

president, ICJ). The current chair is Judge Bengt Broms (Iran–United States Claims Tribunal).

The 32nd round of the Competition will be held at the Peace Palace, The Hague, on 16–18 April 2009. The Telders Organizing Office at the Grotius Centre for International Legal Studies (Campus The Hague/Leiden University) is responsible for its organization.

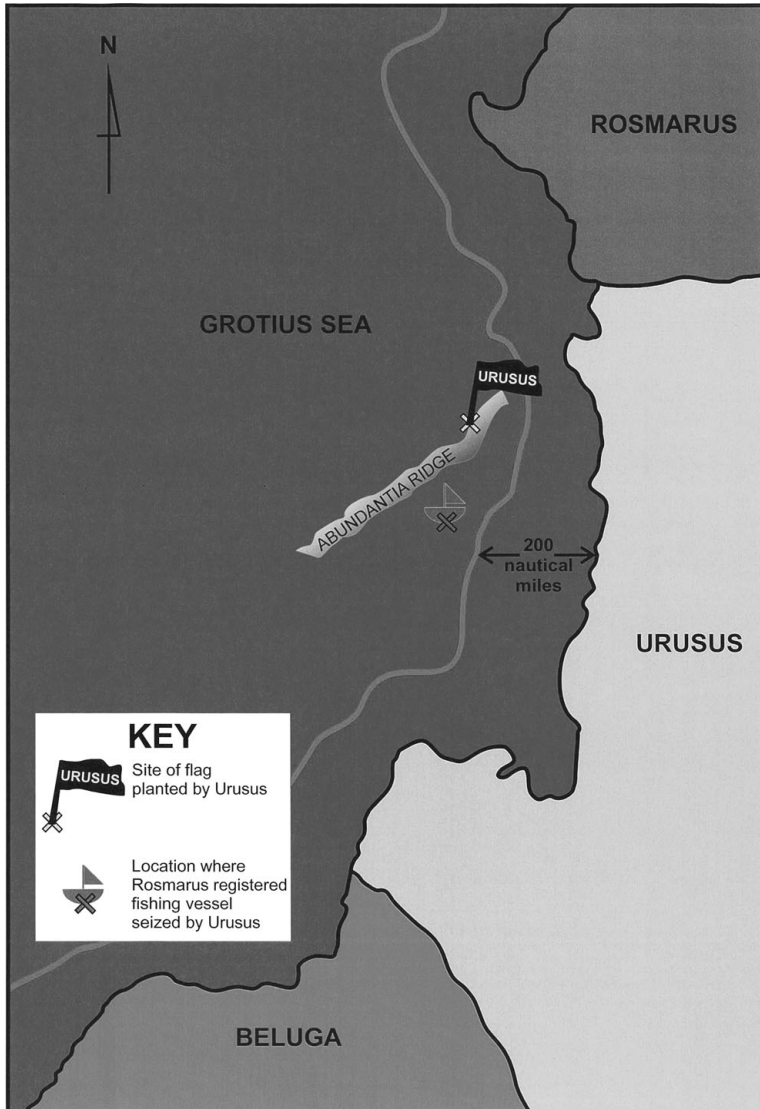
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The Telders International Law Moot Court Case 2009: *The Mare Liberum Case (Rosmarus v. Urusus)**

This case concerns a claim for damages by the State of Rosmarus following an accidental explosion and leak at an offshore oil rig operated by the State of Urusus and the seizure of an Urusus-flagged fishing vessel by the State of Rosmarus. It involves issues of public international law, including the law of the sea, the law of treaties, and international environmental law.

