

Team No. 1982

**IN THE INTERNATIONAL COURT OF JUSTICE
AT THE PEACE PALACE
THE HAGUE, THE NETHERLANDS**



**QUESTIONS RELATING TO USE OF THE SARGASSO SEA
AND THE PROTECTION OF THE EUROPEAN EELS**

FEDERAL STATES OF ALLIGUNA

APPLICANT

REPUBLIC OF REVELES

RESPONDENT

MEMORIAL FOR THE APPLICANT

THE 23ND STETSON MOOT COURT COMPETITION 2018-2019

TABLE OF CONTENTS

QUESTIONS PRESENTED	4
STATEMENT OF JURISDICTION	5
INDEX OF AUTHORITIES.....	6
STATEMENT OF FACTS.....	11
SUMMARY OF ARGUMENTS	13
I. THE ICJ HAS JURISDICTION TO SOLVE THE DISPUTE.....	14
A. SCOPE OF THE COURT’S JURISDICTION	14
1. PURSUANT TO ARTICLE 27 OF THE CBD	14
2. PURSUANT TO THE UNFCCC	15
3. PURSUANT TO THE PARIS AGREEMENT	15
B. OTHER INSTRUMENTS ON THE SAME SUBJECT MATTER DO NOT BAR THE JURISDICTION OF THE ICJ.....	16
II. REVELS IS INTERNATIONALLY RESPONSIBLE FOR VIOLATING INTERNATIONAL LAW.....	16
A. REVELS BREACHED ITS INTERNATIONAL OBLIGATIONS	17
1. REVELS DID NOT EXERCISE ITS AUTHORITY TO CONTROL THE SEA CORPORATION’S ACTIONS	17
a) Revels breached its obligations under the CBD.....	17

(1) Revels failed to comply with the object of the CBD.....	17
(2) Revels failed to comply with the duty to ensure that the activities done under its control do not cause damage to the environment of areas beyond the limits of national jurisdiction	18
(3) Revels failed to comply with the duty to cooperate with Alliguna to conserve the Sargasso Sea	20
(4) Revels failed to integrate the conservation of biological diversity into its Governmental Program to reduce greenhouse gas emissions and expand the use of renewable energy in Revels	20
(5) Revels breached its duty to identify activities that have significant adverse effects and monitor their impact	21
(6) Revels breached its obligation to promote the protection of ecosystems and population of species	22
b) Revels Breached General Principles of International Environmental Law	
23	
(1) Revels failed to apply the Prevention Principle	23
(2) Revels failed to apply the Precautionary principle	24
(3) Revels failed to apply the Sustainable Development principle	25
2. REVELS USED THE SEA CORPORATION CONDUCT TO ACCOMPLISH ITS NDC	27
a) Revels breached the UNFCCC and the Paris Agreement.....	27

(1) Revels breached the UNFCCC	28
(2) Revels did not comply with the object of the Paris Agreement	28
B. THE SEA CORPORATION’S ACTIONS ARE ATTRIBUTABLE TO REVELS	
30	
1. REVELS HAS THE POWER TO EXERCISE ITS CONTROL OVER	
NATIONAL PRIVATE ENTITIES AND REFRAINED FROM DOING SO	30
a) The SEA Corporation is under Revel’s jurisdiction	30
b) Revels did not set effective domestic laws to control national private’s	
activities that harm or may harm the environment	32
2. REVELS’ ACCEPTANCE OF THE SEA CORPORATION’S CONDUCTS AS	
ITS OWN	33
III. REVELS’ RESPONSIBILITY FOR ITS INTERNATIONAL WRONGFUL ACTS	
ENTAILS THE OBLIGATION OF CESSATION	34
A. ALLIGUNA IS ENTITLED TO INVOKE REVELS’ RESPONSIBILITY AND	
THE CESSATION OF HARVESTING THE SARGASSUM.....	35
CONCLUSION AND PRAYER OF RELIEF	37

