



**EIGHTH JUSTICE HIDAYATULLAH MEMORIAL NATIONAL  
MOOT COURT COMPETITION**

*HNMCC -2016*

**MOOT PROBLEM ON INTERNATIONAL  
ENVIRONMENTAL LAW AND INTERNATIONAL LAW**



**INTERNATIONAL COURT OF JUSTICE**

**SPECIAL AGREEMENT**

**BETWEEN**

**UNION OF ARESSIA**

**(APPLICANT)**

**Vs.**

**REPUBLIC OF BORESSIA**

**(RESPONDENT)**

**TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE THE  
DIFFERENCES BETWEEN THE STATES CONCERNING THE DISPUTES  
REGARDING PROTECTION OF RIVER DOLPHIN AND DIPLOMATIC  
IMMUNITY**

Jointly notified to the Court on 26. 11. 2015

## **CASE CONCERNING PROTECTION OF RIVER DOLPHIN AND DIPLOMATIC IMMUNITY**

### **Statement of Agreed Facts:**

1. Union of Aressia, a South Asian country is a land of many small and big rivers, out of which few are trans-boundary Rivers. These rivers are considered as the blood vein of Aressia as the economy of Aressia is based mainly on agriculture and fishing. Aressia shares its boundary with Boranda a land-locked country at its north-east and with the country Republic of Boressia at its south-east.
2. River Bhargavi is a trans-boundary river which originates from Boranda and flows through Aressia and passes through Boressia and finally empties into the Bay of Aregal. River Bhargavi is approximately 4350 km in length and out of which 900 km is in Boranda; 2450 km is in Aressia and remaining 1000 km is in Boressia. The sediment-laden River Bhargavi forms the largest delta 'Borbans' with mangrove forests along the Bay of Aregal and is extending to both Aressia and Republic of Boressia regions.
3. 'Pink Bibo' a species of fresh water Dolphin is very common in River Bhargavi and shares the habitat with crocodiles, fresh water turtles, wetland birds and nearly 150 species of fishes. The female Pink Bibo grows upto 2.67 meter and the male Pink Bibo grows upto 2.15 meter. The female Dolphin attains maturity at 8 to 10 years and the male Dolphin attains maturity in 6-7 years. One calf is born once in 2-3 years. It needs a conducive pollution-free environment for its growth. Pink Bibo can travel long distances and frequently visits the mangrove forests in both Aressia as well as in Boressian Region.
4. Pink Bibo is very calm, graceful and playful and it attracts large number of tourists to Aressia. Boating and Dolphin-sighting is one of the main activities in River Bhargavi. The local people use the oil of Pink Bibo in traditional medicines and stuffed Calves of Pink Bibo are often used as lucky charms and kept in home as a symbol of prosperity and wealth.

5. The 'Society for River Mammalogy' is an international Non-Governmental Organization committed to protection of aquatic mammals. During the research conducted in the years 1988 - 1992 the Society found that the number of Pink Bibo was reducing very drastically. The report said that, "the Dolphin is an indicator of river health and its number is decreasing at an alarming rate due to pollution caused by industries as well as due to fishing and boating activities and is a matter of great concern". The Aressian government took serious note of this study and appointed an expert committee for looking into this issue in 1992. The expert committee also found that the number of industries had increased on the banks of river Bhargavi causing severe water pollution. The fishing and boating activities had also increased in river Bhargavi region and it was adversely affecting the Pink Bibo.

6. As the River Bhargavi is a trans-boundary river the Aressian Prime Minister had a joint meeting with the Prime Minister of Boranda and the President of Boressia. The meeting and discussions between them finally resulted into the adoption of a tripartite agreement on protection of Pink Bibo in the year 1993.

7. By adopting the Treaty, the three countries agreed to take urgent steps to ban the hunting, killing, trade, and smuggling of Pink Bibo. The Treaty also imposed an obligation on each of the country to regulate fishing and boating activities in River Bhargavi in their territory to avoid injury, hurt, killing and capturing of Pink Bibo. As a result both Aressia and Boressia banned the hunting, killing, trade and smuggling of Pink Bibo and also imposed several restrictions on fishing and boating activities in the River Bhargavi.