1. Urusus and Rosmarus are neighbouring coastal States, facing the Grotius Sea (refer to the attached map). The sea incorporates large tracts of ice, which stretch to the North Pole. Until recently, the sea was frozen for most of the year, making it largely non-navigable. However, with the onset of climate change, a greater amount of this ice is melting and for a longer period of time each year, making parts of the Grotius Sea navigable for several months each year.
2. The Grotius Sea is also home to several valuable fish stocks, including certain species of cod and pollack. Throughout the year, with changes in the temperature and salinity of the seawater and access to nutrients, and in line with their own breeding habits, these stocks migrate. The stocks move in both a longitudinal and latitudinal direction, including from the territorial waters of Urusus and Rosmarus to the waters beyond. Historically, there was heavy commercial fishing of these stocks by both States in the very southern part of the Grotius Sea only because of the difficulty of navigating the ice in the rest of the Grotius Sea.
3. In 1962, Urusus and Rosmarus concluded a Treaty of Friendship and Cooperation in Fishing Matters. Article 1 provides that the States ‘decide to found the relations between their two countries on equality, mutual respect and peace’; Article 2 declares the objective of fostering co-operation in promoting the development of each State’s fishing and industrial activities. Under this bilateral treaty, the two States agreed to share data on fish catches, as well as data on stock populations. They also agreed that the use of certain trawl nets and other fishing

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equipment was illegal when fishing cod or pollack fish stocks in the Grotius Sea.

4. In the mid 1970s, soon after the start of the oil crisis of 1973–4, scientists from Urusus estimated that significant reserves of oil and natural gas were located in the seabed of the Grotius Sea. Given the icy, remote nature of this area, it has been difficult to ascertain the precise extent of these reserves or the exact nature of the geological formations under the waters beyond the two States.
5. In 1984, Urusus and Rosmarus began negotiations about the legal status of the Grotius Sea and the Abundantia Ridge – a mountainous piece of land

approximately 150 kilometres in length running along the seabed of the Grotius Sea just beyond the 200-mile EEZ of Urusus. These talks broke down after eight years without any substantial progress being made. Both states proclaimed an Exclusive Economic Zone (EEZ) of 200 nautical miles in 1997.

6. As the ice in the Grotius Sea melts with greater intensity and for a longer period of time each year, some scientists consider that marine life in the area is being affected. The increase in seawater temperatures in particular appears to be driving stocks further north in search of colder waters. At the same time, the increased melting of the ice in the Grotius Sea has allowed for an expansion of the commercial catch area of cod and pollack, among other species. Since 1998, Urusus has undertaken increasingly intensive fishing activities in the Grotius Sea, including in the area above the Abundantia Ridge. Rosmarus has frequently accused Urusus of 'over fishing' the resources in an 'unfriendly' and unsustainable manner, causing the fish stocks to become depleted, of ignoring the need to protect the global commons for future generations, of using illegal fishing equipment in the area and of allowing its fishing vessels to undertake illegal fishing activities within Rosmarus's EEZ.
7. Since 2005, Rosmarus has also used the Grotius Sea to transport hazardous waste covered by Annex I of the Basel Convention on the Control of the Transboundary Movements of Hazardous Waste and their Disposal of 22 March 1989 for disposal in a third State, Beluga, with Beluga's consent. The route used by Rosmarus to ship the toxic materials passes through Urusus's declared EEZ. The notification and movement documents for each shipment of toxic materials indicate that Rosmarus has not sent formal notification to Urusus of the movement of the materials.
8. In mid 2005, scientists in Urusus publicly circulated a report, subsequently endorsed by many climate change action groups, suggesting that, as a result of rising temperatures, the ice regions of the Grotius Sea were melting. In a confidential annexure to this report, made available only to the Government of Urusus, the scientists suggested that, as a result, the oil and gas resources located in the sea-bed of the Grotius Sea would be more easily accessible, and their extraction commercially viable, based on the then market price for oil (approximately US\$60 a barrel). Urusus began to prepare a submission to the Commission on the Limits of the Continental Shelf, which it planned to lodge by the end of 2008.
9. On 1 January 2007, Urusus planted a flag on the seabed at the Abundantia Ridge claiming that it formed part of the continental shelf of Urusus. Rosmarus strongly protested this action, making public statements to this effect and invoking the principle of *mare liberum* with respect to the waters above the Abundantia Ridge.
10. In early 2008, the Government of Rosmarus became particularly concerned about what it considered to be the severely depleted state of fish stocks in the Grotius

Sea. This was compounded by the fact that Urusus had become irregular in its reporting of data on catches and stocks. As a result, the Rosmarus Minister for Natural Resources ordered the National Coast Guard to be on watch for illegal fishing activities in the area of the Grotius Sea, both within territorial waters and beyond.