QUESTIONS PRESENTED

- 1. WHETHER THE INTERNATIONAL COURT OF JUSTICE HAS JURISDICTION OVER THE DISPUTE BETWEEN THE FEDERAL STATES OF ALLIGUNA AND THE REPUBLIC OF REVELS.**
- 2. WHETHER THE REPUBLIC OF REVELS VIOLATED INTERNATIONAL LAW BY NEGATIVELY IMPACTING THE EUROPEAN EEL THROUGH THE HARVESTING OF THE SARGASSUM AS PART OF THE SEA CORPORATION'S PROJECT.**

STATEMENT OF JURISDICTION

The Federal States of Alliguna (Applicant) has submitted the following dispute against the Republic of Revels (Revels or Respondent) to the International Court of Justice (ICJ or the Court). The jurisdiction of this Court is determined in treaties and conventions in force, in accordance with Article 36(1) of the Statute of the ICJ.

The subject matter of the present dispute arises under The Convention on Biological Diversity (CBD), The United Nations Convention on Climate Change (UNFCCC), and The Paris Agreement (PA).

Therefore, Alliguna invokes the compromissory clause established in Article 27 of the CBD, under which both parties have recognized the jurisdiction of this Court. Furthermore, considering that Revels and Alliguna are States Parties of the UNFCCC, under article 14 of this instrument both countries accepted the jurisdiction of the ICJ for the settlement of disputes.

The Court shall also find jurisdiction under the PA. Pursuant to article 24 of this instrument, the parties recognized as well the jurisdiction of the ICJ by remission of article 14 of the UNFCCC.

INDEX OF AUTHORITIES

TREATIES AND CONVENTIONS

Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79.

Convention on the Conservation of Migratory Species of Wild Animals, June 23, 1979, 1651 U.N.T.S.

Paris Agreement, Dec. 12, 2015, U.N.T.S.

Statute of the International Court of Justice, 26 June 1945, T.S. 993.

United Nations Convention on the Law of the Sea, 10 Dec. 1982, 1833 U.N.T.S.

United Nations Framework Convention on Climate Change, 9 May 1992, 1771 U.N.T.S. 107.

Vienna Convention on the Law of Treaties, 23 May 1969, 1155 U.N.T.S. 331.

U.N DOCUMENTS & OTHER INTERNATIONAL DOCUMENTS

Articles on Responsibility of States for Internationally Wrongful Acts, in Reports of the International Law Commission, Fifty-third Session, U.N. Doc. A/56/10 at 59 (2001).

Decision on Marine and Coastal Biodiversity, Convention on Biological Diversity, Ninth meeting, Conference of the Parties, UNEP/CBD/COP/Dec. (IX/20) (Oct. 9, 2008).

Decision on Marine and Coastal Biodiversity, Convention on Biological Diversity, Tenth meeting, Conference of the Parties, UNEP/CBD/COP/Dec. (X/29) (Oct. 29, 2010).

Declaration of the United Nations Conference on the Human Environment, U.N. Doc. A/RES/2994 (Dec. 15, 1972).

G.A. Res. 66, The Future we Want, (July 27,2012).

Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea, March 11, 2014,
Sargasso Sea Commission.

Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/126 (June 14, 1992).

JUDICIAL DECISIONS

Advisory Opinion on The Legality of the Threat or Use of Nuclear Weapons, 1996 I.C.J. Reports
226 (July 8).

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn.
& Herz. v. Serb. and Montenegro), Judgment, 2007 I.C.J. Reports 43 (Feb. 26).

Armed Activities on the Territory of the Congo (New Application: 2002) (Dem. Rep. Congo v.
Rwanda), Judgment, 2006 I.C.J. Reports 6 (Feb. 3).

Barcelona Traction, Light and Power Company, Limited, Preliminary Objections (Belg. v. Spain),
Judgment, 1964 I.C.J. Reports 6 (July 24).

Corfu Channel Case (U.K. v. Alb.), Judgment, 1949 I.C.J. Reports 4 (Apr. 9).

Factory at Chorzów (Ger. v. Pol.), Judgment, 1927 P.C.I.J. (ser. A) No. 9, at 21 (July 26).

Fisheries Jurisdiction (Spain v. Can.), Judgment, 1998 I.C.J. Reports 432 (Dec. 4)

Gabčíkovo-Nagymaros Project (Hung./ Slov.), Judgment, 1997 I.C.J. Reports 7 (Sept. 25).