8. In order to implement these obligations the Aressian Government included Pink Bibo in Schedule-I of the Wildlife (Protection) Act, 1972. Boressia also included Pink Bibo in its Boressian Wildlife Preservation Order, 1973. Boranda also banned hunting, killing, trade, and smuggling of Pink Bibo. Pink Bibo was declared as 'Endangered Species' and included in the Red List of Red Data Book in 1994 by International Union for Conservation of Nature. It was also included in Appendix II of the Convention on Migratory Species

(CMS). On a joint request from these three countries, the Pink Bibo was included in the Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973.

9. In 1995, the Boessian Bio Ethics Committee granted permission to a group of Boessian Scientists to conduct experiments for developing genetically modified Pink Bibo. The scientists were successful in developing Genetically Modified Pink Bibo (GM Pink Bibo) resistant to toxic industrial effluents, and with ability to metabolize chemicals more rapidly. Thus the GM Pink Bibo would be able to survive even in the most polluted waters. In June 1997, the Boessian Government officially released GM Pink Bibo calves into the River Bhargavi.

10. In March 2013, an Article was published in the famous Journal 'Science World' by Dr. Anil Mehta, a Scientist researching on Fresh Water Mammals. In his article he stated that the population of Pink Bibo in Aressian region of River Bhargavi had undergone genetic changes due to mingling with GM Pink Bibo from Boessian River region. He identified that the new Pink Bibo born due to the combination of natural Pink Bibo and GM Pink Bibo had a new genetic make-up and there were certain changes in its character. The new Pink Bibo was unlike the natural Pink Bibo and GM Pink Bibo and was more into fighting with other fishes and thereby acting as a predator for them. Due to this the fish resources were decreasing on a large scale and some species of fishes were on the verge of extinction in the Aressian region of River Bhargavi.

11. This article was discussed widely in Aressia and as a result various NGOs staged protests against the GM Pink Bibo. The Aressian Prime Minister had an interaction with Boessian President and requested him to stop the further release of GM Pink Bibo in River Bhargavi. However Boessian government rejected the request and stated that it was a measure for preserving an endangered species.

12. In January 2014, the Boessian Animal Survey Department published a Study Report stating that the number of Pink Bibo in River Bhargavi in Boessian region had increased

tremendously. Shortly, on the basis of this report the Boressian government lifted all ban on hunting, killing and trade of Pink Bibo. Aressia objected to this lifting of ban as it would amount to a violation of their tripartite agreement.

13. In February 2014, Boressia requested to Secretariat of Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973 to remove from Appendix I the name of Pink Bibo of River Bhargavi in Boressian Region. Though this request was opposed by Aressia, the Secretariat amended Appendix I and modified it to include only the names of Pink Bibo of River Bhargavi in Boranda Region and Aressia Region.

14. In Boressia, the scientific research was being conducted on Dolphin oil and its medicinal uses. The Boressian scientists found that the dolphin oil was good medicine for arthritis. They also discovered miraculous healing ability and pain bearing capacity in Pink Bibo as well as in GM Pink Bibo. The scientists were successful in isolating the protein compounds responsible for pain bearing capacity and were successful in preparing medicine for management of severe pain in joint diseases. This medicine was launched in December 2014 and is being sold in Boressia.

15. In March 2014, three Boressian scientists visited Aressia to study about medicinal uses and the genetic make-up of natural Pink Bibo as well as the genetic make-up of new Pink Bibo born from the combination of GM Pink Bibo with Natural Pink Bibo. However, the said research was being carried out without obtaining necessary permissions as per the laws of Aressia. These three scientists were arrested by Aressian Police in April 2014 and were convicted for three years imprisonment in February 2015.

16. The economic growth of Aressia was showing a decline since two decades as its agricultural activity was affected due to erratic rainfall and fishing activities were affected due to decrease in fish resources in River Bhargavi. Hence the Aressian Government wanted to initiate other developmental activities. Due to increasing need of energy resources for various other developmental activities, the efforts were going on to find alternate sources of energy. During this search a private company Alliance Ltd. had

discovered a huge crude oil and natural gas reserve in River Bhargavi basins in State of Vindhya & State of Ahali in December 2014.

