

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

**BETWEEN THE REPUBLIC OF ASKIA (APPLICANT) AND
THE REPUBLIC OF DOSANDA (RESPONDENT)**

Jointly notified to the Court on 10th August 2020

COMPROMIS

**TENTH AMITY INTERNATIONAL LAW MOOT COURT
COMPETITION (AIM), 2020**

AMITY LAW SCHOOL, NOIDA

AMITY UNIVERSITY

JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT

The Hague, 20th August 2020

On behalf of the Republic of Askia and the Republic of Dosanda, 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 legal basis of maritime rights and entitlement in the South Dosanda Sea, signed in The Hague, The Netherlands, on the tenth day of August in the year two thousand twenty.

Republic of Askia

Republic of Dosanda

SPECIAL AGREEMENT

SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY THE REPUBLIC OF ASKIA AND THE REPUBLIC OF DOSANDA CONCERNING THE LEGAL BASIS OF MARITIME RIGHTS AND ENTITLEMENTS IN THE SOUTH DOSANDA SEA

The Republic of Askia (“the Applicant”) and the Republic of Dosanda (“the Respondent”) (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 a dispute has arisen between them concerning the legal basis of maritime rights and entitlement in the South Dosanda Sea;

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 Republic of Askia shall act as Applicant and the Republic of Dosanda as Respondent, but such agreement is without prejudice to any question of the burden of proof.

Article 3

The parties agree to decide the sovereignty over disputed land territory by negotiations and mutual settlement. The Court will not address issues relating to sovereignty of States over land territory.

Article 4

(a) The Court is requested to decide the Case on the basis of the United Nations Convention on the Law of the Sea and other rules and principles of international law.

(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 5

(a) Procedures shall be regulated in accordance with the applicable provisions of the Official Rules of the Amity International Moot Court Competition, 2020.

(b) The Parties agree that the written proceedings should consist of Memorials presented by each of the Parties.

Article 6

(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 tenth day of August in the year two thousand twenty.

Republic of Askia

Republic of Dosanda

CONCERNING THE LEGAL BASIS OF MARITIME RIGHTS AND ENTITLEMENTS IN THE SOUTH DOSANDA SEA

ASKIA V. DOSANDA

1. The Republic of Askia is an archipelagic country in Southeast Asia. Situated in the eastern Pacific Ocean, it consists of about 7,650 islands and is bounded by the South Dosanda Sea on the north. The Askia has an area of around 300,000 km² (120,000 sq mi), which supports a population of at least 100 million.
2. Askia is a megadiverse country. The country has a variety of natural resources and a globally significant level of biodiversity. Its maritime waters have unique and diverse marine life. Around 1,100 land vertebrate species can be found in Askia including over 100 mammal species and 170 bird species not thought to exist elsewhere. The Askia has among the highest rates of discovery in the world with sixteen new species of mammals discovered in the last ten years. Parts of its marine waters contain the highest diversity of shorefish species in the world. The total number of corals and marine fish species was estimated at 500 and 2,400 respectively at present and species discoveries continue. Askia's waters also sustain the cultivation of pearls, crabs, and seaweeds. With an estimated 13,500 plant species in the country, 3,200 of which are unique to the islands, Askia's rainforests boast an array of flora. However, many species found in Askia are endangered and scientific studies suggest that Southeast Asia, which the Askia is part of, faces a catastrophic extinction rate of 20% by the end of the 21st century.
3. Askia's islands are composed of volcanic, coral, principal rock formations. Due to the volcanic nature of the islands, mineral deposits are abundant. The country is thought to have the second-largest gold deposits after South Africa, along with a large amount of copper deposits. Palladium, originally discovered in South America, was found to have the world's largest deposits in the Askia's too. Some of the islands of Askia are a source of high-quality marble. Other minerals include chromite, nickel, and zinc. Despite this, a lack of law enforcement, poor management, opposition due to the presence of indigenous

communities, and past instances of environmental damages and disasters, have resulted in these mineral resources remaining largely untapped.