11. On 29 August 2008, a fleet of Coast Guard vessels from Rosmarus identified *Maria*, flying the Urusus flag, undertaking fishing activities, with what it believed was an illegal trawl net, just inside Rosmarus's EEZ. One Coast Guard vessel pursued *Maria*, while the others prevented nearby fishing vessels from intervening in the pursuit. The chase ended in the high seas above the northeastern part of the Abundantia Ridge after the Coast Guard vessel fired a warning gunshot across *Maria*'s bow. Armed officers from Rosmarus boarded *Maria*, arrested her crew and impounded the vessel. One member of the crew (an Urusus national) was seriously injured when resisting arrest.
12. Also in early 2008, Urusus commenced exploration and drilling activities on the western end of the Abundantia Ridge, approximately 1000 metres below the surface. Conscious of reports regarding the impacts of human-induced climate change, Urusus incorporated new technology into its drill rigs, which provided for carbon dioxide released from the seabed during the drilling process to be captured and 'injected' back into a designated location in the subsurface (carbon capture and storage or 'CCS'). These activities were all carried out in a manner consistent with Urusus' domestic laws governing exploration, drilling and CCS in offshore areas within Urusus's jurisdiction, effective from 1 January 2008.
13. However, on 1 September 2008, there was an unintended dynamite explosion at the drilling site, which caused a large amount of oily water, residue and waste oil to be released from the rig and subsurface of Abundantia Ridge. These pollutants were carried some distance by unfavourable winds and currents. The accident occurred at the height of the spawning season for cod and preceded the spawning season for pollack.
14. On 10 September 2008, Rosmarus and Urusus brought proceedings before the International Court of Justice by special agreement in accordance with Article 40(1) of the Statute of the Court. In the special agreement, Rosmarus requests the Court rule that:
 - a) Abundantia Ridge does not form part of the continental shelf of Urusus but rather is part of the international seabed, and that all Abundantia Ridge's superjacent waters form part of the high seas;
 - b) Urusus's exploration, drilling and CCS activities in the subsurface of Abundantia Ridge were unlawful under international law;
 - c) Urusus is responsible for the damage to marine life that resulted from the dynamite explosion and resulting leak of 1 September 2008, in particular, damage to cod and pollack stocks on the high seas above Abundantia Ridge and within Rosmarus's own territorial waters; and is liable to pay compensation for the totality of the damage;

- d) Urusus has failed to meet its international law obligations to control the activities of its fishing vessels in Rosmarus's EEZ; and
 - e) Urusus, by acting contrary to or by failing to act in accordance with Articles 1 and 2 of the Treaty of Friendship and Co-operation in Fishing Matters of 1962 has violated the spirit and purpose of that Treaty, as well as the obligations deriving therefrom.
15. In the special agreement, Urusus requests the Court rule that:
- a) it has sovereign rights over Abundantia Ridge as an extension of its continental shelf;
 - b) it has a lawful right to undertake exploratory, drilling and CCS activities on the seabed of Abundantia Ridge;
 - c) Rosmarus's lack of notification of its transportation of hazardous waste to Beluga via the waters of its EEZ was in breach of its transit State notification obligations under the Basel Convention; and
 - d) Rosmarus compensate Urusus for the unlawful seizure of *Maria* and detention of and injury caused to her crew in the waters above the Abundantia Ridge.
16. Both States are Members of the United Nations and parties to the Vienna Convention on the Law of Treaties, UNCLOS, the United Nations Agreement for the Implementation of the Provisions of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and the Basel Convention on the Control of the Transboundary Movements of Hazardous Waste and their Disposal.
17. Both States accept the jurisdiction of the International Court of Justice to decide all issues in this case. Both States accept that Beluga's actions with regard to the receipt of hazardous wastes from Rosmarus are not at issue in this case.