17. The Government of Aressia granted permission to Alliance Ltd. for extraction and laying of pipe lines in about 1000 km area of River Bhargavi Basin Region. Alliance Ltd. had started installations for extraction and laying of pipe lines. During this process a large area of mangrove forests including certain portion of mangrove forests which were declared as World Heritage Site by UNESCO were destroyed. There was a widespread protest by Environmental Protection Groups against these activities. However due to the promising benefits from such a project, the government decided to go forward.

18. These protests received lot of attention from the world Media. One of the Newspaper 'Daily Post' having circulation in most of the Asian countries published a news item giving a title 'Graveyard for Pink Bibo'. The Newspaper article argued that the destruction of mangroves and the installation of pipe lines will completely destroy the habitat of Pink Bibo and thereby drive it to extinction from the Earth. The Newspaper article also quoted opinions from various renowned scientists in this field.

19. The President of Republic of Boressia during his visit for attending an official function in Boranda in April 2015, had an interaction with Aressian Prime Minister. During their discussion the Boressian President shared his anxiety regarding the crude oil and natural gas extraction project. The President of Boressia requested to Aressian Prime Minister to withdraw the plan and stop installation of pipelines and destruction of mangrove forests. However this request was rejected. President of Boressia criticized this project and alleged that Aressia is violating its international obligations both under the tripartite agreement and under general international environmental laws.

20. In May 2015, in Boressia there was a conference to be held on 'Research on Dolphins'. The Boressian Ambassador approached Aressian Supreme Court through a petition seeking parole for the three Boressian Nationals and permission to allow them to visit

Boressia. In his affidavit he accepted the obligation to bring them back after the parole period and on his guarantee the three of them got parole.

21. On release all the three accused went to Boressia. Though the conference was over and the time period ended none of the accused was ready to come back. In an official press release in July 2015, the Boressian government stated that it was not willing to send the three scientists back to Aressia as they have not committed any crime according to Boressian law and there was no extradition treaty between Aressia and Boressia.

22. On a petition from Union of Aressia, the Aressian Supreme Court initiated contempt of court proceedings against the Boressian Ambassador. An order for confiscation of his passport and his detention in Aressia was issued. The Ambassador objected these proceedings against him on the ground that it is against international law relating to diplomatic relations.

23. Though there were various diplomatic negotiations between Aressia and Boressia to settle their disputes in relation to these issues none of the negotiations were successful. Hence, Aressia and Boressia have agreed to submit their disputes to the International Court of Justice.

**24. The Union of Aressia respectfully requests the Court to adjudge and declare that:**

- a. By introducing GM Pink Bibo in River Bhargavi Boressia has violated international environmental law.
- b. The Union of Aressia is entitled to get damages for loss of fish wealth and genetic alterations in Pink Bibo as a result of GM Pink Bibo.
- c. By lifting all prohibitions which were imposed for protection of Pink Bibo, Boressia has violated the tripartite agreement.



- d. The natural gas extraction project is not a violation of any of the international environment law provisions as well as the general international law and Boressia cannot object to such project as Aressia is a sovereign country.
- e. The decision of Boessian Government not to send back the three accused is a violation of international law and the proceedings initiated against the Ambassador is justified.

**25. The Republic of Boressia respectfully requests the Court to adjudge and declare that:**

- a. Introduction of GM Pink Bibo is a step towards protection and preservation of that species.
- b. The change in genetic make-up in Pink Bibo of River Bhargavi in Aessian region is a natural process.
- c. The number of Pink Bibo of River Bhargavi in Boessian region has increased and hence the lifting of all bans is justified.
- d. The destruction of mangrove forest will adversely affect the habitat of Pink Bibo and hence is a violation of international environmental law and general principles of international law.
- e. The Ambassador is entitled to get diplomatic immunity and hence the said proceedings are a violation of international law

26. Union of Aressia and Republic of Boressia are countries which respect the ideals of democracy and welfare state and hence they are parties and have ratified almost all the international treaties.

**Note:**

1. The agents representing both sides are required to address the request/issues that are specifically submitted by Union of Aressia and Republic of Boressia.
2. The laws of both Aressia and Boressia are in *pari materia* to the laws of Union of India and Bangladesh. However, the facts, laws, and years specifically mentioned and agreed by the Parties in the problem should not be disputed.

\*\*\*\*\*

