

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

**BETWEEN THE UNION OF ARESSIA (APPLICANT) AND THE
REPUBLIC OF BORANDA & THE REPUBLIC OF BORESSIA
(RESPONDENTS)**

Jointly notified to the Court on 10th December 2017

COMPROMIS



**TENTH JUSTICE HIDAYATULLAH MEMORIAL
NATIONAL MOOT COURT COMPETITION (HNMCC), 2018**



HIDAYATULLAH NATIONAL LAW UNIVERSITY

Uparwara Post, Naya Raipur – 492002 (C.G.)

JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT

The Hague, 10th December 2017

On behalf of the Union of Aressia, the Republic of Boranda and the Republic of Boressia, and in accordance with Article 40 paragraph 1, of the Statute of the International Court of Justice, we have the honor to transmit to you an original copy of the Special Agreement for submission to the International Court of Justice on the Differences between the Applicant and the Respondent concerning the Borsi Island and the issue of Smog, signed in The Hague, The Netherlands, on the twenty seventh day of November in the year two thousand seventeen.

/s/

**Ambassador of the Union of Aressia
to the Kingdom of The Netherlands**

/s/

**Ambassador of the Republic of
Boranda to the Kingdom of The
Netherlands**

/s/

**Ambassador of the Republic of
Boressia to the Kingdom of
The Netherlands**

SPECIAL AGREEMENT

SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY THE UNION OF ARESSIA, THE REPUBLIC OF BORANDA AND THE REPUBLIC OF BORESSIA ON THE DIFFERENCES BETWEEN THEM CONCERNING THE BORSI ISLAND AND THE ISSUE OF SMOG

The Union of Aressia (the Applicant) and the Republic of Boranda and the Republic of Boressia (the Respondents) (hereinafter the Parties):

Recalling that the Parties are Members of the United Nations and that the Charter of the United Nations calls on Members to settle international disputes by peaceful means,

Considering that differences have arisen between them concerning the Borsi Island and the issue of smog and other matters;

Noting that the Parties have been unable to settle these differences by direct negotiations;

Desiring further to define the issues to be submitted to the International Court of Justice (the Court) for resolution;

In furtherance thereof the Parties have concluded this Special Agreement:

Article 1

The Parties submit the questions contained in this Special Agreement (the Case) to the Court pursuant to Article 40(1) of the Statute of the International Court of Justice.

Article 2

It is agreed by the Parties that the Union of Aressia shall appear as Applicant and the Republic of Boranda and The Republic of Boressia as Respondents, but such agreement is without prejudice to any question of the burden of proof.

Article 3

- (a) The Court is requested to decide the Case on the basis of the rules and principles of international law, including 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 4

- (a) The proceedings shall consist of written pleadings and oral arguments.
- (b) The written pleadings shall consist of memorials to be submitted simultaneously to the Court by the Parties. Procedures shall be regulated in accordance with the applicable provisions of the Official Rules of the Hidayatullah Memorial National Moot Court Competition, 2018.
- (c) No change can be made in any written pleadings once it has been submitted as per the Official Rules of the Hidayatullah Memorial National Moot Court Competition, 2018.

Article 5

- (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 receipt of any Judgment, the Parties shall enter into negotiations on the modalities for its execution.

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

Done in The Hague, The Netherlands, this twenty seventh day of November in the year two thousand seventeen.

/s/
**Ambassador of the Union of Aressia
to the Kingdom of The Netherlands**

/s/
**Ambassador of the Republic of
Boranda to the Kingdom of The
Netherlands**

/s/
**Ambassador of the Republic of
Boressia to the Kingdom of The
Netherlands**

****SPECIAL AGREEMENT****

THE UNION OF ARESSIA V. THE REPUBLIC OF BORANDA AND THE REPUBLIC OF BORESSIA

THE CASE CONCERNING THE BORSI ISLANDS AND THE ISSUE OF SMOG

1. The Union of Aressia (hereinafter Aressia), a South Asian Country is a Union of 26 states and has a written Constitution and a federal government with a strong centralizing tendency. It is a land of many small and big rivers, and its southern part is a peninsula which is bounded by the Bay of Borossi in the East, the Arbanian Sea in the West and the Aressian Ocean in the South. The State of Ahali is the capital of Aressia. The Aressian economy is mainly based on agriculture and fishing. Aressia is the second largest exporter of cotton in the world. Aressia enjoys a strategic position due to its geographical location and has maintained good friendly relations with its neighbouring countries Boranda and Burmessia.

2. Aressia is a unique country with diversity in traditions and religions and has a rich cultural history. Aressia has various mythological saga which are considered as 'exceptional and only one of its kind' in the world. Aressia takes great pride in its epic, 'Aressibharat Katha', which is in Aressanskrit language, considered as the 'Mother of All Languages in the World'. The Aressibharat Katha is a narrative of the great Aressibharat Dynasty which once ruled the entire Aressian subcontinent. It tells the story of the King Veer Arama and his virtuous wife Devi Vaidehi. The story states that Devi Vaidehi was abducted by the Asura King Suravana who had his kingdom in a far-away Shalanka Island situated in the middle of an ocean. King Veer Arama journeyed to the Shalanka Island and fought with the Asura King in Shalanka. King Veer Arama killed the Asura King and returned victorious with Devi Vaidehi. Subsequently the Shalanka Island was annexed to the Aressibharat Kingdom by the Aressibharat

Dynasty. The Aressian people regard King Veer Arama and Devi Vaidehi as incarnations of God and Goddess and worship them.