Iron Rhine Railway (U.K. v Neth.), Awards of International Arbitral Tribunals, 2005 U.N. Reports
XXVII (May 24).

Jurisdictional Immunities of the State (Ger. v. It.; Greece intervening), Judgment, 2012 I.C.J. Reports 99 (Feb. 3).

Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), Judgment, 1986 I.C.J. Reports 14 (June 27).

MOX Plant (Ir. v. U.K.), Order, 2001 ITLOS Reports 95 (Dec. 3).

Oil Platforms (Iran v. U.S.), Judgment, 1996 I.C.J. Reports 803 (Dec 12).

Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. Reports 14 (Apr. 20).

Rainbow Warrior (N.Z. v. Fr.), Awards of the International Arbitral Tribunals, 1990 U.N. Reports XX (Apr. 30).

Request for Advisory Opinion on Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, 2011 ITLOS Reports 17 (Feb. 1).

Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission, 2015 ITLOS Reports 21 (Apr. 2).

South West Africa (Liber. v. S. Afr), Judgment, 1962 I.C.J. Reports 328 (Dec. 21).

Southern Bluefin Tuna (N.Z. v Japan & Austl. v. Japan), Awards of International Arbitral Tribunals, 2000 U.N. Reports XXIII (Aug. 4).

The Mavrommatis Palestine Concessions (Greece v. U.K.), Judgment, 1924 P.C.I.J. (ser. A) N° 2, at 3 (Aug. 30).

The South China Sea Arbitration (Phil. v. China), Judgment, 2015 P.C.A. Reports 19 (2015).

Trail Smelter Arbitration (U.S. v. Can.), Awards of International Arbitral Tribunals, 1941 U.N. Reports 1905 (Mar. 11).

United States Diplomatic and Consular Staff in Tehran, (U.S. v. Iran), Judgment, 1980 I.C.J. Reports 3 (May 24).

BOOKS

James Crawford, *State Responsibility* (James Crawford, John S. Bell eds., 2013).

Julio Barboza, *The Environment, Risk and Liability in International Law* (David Freestone eds., vol. 10, 2011).

Lori F. Damrosch et al., *International Law* (West Academic Publishing eds., 5th ed. 2009).

Mark E. Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (2009).

Oliver Dörr, *Vienna Convention on the Law of Treaties: A Commentary* (Kristen Schmalenbach eds., 2012).

Philippe Sands ET AL. *Principles of International Environmental Law* (Philippe Sands et al. eds., 3rd ed. 2012).

Roda Verheyen, *Climate Change and International Law: Prevention Duties and State Responsibility* (Martinus Nijhoff eds., vol. 54).

Xue Hanquin, *Transboundary Damage in International Law* (James Crawford eds., 1st ed. 2003).

ESSAYS, ARTICLES, AND JOURNALS

Laffoley, D.d'A et al, *The protection and management of the Sargasso Sea: The golden floating rainforest of the Atlantic Ocean. Summary Science and Supporting Evidence Case*, (Sargasso Sea

Alliance Science Report Series, ISBN #- 978-0-9847520-0-3) <https://www.cbd.int/cop/cop-11/doc/vtable/Sargasso.Report.-cop11-iucn1.pdf>

Lomas, M.W et al, *Oceanic changes in the Sargasso Sea and declines in recruitment of the European eel*, ICES Journal of Marine Sci. (2007).

Rao, *2nd report on the legal regime for the allocation of loss in case of transboundary harm arising out of hazardous activities*, ILC Doc. A/CN.4/540 – ILC 56th session (2004).

STATEMENT OF FACTS

Alliguna and Revels are neighboring coastal States on Ugandi, a continent located in the North Atlantic Ocean, where the Sargasso Sea is. Both countries' coastal waters are nearby this sea, the habitat of many valuable species.

The European eel is a catadromous migratory species recognized as Critically Endangered on the IUCN Red List of Threatened Species. This species migrates to the Sargasso Sea to spawn, and then the larvae migrates across the Atlantic Ocean to coastal waters. Lamentably, the species have suffered a pronounced decline of its population over the past decades.

