should be taken into account in delimiting the maritime boundary.
  - Both sides have agreed that further progress on the issue of maritime boundary delimitation through negotiation is unrealistic. Based on such an understanding, it was agreed in principle that the issue would be referred to the International Court of Justice (ICJ). Further consultations will be promptly conducted in order to decide on the modalities for this step by agreement.
  - Both sides will retract their *notes verbales* regarding each other's submissions to the CLCS after a final agreement has been reached on the referral of the issue to the ICJ.
10. In December 2019, a change of government took place in Rhotia as a result of an election. In the new government, some key political figures started to oppose the decision to bring the maritime boundary issue to the ICJ and instead argued

that more steps should be taken to protect Rhotia's interests in the Chelonia Trench area. As a result of this shift in Rhotia's foreign policy, consultations concerning the referral of a case to the ICJ were put on hold. In June 2020, Rhotia established a marine protected area (MPA) to protect the biodiversity around hydrothermal vents in the Chelonia Trench area (The Chelonia Trench MPA), based on Rhotia's Act on Protection of the Marine Environment (APME) that applies to its EEZ and continental shelf. The Chelonia Trench MPA is established for the entire area covered by Rhotia's CLCS submission and includes the area covered by Archang's submission. For MPAs established on the seabed, APME prohibits the disturbance of the maritime environment by mineral resource development activities, marine scientific research, bottom-sea trawling and the construction of submarine pipelines. Fines are imposed on those who conduct prohibited activities in an MPA. The prohibition applies to all activities in the MPA, regardless of the nationality of the ship or the person involved. Archang protested against Rhotia, claiming that the establishment of the Chelonia Trench MPA violates its rights and is inconsistent with international law, including UNCLOS. In its protest, Archang emphasized that neither of the two States has the right to prohibit activities such as marine scientific research, which can be conducted without causing detriment to each other's rights, until the maritime boundary is delimited. Archang also called on Rhotia to resume consultations, but Rhotia failed to respond.

11. While tensions mounted between Archang and Rhotia, it was reported in the news that the Ocean University of Archang was planning a research cruise in March 2021 to study the ecosystem around hydrothermal vents in the Chelonia Trench area. In planning the cruise, the university sent letters to the Ministry of Science of Education and the Ministry of Foreign Affairs of Archang requesting their views on any possible issues with their plan. The two ministries replied in a joint document stating that: "We are not in a position to request specific actions with regard to your research cruise plan unless an application for consent to conduct marine scientific research is made to Rhotia." Based on this reply, the university decided to send its research vessel, the *Ocean Challenger* (flagged to Archang), to the Chelonia Trench area as originally planned.
12. The Rhotian authorities became aware of the planned cruise through news reports and issued the following statement: "Our consent is required for all marine scientific research activities taking place on our continental shelf, in accordance with UNCLOS. Even considering Archang's maritime claims,

unilaterally conducted research activities are a clear violation of applicable rules of international law. Undertaking such actions will only aggravate the dispute concerning the Chelonia Trench. We strongly urge the Ocean University of Archang to reconsider its plans and demand that Archang stop the research vessel from leaving its port.”

13. Soon after Rhotia issued its statement on the research cruise plan, a group of indigenous peoples residing in Rhotia, known as the Chelonis, made a request to the Ocean University of Archang to postpone the research cruise until after May 2021. The Chelonis expressed their concerns that noise from the research activities may drive away sea turtles known to migrate through the area in March. The Chelonis consider themselves decedents of people who migrated from another continent across the Nereus Sea to the west coast of the Allevantian continent. According to their legend, when their ancestors were struggling in their long travel across the ocean, a giant sea turtle appeared from the “deepest area of the ocean” and guided them to the coast of what is currently Rhotia. Based on this legend, the Chelonis head to the waters above the Chelonia Trench every year in March and give their offerings to the sea turtles. This is an important religious and cultural event for the Chelonis tied to their identity as a people. It is also a way of preserving their traditional knowledge regarding navigation, which has allowed the Chelonis to travel vast distances at sea.
14. The Ocean University of Archang held meetings with the leaders of the Chelonis and considered whether some adjustments to the research plan, such as reducing the area of research, would make the project acceptable to the Chelonis. However, the Chelonis insisted that the research cruise be postponed. In the end, the university officially responded that it could not accommodate the request. The university indicated that it did not see any reason to change the plan since scientific studies show that the impact of the research activity on marine life is limited. The Chelonis subsequently sought an injunction from a court in Archang. The court denied the request, stating that “the right of the Cheloni people to conduct traditional rituals is not protected under the laws of Archang.” In the injunction hearing, both the university and the Chelonis submitted the views of experts on the matter. The expert opinion submitted by the university considered that the impact of the research activity, if any, would be limited in scope. The expert for the Chelonis disagreed, suggesting that the possibility of there being an impact on migratory patterns of sea turtles cannot be ruled out.
15. On March 8th, 2021, the *Ocean Challenger* arrived at the Chelonia Trench area