4. Askia has a democratic government in the form of a constitutional republic with a presidential system. As a newly industrialized country, Askia's economy is transforming from one based upon agriculture to an economy with more emphasis upon services and manufacturing. However, large parts of the coastal populations of Askia, mainly rely on fishing for their livelihood and fishing has long constituted an important part of the countries' overall national economy. Askia is a contracting party to United Nations convention on Law of the Sea (UNCLOS) and the Convention on Biological Diversity having ratified the conventions in 1984 and 1994 respectively.
5. The Republic of Dosanda is a country in East Asia. It is the world's most populous country, with a population of around 1.4 billion in 2020. Covering approximately 9.6 million square kilometers (3.7 million mi). Dosanda is among one of the oldest civilizations in the world and has a rich history of maritime trade dating back to 5th millennium BCE. Dosanda is also a contracting party to the UNCLOS, having signed the Convention on 10 December 1982 and ratified it in June 1996. It is also a party to the Convention on Biological Diversity having ratified the convention in 1993.
6. Dosanda's is a unitary one-party socialist republic. Political dissidents and human rights groups have denounced and criticized the Dosanda's government for widespread human rights abuses, including suppression of religious and ethnic minorities, censorship, mass surveillance, and cracking down on protests on human rights. The official position of the Dosanda's government is that the right to subsistence and economic development is a prerequisite to other types of human rights, and that the notion of human rights should take into account a country's present economic level. Since the introduction of economic reforms in 1981, Dosanda's economy has been one of the world's fastest-growing, with annual growth rates consistently above 6 percent. Dosanda also has the world's largest standing army, and the second-largest defense budget. Dosanda has been characterized as an emerging superpower, mainly because of its accelerating infrastructural development, large and rapidly-growing economy, and powerful military.

7. The distance between southern tip of Dosanda and northern tip of Askia is around 1842 nautical miles. The sparky islands which lie in the southern part of the south Dosanda Sea and off the coasts of the Askia are claimed by both Dosanda and Askia. The minimum distance of the island from the coast of Askia is 180 nautical miles and from the coast of Dosanda is 700 nautical miles. The islands contain less than 2 km² (490 acres) of naturally occurring land area, which is spread over an area of more than 100,000 km². It is composed of islands, islets and cays and reefs, sometimes grouped in submerged old atolls. Coral reefs are the predominant structures of these islands; the Sparky group contains over 200 coral reefs in total. The Sparky Islands contain almost no significant arable land, have no indigenous inhabitants, and very few islands have permanent drinkable water supply.
8. The northeast part of the Sparky Islands is known as Dangerous Ground and is characterised by many low islands, sunken reefs, and degraded, sunken atolls with coral often rising abruptly from ocean depths greater than 1,000 metres (3,300 ft) – all of which makes the area dangerous for navigation. The islands are located near several primary shipping lanes and offer rich fishing grounds and contain significant oil and natural gas reserves.
9. In 1991, Dosanda installed a small military structure on Piery ross Reef in Sparky Islands under the pretext of building an oceanic observation station and installing a tide gauge for the Global Sea Level Observing System. In 2012, Dosanda's state owned National Offshore Oil Company (NOOC) deployed a deepwater oil rig, worth an estimated \$1 billion, into waters within the exclusive economic zone of Askia. After Askia's government protest Dosanda declared a 3 nautical mile security radius around the oil rig. The protest soon turned into a deadly skirmish between Askia's and Dosanda's Navy, following which Dosanda installed some military structures on more reefs in the vicinity of the Askia occupied islands and this led to escalating tensions between these countries over the status and "ownership" of reefs.
10. In 2013, the Department of Defence of United States of Semirica, reported that it has detected land reclamation activities by Dosanda on various low tide elevations on the

high seas in South Dosanda Sea. From August 2016 to December 2018, Dosanda built artificial islands with a total area of close to 1,000 acres on 5 coral reefs and other low tide elevations in the Northern part of the South Dosanda Sea. Multiple buildings, a lighthouse, a runway, and port facilities are also constructed on these structures. The report also claims that majority of these artificial islands are on the high seas. However, Dosanda's official position is that these Islands, no matter how small, also have the right of territorial waters, exclusive economic zone and continental shelf. It claims straight baselines to connect the islands of an offshore archipelago.