This species is important for Alliguna because, historically, an important number of European eels lived in Alliguna's waters. Hence, it is a characteristic feature for Alliguna's culture, religion and history.

In 2010, the government of Alliguna passed legislation to protect and recover the European eel.

Both, Alliguna and Revels are members of the UN and parties to the VCLT, CBD, CMS, UNFCCC, PA, UNCLOS and are also signatories of the Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea. Additionally, both countries had fully participated in various conferences regarding the protection of the environment held in Stockholm, Rio and Johannesburg.

The Government of Alliguna noticed that in 2016 the Seaweed Energy Alternatives Inc. (SEA Corporation), a private company from Revels, launched a biofuel initiative to harvest the

Sargassum of the Sargasso Sea, carried out through its vessel, the Columbus, which sails under the flag of Revels in the high seas.

The SEA Corporation received a subsidy from the Government of Revels as part of the program created to reduce greenhouse gas emissions and to promote the use of renewable energy in Revels, in accordance with its NDC commitments under the PA.

Concerned about the negative impacts of this initiative on the European eels, whose population is in serious decline, Alliguna through various diplomatic notes, asked Revels to put an end to the project, but Revels refused.

Revels claimed, that the initiative is in accordance with its NDC commitments under the PA. Finally, Revels declined to stop the SEA Corporation initiative alleging the impossibility to determine its international responsibility for the conduct of a private company.

Failing to resolve the dispute by negotiation and mediation, Alliguna submitted the matter to the ICJ for adjudication.

SUMMARY OF ARGUMENTS

1. The ICJ has jurisdiction due to the consent given by the parties in the CBD, UNFCCC and Paris Agreement, which are applicable to the present dispute, regardless of the application of any other treaty.
2. Revels violated its international obligations by not exercising its jurisdiction to control the SEA Corporation's actions, breaching its obligations established under the CBD and failing to act in accordance with the Prevention Principle, the Precautionary Principle and the Sustainable Development Principle. Also, by using the SEA Corporation project for the achievement of its NDC, contravening the object and purpose of the UNFCCC and the PA.
3. The conduct of the SEA Corporation is attributable to Revels because it had to and did not exercise its jurisdiction and control. It also did not take other necessary measures to control the deployment of the project. Additionally, Revels' adoption of the acts of that private entity as its own, leads to the attribution of those acts to Revels.

ARGUMENT

I. THE ICJ HAS JURISDICTION TO SOLVE THE DISPUTE

A dispute is a disagreement on a point of law or fact, a conflict of legal views or interest¹. The existence of a legal dispute between the parties is not at issue, what is at issue is the instrument under which the dispute arose.

A. SCOPE OF THE COURT'S JURISDICTION

Revels claims that the dispute arises under CMS and UNCLOS, however, the Applicant will demonstrate that the dispute arises under the CBD, UNFCCC and the Paris Agreement.

1. PURSUANT TO ARTICLE 27 OF THE CBD

The objective of CBD is the conservation of biological diversity.² Article 27 of the CBD³ provides that States parties shall settle the disputes concerning the interpretation or application of the convention through negotiation.⁴ If they do not reach an agreement, they would submit the dispute to the ICJ.⁵

Applicant and Respondent are parties to the CBD, and they have exhausted the negotiation requirement through the exchange of diplomatic notes.⁶ Revels enabled a private party to threaten the European Eel, and the Sargasso Sea, both are important for biodiversity.

Therefore, the dispute concerns the application and interpretation of the CBD.

¹ The Mavrommatis Palestine Concessions (Greece v. U.K.), Judgment, 1924 P.C.I.J. (ser. A) N° 2, at 3, ¶ 11 (Aug. 30).

² Convention on Biological Diversity, art. 1 (June 5, 1992), 1760 U.N.T.S. 79.

³ Convention on Biological Diversity, Introduction, <https://www.cbd.int/intro/>

⁴ Convention on Biological Diversity, art. 27-1, *supra* 2.

⁵ Convention on Biological Diversity, art. 27-3, *b supra* 2.