3. Republic of Boranda (hereinafter Boranda) is an industrialised neighbouring country sharing its borders with the State of Ahali, the capital of Aressia. Geographically, Boranda has a rocky terrain and agricultural activities are very difficult and limited. However nature has blessed Boranda with many rivers which have been utilised to develop hydro-electric projects for power generation and supply to the industries. The steel industries are the life-line of the economy of Boranda as its economy is based on manufacture and export of steel to the European nations. In 2012, Boranda suffered severe damage due to Tsunami and there was complete devastation. Many South Asian Countries including Aressia extended their help to Boranda to cope up with the natural calamity.

4. In 2013, to revive its economy and rebuild the nation, Boranda took financial aid from Boressia, a European nation. Boressia invested huge amounts through its public sector industries and as result started several industries and companies in Boranda. As the hydroelectric projects and nuclear power-plants in Boranda were damaged due to Tsunami, the industries in Boranda started using fossil fuels which was supplied by Boressia. By the end of 2014, the economy of Boranda was stabilised and by the year 2015 Boranda established itself again as a developed industrialised nation. The economy of Boranda was increasing at a rapid rate and the industries depended heavily on the use of fossil fuels.

5. On 10th March 2016, an Aircraft SW 303, an international passenger flight, owned by Aressian Airways Private Limited, was on its way from Aressia to Singapore and when it was flying through the air route over the Bay of Borossi it suddenly disappeared. The aircraft was carrying 14 Aressian crew members and 190 passengers from 18 countries. As the issue involved safety and whereabouts of citizens of different nations, several countries offered their help to search the flight and a multi-national task force was formed to search the aircraft.

6. Boressia also joined the multi-national task force and offered the services of its military ship MV Borsi for searching the aircraft. On 20th April 2016, the MV Borsi was

sailing across the Bay of Borossi when the crew spotted at a distance in the High Seas, a hillock like area covered with green vegetation. On closer inspection, it was found to be a small hillock on an uninhabited Island in the High Seas. This island was not marked in the sea-route map of Boressia and was previously not known to the world. As it was discovered by its military ship MV Borsi, Boressia claimed ownership over the Island. The island was named as Borsi Island and occupied by Boressia. The Borsi Island was an ecologically fragile island and rich in biological diversity with several rare and endangered species of flora and fauna.

7. Considering the strategic importance of Borsi Island, Boressia decided to convert the Island as its military base and in May 2016, started construction activities on the island. During an excavation the Boressian team found certain idols and rocks which were carved with an ancient script. On further investigation by the archaeological team of Boressia, it was found that the idols were similar to the idols being worshipped in Aressia as God and Goddess and portrayed in 'Aressibharat Katha'. The Boressian media revealed this news and when it came to be known in Aressia, the print and electronic media of Aressia gave it wide publicity. There were numerous news items in the leading papers with the captions, 'The Lost Island Resurfaces'; 'The Saga of King of Aressibharat' and 'King Veer Arama Katha'. The people of Aressia started saying that the island discovered was their ancient island Shalanka.

8. The Aressian Prime Minister stated in a press release, "Shalanka was part of our Aressian country and had submerged in sea due to divine intervention". In support of this the Aressian Prime Minister cited the 'Aressibharat Katha' in which it is mentioned that after the victory of Veer Arama and death of King Suravana, the said Island was submerged in water. To commemorate the victory of Veer Arama, every year the 'Festival of Lights' is celebrated in Aressia. The people of Aressia assemble near the shore of Arbanian Sea and lit lamps and float them on water sending them towards the mythological Island Shalanka. The Aressian Prime Minister also referred to the Map mentioned in the ancient text of 'Aressibharat Katha' and in which the said Island was also marked.

9. The Boressian President stated that the claims of Aressia over Shalanka Island were baseless and rejected the claims. So diplomatic negotiations were initiated in the month of December 2016 to settle this ownership dispute between Aressia and Boressia. During this time a large scale protest was also staged by Club of Aressia, an Environmental NGO, against Boressia's plan to convert Borsi Island as a military base. The Club of Aressia stated that the use of the island as a military base will destroy the fragile environment of Borsi Island. It will cause extinction of many rare and endangered species of flora and fauna and will have serious adverse impacts on the ecosystem and environment of the High Sea. Boressia alleged that this protest was purposefully being fuelled by Aressia. The report of The Club of Aressia was given wide publicity by Aressian newspapers and TV Channels. The Aressian Government also criticised the conversion of Borsi Islands as a military base and raised objections on the ground that it will lead to destruction of ecosystem in the High Seas.