11. A report of 2018 by SeaPeace, a renowned international NGO, claimed that Dosanda is also building infrastructure to place its war fighting equipment including missiles, radars, signal jamming systems, ships and fighter aircraft. In Piery ross Reef and two other Reefs, underground facilities have been built for storage of weapons. There are also large hangars on several features which can accommodate military transport aircraft. However, a spokesperson for Dosanda's Ministry of Foreign Affairs stated in March 2019 that the military improvements were intended primarily to improve living standards and search and rescue capabilities.
12. To build these islands, Dosanda dredgers gathered and deposited sand and gravel on top of the reefs. Prior to the commencement of Dosanda's dredging and island building in the Spraky Islands, the South Dosanda Sea's coral reefs were already under heavy stress. Coral loss due to bleaching, disease, and destructive fishing methods has occurred, and these reefs, like others around the world, face threats from ocean acidification and rising sea levels.
13. In addition, Dosanda's new artificial islands are leading to increased Dosanda's fishing in the surrounding waters, which is putting pressure on fisheries in those areas. Destructive practices of dynamite and cyanide fishing, mainly by Dosanda in the region, are resulting in irreversible damage to aquatic habitats and ecosystems. In a study conducted by the government of Askia in 2018, about 71% of Askia's reefs are in poor to fair condition due to excessive siltation caused by deforestation and the widespread use of sodium cyanide and explosives by fishermen.