⁶ Record ¶18&20, *see also* Fisheries Jurisdiction (Spain v. Can.), Judgment, 1998 I.C.J. Rep. 432, ¶ 31 (Dec. 4).

2. PURSUANT TO THE UNFCCC

Article 14 of the UNFCCC⁷ provides that disputes concerning the application or interpretation of the convention shall be settled by the parties through negotiation or any other peaceful means of their own choice.⁸ The objective of the convention is the stabilization of greenhouse gas emissions as long as these processes do not threaten ecosystems.⁹

Alliguna and Revels are parties to the UNFCCC¹⁰ and, as mentioned before,¹¹ they sought a solution by negotiation. Also, Revels enabled a private to threaten the European Eel and the Sargasso Sea, in areas beyond national jurisdiction,¹² as a response to climate change.¹³

Consequently, the dispute arises under the UNFCCC and the Court has jurisdiction to solve it.

3. PURSUANT TO THE PARIS AGREEMENT

The PA,¹⁴ which main objective is to address the threat of climate change,¹⁵ establishes that the provisions of Article 14 of UNFCCC shall apply to this instrument as a dispute settlement mechanism.¹⁶ Additionally, article 5 of the Paris Agreement provides that the parties should take action to conserve and enhance sinks and reservoirs of greenhouse gases.¹⁷

⁷UNFCCC Sites and platforms, Status of Ratification, <https://unfccc.int/process/the-convention/what-is-the-convention/status-of-ratification-of-the-convention>

⁸ United Nations Framework Convention on Climate Change, art. 14 (May 9, 1992), 1771 U.N.T.S. 107.

⁹ *Id.*, art. 2.

¹⁰ Record ¶10.

¹¹ *See supra* p. 15 Section I.A.1.

¹² United Nations Framework Convention on Climate Change, Preamble, *supra* 8.

¹³ Record ¶19&23, *see also* Fisheries Jurisdiction (Spain v. Can.), Judgment, 1998 I.C.J. Rep. 432, ¶ 31 (Dec. 4).

¹⁴ UNFCCC Sites and platforms, The Paris Agreement, <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

¹⁵ Paris Agreement, art. 2, Dec. 12, 2015, U.N.T.S.

¹⁶ *Id.*, art. 24.

¹⁷ *Id.*, art. 5.

Claimant and Respondent are parties of the PA, by which they gave their consent to settle their disputes through the mechanism mentioned. Revels claims that it is adopting the SEA Corporation's project as a measure to mitigate climate change.

Consequently, the dispute concerns, as well, the application and interpretation of the PA, whereby the jurisdiction of the Court is satisfied.

B. OTHER INSTRUMENTS ON THE SAME SUBJECT MATTER DO NOT BAR THE JURISDICTION OF THE ICJ

The acts of this case “may fall within the ambit of more than one legal instrument and a dispute relating to those acts may relate to the ‘interpretation or application’ of more than one treaty or other instrument”.¹⁸

As the Applicant proved, the dispute concerns the interpretation and application of the CBD, UNFCCC and the PA.

The fact that there are other instruments that may be applicable to the subject matter, does not bar the jurisdiction of the Court¹⁹. Thus, CMS and UNCLOS are instruments that it might use to interpret the applicable treaties under which the present dispute arises²⁰.

II. REVELS IS INTERNATIONALLY RESPONSIBLE FOR VIOLATING INTERNATIONAL LAW

Revels is internationally responsible because (A) the Respondent breached its international obligations; and (B) the SEA Corporation's actions are attributable to it.

¹⁸ Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Iran v. U.S.), Order, 2018 I.C.J. Rep. 75, ¶ 38 (Oct. 3)

¹⁹ *Id.*, ¶ 39

²⁰ Vienna Convention on the Law of Treaties, art. 31, 23 May 1969, 1155 U.N.T.S. 331 see also Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. Rep. 14 (Apr. 20)

A. REVELS BREACHED ITS INTERNATIONAL OBLIGATIONS

Revels breached its obligations under the CBD by not exercising its authority to control to the SEA Corporation's actions. It breached general principles of international environmental law, failing to apply the Prevention Principle, the Precautionary Principle and the Sustainable Development Principle. Additionally, by using the SEA Corporation's conduct to accomplish its NDC Revels breached the UNFCCC and the PA acting against the its object and purpose.