10. From the years 2015 onwards, it was observed that the economic growth of Aressia was showing a decline due to large-scale decrease in the annual production of cotton in the capital State of Ahali. The State of Ahali is mainly an agricultural state and produces cotton, wheat, soybean and rice. The State of Ahali produces more than 70 percent of the total cotton exported by Aressia. The cotton being produced in Ahali was also losing its white pristine colour and appearing as grey with black spots. The countries started refusing to accept the bales of cotton and Aressian economy suffered a major setback. In 2016, Aressian Cotton Plant Research Institute (ACPRI) has identified that the main reason for the decline in annual production as well as decrease in quality of cotton was the increased percentage of sulphur dioxide emissions in the air. The soil was also contaminated with sulphur particulate and there was a reduction in soil fertility, affecting the annual yield of cotton.

11. The State of Ahali is the capital State of Aressia and shares its borders with The Republic of Boranda. On the morning of 24th March 2017, at 5.30 a.m, Vahali, the capital city in State of Ahali woke up to a choking blanket of thick smog as pollution levels in air reached to dangerously hazardous levels. As the blanket of thick smog enveloped the city there was confusion all around and panic spread among the public. The transport and communication systems came to a standstill. Due to the low

visibility owing to the smog, the schools and offices were closed. The supply of basic necessities was affected and the life in Vahali was completely disrupted. The Aressian government headed by the Prime Minister called an urgent meeting of environmental scientists from Aressian Environmental Engineering Research Institute (AEERI) to find out solution for tackling the emergency situation in the capital city. On the basis of the suggestions given by the scientists from AEERI, the government took immediate measures to mitigate the emergency situation developed by the smog and air pollution. The Aressian Government had to spend approximately two crore rupees to bring the situation back to normalcy.

12. The environmental scientists identified that the smog was created due to the presence of dangerously high quantities of sulphur dioxide in the air. It was identified that the huge quantities of sulphur dioxide was being emitted by industries situated in the neighbouring State of Boranda. The emission of sulphur dioxide fumes was traced to the burning of large quantities of fossil fuels. The experts also gave caution warning that the presence of sulphur dioxide in the air and the particulate of sulphur in the soil will adversely affect the soil fertility and quality and quantity of cotton production. Aressia was no longer the second largest exporter of cotton in the world and had tumbled down to eighth rank in the world market. When this report came to the knowledge of the public, there were several protests by environmental NGOs and Farmers Groups. The Farmers Welfare Group, an NGO working for the rights of farmers in Aressia approached the Prime Minister with a petition highlighting the plight of farmers in the capital city of Vahali. Nearly 465 farmers had committed suicide due to monetary loss suffered because of reduction in the quality and quantity of cotton production.

13. Considering the petition by Farmers Welfare Group and looking into the gravity of the situation, the Prime Minister of Aressia through diplomatic negotiation requested Boranda to close down the steel industries which were using fossil fuels. Aressia made the same request to Boressia as 60 percent of industries which were using fossil fuels and operating in Boranda were set up by Boressia and were the branches of public sector industries of Boressia. Aressia also claimed compensation from Boranda for the damages suffered due to the decrease in the yield of cotton and the adverse impact on

its cotton exports. Further Aressia claimed compensation from both Boranda and Boressia for the damages suffered due to the smog and the money spent for mitigation of air pollution. However, these requests were rejected by both Boranda and Boressia. The Club of Aressia, on 25th October 2017 published a scientific report that the sulphur dioxide emissions of Boranda had increased three times above the global limit prescribed.

14. The countries initiated several diplomatic negotiations to settle their disputes and as a result the Parties agreed to submit the matters of disputes to the International Court of Justice under a special agreement. The laws of Aressia, Boranda and Boressia are in *pari materia* with laws of India, China and UK respectively. All the international instruments applicable to India, China and UK are also applicable to Aressia, Boranda and Boressia respectively.

15. Applicant, the Union of Aressia, respectfully requests the Court to adjudge and declare that:

I. The claim of Boressia on the newly discovered Borsi Island is unjustifiable under International law and Borsi Island should be declared as a territory of Aressia.

II. The conversion of Borsi Island as a military base by Boressia is a violation of International Environmental Law obligations by Boressia.

III. The emission of huge quantities of sulphur dioxide (exceeding the prescribed limits) by Industries in Boranda are a violation of international law.

IV. Boranda and Boressia are both liable to compensate Aressia for the costs incurred by Aressia for mitigation of the smog and also for the loss suffered by Aressian farmers due to adverse impacts on cotton plant.

16. Respondents, the Republic of Boranda and the Republic of Boressia, respectfully requests the Court to adjudge and declare that:

I. The newly discovered Borsi Island belongs to Boressia and the claim by Aressia is unjustifiable.

II. The conversion of Borsi Island as a military base by Boressia does not involve any violation of International Environmental Law obligations by Boressia.

III. The emission of huge quantities of sulphur dioxide (exceeding the prescribed limits) by Industries in Boranda does not amount to violation of international law.

IV. Boranda and Boressia are not liable to compensate Aressia for the costs incurred by Aressia for mitigation of smog and for the loss suffered by Aressian farmers due to adverse impacts on cotton plant.