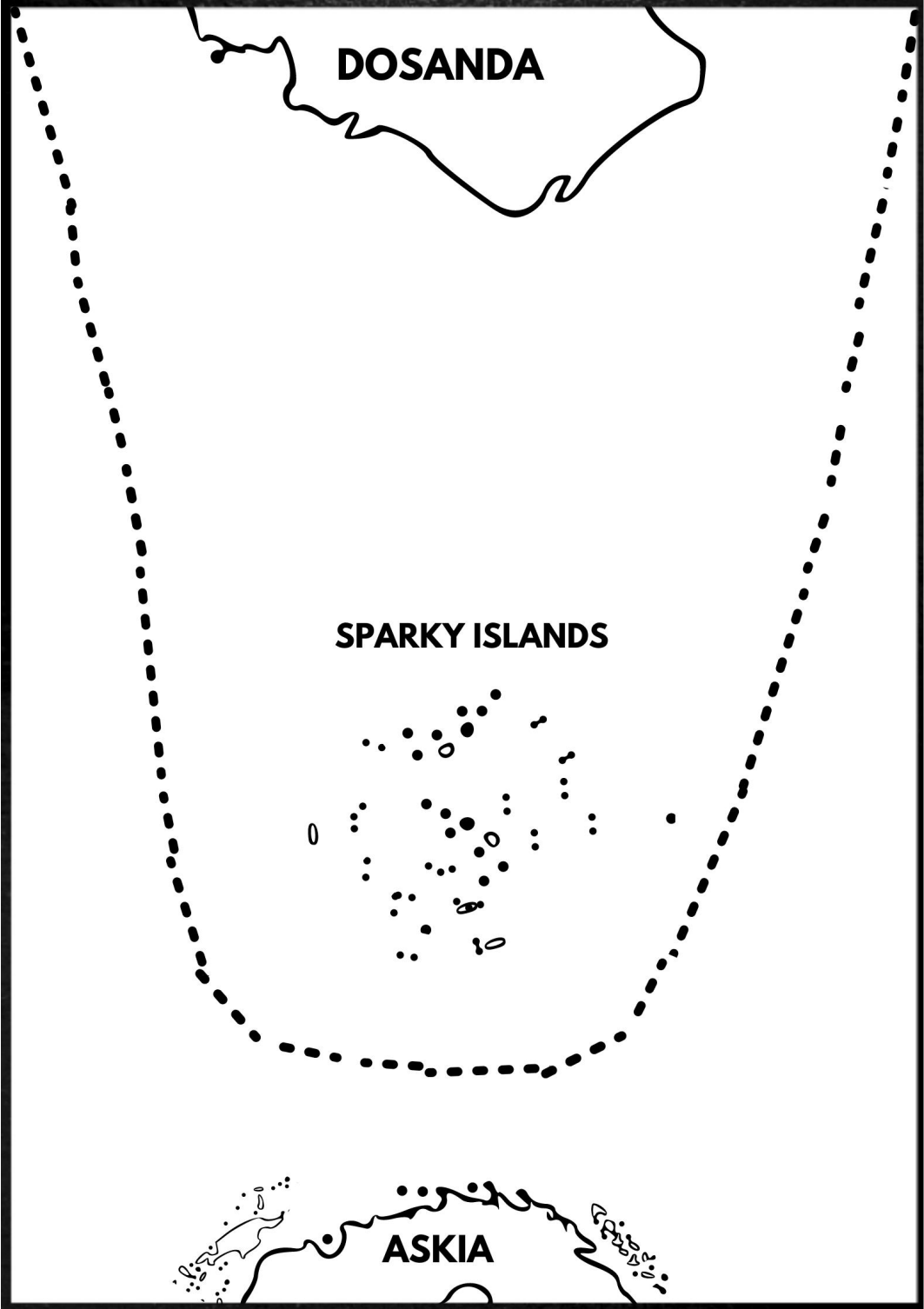
14. The waters surrounding the Island have been a traditional fishing ground for the fishermen of Askia and Dosanda since ancient times. Since 2010, the dispute has escalated in the region due to declining fish stocks and increasing demand of the growing population leading to clashes between fishermen. Reports of collisions between Askia's fishing boats and Dosanda's vessels have become a routine affair. This is further fuelled by the territorial conflicts over sovereignty in the South Dosanda Sea. In 2016, Dosanda deployed an underwater surveillance system to monitor the movements of foreign ships. The Government of Dosanda also issued a new regulation requiring that foreign ships transiting through what is considered as Dosanda's waters in the South Dosanda's Sea should be granted permission by the relevant authorities. It grants them a legal basis for compelling foreign fishing boats out of the disputed water, robbing their fish catch and fining their crew.
15. As a result of escalating tensions between Dosanda and Askia, Dosanda submitted a note to the United Nations Secretary-General on 19th December 2019. The note claimed that "Dosanda has indisputable sovereignty over the islands in the South Dosanda Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof." It also asserted "straight baselines to connect the islands of an offshore archipelago", a position first declared by Dosanda as early as 1997. Dosanda further claims that its "sovereignty and related rights and jurisdiction in the South Dosanda Sea are supported by abundant historical and legal evidence". However, the extent of historic right has never been clarified by the Dosanda.
16. Due to increasing tensions in the region, in January 2020 the Southeast Asian Association (SAA), comprising 5 member states including Dosanda and Askia, passed a resolution calling Dosanda to halt land reclamation activities in the South Dosanda Sea. Dosanda has however objected to the resolution and continued with its land reclamation activities as legal under international law. After several failed diplomatic negotiations both the countries have decided to submit the matter of the dispute to the International Court of Justice under special agreement.

Applicant, the Republic of Askia, respectfully requests the Court to adjudge and declare that:

- i. Dosanda has interfered with Askia’s sovereign rights over non-living and living resources and has interfered with traditional fishing activities of Askia’s fishermen at the sparky islands.
- ii. Dosanda has constructed artificial islands, installations, and structures at various Reefs in the Exclusive Economic Zone of Askia without its authorization.
- iii. Dosanda’s maritime claims and exercise of sovereignty are inconsistent with the UNCLOS, in particular, maritime claims that do not adhere to its rules on baselines, maritime zones and classifications of features.

Respondents, the Republic of Doranda, respectfully requests the Court to adjudge and declare that

- i. Dosanda’s claim to historic rights established in the long course of historical practice in the south Dosanda Sea is consistent with UNCLOS.
- ii. Dosanda’s construction of artificial island and land reclamation activities and its exercise of sovereignty over them are consistent with international law and practices.
- iii. Dosanda’s maritime claims are consistent with the UNCLOS and it is entitled to draw a straight baseline connecting the outermost points of maritime features or island groups in the south Dosanda Sea.



*Dotted line shows straight baseline claimed by Dosanda.