1. REVELS DID NOT EXERCISE ITS AUTHORITY TO CONTROL THE SEA CORPORATION'S ACTIONS

a) Revels breached its obligations under the CBD

The principle of *Pacta sunt servanda* determines that treaties in force are binding upon the parties and must be perform in good faith.²¹ Hence, this applies to the CBD.

(1) Revels failed to comply with the object of the CBD

The purpose and object of the CBD is to conserve the biological diversity and to promote the sustainable use of its components.²²

By harvesting the Sargasso Sea, the European Eel, a catadromous migratory species recognized as Critically Endangered on the IUCN Red List of Threatened Species, has been harmed. The Sargasso Sea ecosystem is the spawning habitat of the European Eel.²³

In this way, the European eels and the Sargasso Sea are part of the biological diversity protected by the CBD.²⁴ Because of the importance of The Sargasso Sea for life history stages of

²¹ Vienna Convention on the Law of the Treaties, art. 26, May 23,1969, 1155 U.N.T.S.

²² Convention on Biological Diversity, art. 1, June 5,1992, 1760 U.N.T.S.

²³ Record, ¶3.

²⁴ Convention on Biological Diversity, art. 2, *supra* 22.

species that are endangered, it already had been recognized as an Ecological or Biological Significant Marine Area.²⁵

By harvesting seaweed, a human activity that degrades marine biodiversity, especially the Sargasso Sea, the SEA Corporation affected an important ecosystem for the European Eels.²⁶

Hence, Revels failed to protect the biological diversity found in the Sargasso Sea, harming the habitat of the European Eel *larvae* as well, when it did not take the necessary actions to stop the conduct of the SEA Corporation.²⁷

(2) *Revels failed to comply with the duty to ensure that the activities done under its control do not cause damage to the environment of areas beyond the limits of national jurisdiction*

Revels and all States parties have the right to exploit natural resources according to their policies, while also have the responsibility not to cause damage beyond its national jurisdiction when they are exercising this right.²⁸

The prevention principle, established in article 3 of the CBD, determines the obligation to prevent damaging the environment by limiting the activities that might cause harm in areas beyond the limits of national jurisdiction.²⁹

²⁵ Decision on Marine and Coastal Biodiversity, Convention on Biological Diversity, Ninth meeting, Conference of the Parties, UNEP/CBD/COP/Dec. (IX/20) (Oct. 9, 2008).

²⁶ Decision on Marine and Coastal Biodiversity, Convention on Biological Diversity, Tenth meeting, Conference of the Parties, UNEP/CBD/COP/Dec. (X/29) (Oct. 29, 2010).

²⁷ Vienna Convention on the Law of the Treaties, art. 31, *supra* 21.

²⁸ Convention on Biological Diversity, art. 3, *supra* 22.

²⁹ See Phillippe Sands et al, *Principles of International Environmental Law* 438 (2012); Declaration of the United Nations Conference on the Human Environment, U.N. Doc. A/RES/2994 (Dec. 15, 1972); Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/126 (June 14, 1992).

Revels selected the SEA Corporation initiative and subsidized it,³⁰ without controlling or verifying thoroughly through its governmental procedure of subsidizing renewable energy projects, that the private project would be carried out in a marine area recognized as an important ecosystem of ecological and biological significance.³¹ Then, Revels refused to control the private corporation's initiative.³²

Even though States have the sovereign right to determine its governmental policies, this right is limited by the duty not to cause environmental damage, due to its international obligations and the general obligation to respect the rights of other States.³³

The project deployed by the private corporation causes damage in the spawning stage of the European Eel by affecting the Sargasso Sea.³⁴

In this sense, Revels is not preventing the damage on environmental areas beyond its national jurisdiction,³⁵ breaching its obligation and acting against the rights of other States.³⁶

³⁰ Record, ¶14.

³¹ Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea, ¶1, 2, March 11, 2014.