as planned and commenced its activities. A number of autonomous underwater vehicles (AUVs) were deployed to take videos of marine life around hydrothermal vents and to collect samples. The *Ocean Challenger* also conducted seismic surveys to collect information about the geology of the area. Three days after the start of research activities, a patrol vessel of the Rhotia coast guard approached the *Ocean Challenger* and issued warnings that “unauthorized marine scientific research on our continental shelf cannot be accepted. You must leave the area immediately.” On the same day, the Rhotian Foreign Ministry summoned the Ambassador of Archang to Rhotia and demanded that the *Ocean Challenger* cease all activities and return to its port in Archang.

16. Ms. Kashee, the captain of the *Ocean Challenger*, responded to the warning issued by the Rhotia coast guard by collecting all AUVs from the ocean and suspending all research activities. Ms. Kashee informed the patrol vessel via radio that she had suspended all research activities and that the *Ocean Challenger* would remain at its current location to await instructions from the university. The patrol vessel did not respond and continued to repeat its warning to leave the area.
17. In the early hours of the next day, on March 11th, several Rhotia coast guard officers sent from the patrol vessel by a boat boarded the *Ocean Challenger*. The officers required the crew of the *Ocean Challenger* to submit documents and materials related to research activities conducted from March 8th to 10th, which were later seized. Ms. Kashee protested against the actions taken by the officers but was compelled to comply as the officers were armed. The officers eventually returned to the patrol vessel after warning Ms. Kashee once again to leave the area. The *Ocean Challenger* subsequently left the site following instructions received from the university.
18. In August 2021, Ms. Kashee was indicted before a criminal court in Rhotia for violating the APME and the Foreign Marine Scientific Research Regulation Act (FMSRRA). According to the FMSRRA, consent from the Rhotian authorities is required for a foreign vessel to conduct marine scientific research on the continental shelf or in the EEZ of Rhotia. The Act provides fines as penalties for those who conduct marine scientific research without consent. It also authorizes coast guard officers to conduct inspections against foreign vessels when there is a suspicion of unauthorized research and seize the vessel if the suspicion proves to be justified by evidence.
19. On April 6th, 2022, the Ambassador of Archang to the Netherlands submitted an

Application against Rhotia to the ICJ. In the application, Archang invoked the declarations of Archang and Rhotia under Article 36(2) of the Statute of the ICJ as the basis of jurisdiction. Rhotia is disputing the jurisdiction of the ICJ over the dispute and the admissibility of Archang's claims, but both parties have agreed to deal with the issue together with the merits. Both parties are members of the United Nations and States parties to UNCLOS, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on Biological Diversity and the Vienna Convention on the Law of Treaties.

20. When Rhotia ratified UNCLOS, it made a declaration under Article 287 in writing, indicating that it would accept the International Tribunal for the Law of the Sea and an arbitral tribunal constituted under Annex VII without any preference for one over the other. In 2000, Rhotia made a declaration under Article 36(2) of the Statute of the ICJ recognizing the jurisdiction of the court as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation. Rhotia's optional clause declaration contains a reservation excluding "disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement" from the scope of the declaration. Archang made a declaration under Article 36(2) of the Statute of the ICJ in 1980 without any reservations. Archang has not made a declaration under Article 287 of UNCLOS.

21. Prayers for relief of each party are as follows:

- a. The State of Archang respectfully requests the Court to adjudge and declare that:
  - i The Court has jurisdiction over this case and that the claims by the State of Archang are admissible.
  - ii The delimitation of the continental shelf beyond 200 nautical miles between the State of Archang and the Republic of Rhotia is to be effected on the basis of natural prolongation.
  - iii The Republic of Rhotia violated the United Nations Convention on the Law of the Sea by boarding the *Ocean Challenger* and initiating criminal proceedings against Ms. Kashee.
  - iv The State of Archang did not violate the United Nations Convention on the Law of the Sea by allowing the *Ocean Challenger* to conduct marine scientific research.

b. The Republic of Rhotia respectfully requests the Court to adjudge and declare that:

i The Court does not have jurisdiction over this case and that the claims by the State of Archang are inadmissible.

Or, in the alternative, that:

ii The delimitation of the continental shelf beyond 200 nautical miles between the Republic of Rhotia and the State of Archang is to be effected by an equal division of the area.

iii The Republic of Rhotia did not violate the United Nations Convention on the Law of the Sea by boarding the *Ocean Challenger* and initiating criminal proceedings against Ms. Kashee.

iv The State of Archang violated the United Nations Convention on the Law of the Sea by allowing the *Ocean Challenger* to conduct marine scientific research.