³² Record ¶19, 21&23.

³³ See Phillippe Sands et al, *Principles of International Environmental Law* 438 (2012); *see also* Trail Smelter Arbitration (U.S. v. Can.), Awards of International Arbitral Tribunals, 1941 U.N. Reports 1905 (Mar. 11).

³⁴ See Lomas, M.W et al, *Oceanic changes in the Sargasso Sea and declines in recruitment of the European eel*, ICES Journal of Marine Sci. (2007).

³⁵ *Id.* at 28.

³⁶ See Phillippe Sands et al, *Principles of International Environmental Law* 234 (2012); *see also* Corfu Channel Case (U.K. v. Alb.), Judgment, 1949 I.C.J. Reports 4 (Apr. 9).

(3) *Revels failed to comply with the duty to cooperate with Alliguna to conserve the Sargasso Sea*

Each State party to the CBD has the duty to cooperate with other contracting states to conserve the biological diversity.³⁷ This duty is determined by the principle of good neighborliness as a concern of all the States to protect the environment in a spirit of union and alliance.³⁸

Revels refused to control the SEA Corporation Project, that seeks to harvest the seaweed,³⁹ where the European Eels *larvae* may be found.⁴⁰

Revels ignored Alliguna's requests, failing with its cooperation duty by not controlling the SEA Corporation's initiative,⁴¹ a human activity that degrades the Sargasso Sea and affects the European Eel,⁴² a special migratory specie.⁴³

(4) *Revels failed to integrate the conservation of biological diversity into its Governmental Program to reduce greenhouse gas emissions and expand the use of renewable energy in Revels*

The CBD recognizes the necessity of implementing general measures for the conservation of biological diversity by establishing the obligation of integrating the conservation issue in Governmental Programmes.⁴⁴

³⁷ Convention on Biological Diversity, art. 5, *supra* 22.

³⁸ Phillippe Sands et al, *Principles of International Environmental Law* 441 (2012); Rio Declaration on Environment and Development, Principle 27, U.N. Doc. A/CONF.151/126 (June 14, 1992); Declaration of the United Nations Conference on the Human Environment, Principle 24, U.N. Doc. A/RES/2994 (Dec. 15, 1972).

³⁹ Record, ¶13.

⁴⁰ *Id.* at 34.

⁴¹ Record 19,21 &23¶, See Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission, 2015 ITLOS Reports 21 (Apr. 2).

⁴²*Id.* at 26.

⁴³ Convention on the conservation of Migratory Species of Wild Animals, art. I&II, June 23,1979, 1651 U.N.T.S.

⁴⁴ Convention on Biological Diversity, art. 6, *supra* 22.

Revels especially subsidized the SEA Corporation's project and supports its initiative of harvesting the seaweed of the Sargasso Sea, as part of the Government's program to reduce greenhouse gas emissions and expand the use of renewable energy in Revels.⁴⁵

Therefore, Revels by selecting the SEA Corporation project, without considering that it would take place in an ecosystem recognized for its ecological and biological significance,⁴⁶ failed to integrate in its Governmental Program the conservation of the Sargasso Sea and the European Eel.⁴⁷

(5) *Revels breached its duty to identify activities that have significant adverse effects and monitor their impact*

CBD determines the obligation of State parties to identify the activities that have significant adverse impact on the conservation of biological diversity and monitor their effects.⁴⁸

The SEA Corporation's initiative to generate renewable energy by harvesting the Sargasso Sea was selected by Revels because of the Governmental Program created.⁴⁹

Harvesting sargassum is recognized by the Sargasso Sea Alliance a threatening activity for the integrity of the Sargasso Sea and the species found there, such as the *larvae* of the European Eel.⁵⁰

⁴⁵ Record, ¶14.

⁴⁶ *Id.* at 30.

⁴⁷ *Id.* at 27.

⁴⁸ Convention on Biological Diversity, art. 7, *supra* 22.

⁴⁹ Record, ¶14.

⁵⁰ Laffoley, D.d'A et al, *The protection and management of the Sargasso Sea: The golden floating rainforest of the Atlantic Ocean. Summary Science and Supporting Evidence Case*, (Sargasso Sea Alliance Science Report Series, ISBN #- 978-0-9847520-0-3) <https://www.cbd.int/cop/cop-11/doc/vtable/Sargasso.Report.-cop11-iucn1.pdf>.

Alliguna requested Revels to take action to ensure that the activities of the SEA Corporation stop causing harm. Nonetheless, Revels, instead of monitoring the project, denied the adverse effects created and furthermore, denied the existence of proof to such matter.⁵¹

In consequence, Revels failed to identify the harvesting sargassum as an activity with adverse effects on Sargasso Sea and the European Eel and, also breached its obligation to monitor the effects of the private company's project.⁵²

(6) *Revels breached its obligation to promote the protection of ecosystems and population of species*

In-situ conservation is the conservation of ecosystems and the maintenance and recovery of populations of species in their natural environment.⁵³ The CBD determines the duty to encourage and support In-situ conservation.⁵⁴

Revels selected the SEA Corporation project regardless of its adverse effects on the conservation of the Sargasso Sea and the protection of the European Eel.⁵⁵

The Sargasso Sea as an open ocean ecosystem,⁵⁶ and the European Eel as an endangered species⁵⁷ must be conserved in accordance with the object of the CBD.⁵⁸ Revels has the obligation to promote the In-situ conservation of this ecosystem and population species.⁵⁹

⁵¹ Record ¶19&23.

⁵² *Id.* at 27.

⁵³ *Id.* at 25.

⁵⁴ Convention on Biological Diversity, art. 8, *supra* 22.

⁵⁵ Record ¶14, 19, 21 &23.

⁵⁶ *Id.* at 31.

⁵⁷ Record ¶3.

⁵⁸ *Id.* at 25.

⁵⁹ *Id.* at 54.

However, by selecting and neglecting to control the SEA Corporation project, Revels breached its international obligation to promote and encourage the In-situ conservation of the Sargasso Sea and the European Eel.⁶⁰

b) Revels Breached General Principles of International Environmental Law

(1) Revels failed to apply the Prevention Principle

The Prevention principle requires a State to avoid causing damage to the environment by limiting or controlling certain activities⁶¹. The principle of Prevention is recognized as a principle of general international law and applies in a conduct done by a State⁶².

As well, this principle has been recognized as a customary rule that determines a due diligence obligation in charge of all States, which requires them to develop internal rules and measures. It also imposes the duty of vigilance in their enforcement and administrative control applicable.⁶³

The obligation to prevent environmental damage is related to procedural obligations.⁶⁴ Prevention includes the general obligation to adopt measures,⁶⁵ particularly embodied in the duty to carry out an impact assessment and minimizing adverse impacts.⁶⁶

The Prevention principle as a due diligence obligation is breached when a State fails to exercise the due diligence conduct, without requiring the causing of damage at the same time.⁶⁷

⁶⁰ *Id.* at 27.

⁶¹ Phillipe Sands et al, *Principles of International Environmental Law* 438 (2012).

⁶² Iron Rhine Railway (U.K. v Neth.), Awards of International Arbitral Tribunals, 2005 U.N. Reports XXVII, ¶59 (May 24).

⁶³ Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. Reports 14, ¶77&101 (Apr. 20).

⁶⁴ *Id.* ¶204.

⁶⁵ Convention on Biological Diversity, art. 10-b, *supra* 22.

⁶⁶ Convention on Biological Diversity, art. 14-d, *supra* 22.

⁶⁷ James Crawford, *State Responsibility* 227, see also Gabčíkovo-Nagymaros Project (Hung./ Slov.), Judgment, 1997 I.C.J. Reports 7 (Sept. 25).

Revels supported the SEA Corporation's initiative with the purpose of accomplishing its renewable energy assessments.⁶⁸ Harvesting the Sargasso Sea is a well-known threatening activity that causes harm to the marine ecosystem and its species.⁶⁹

Revels by not carrying out an environmental impact assessment or any other procedural measure to avoid the affectation of the Sargasso Sea and the European Eel project breached the Prevention principle⁷⁰.

(2) *Revels failed to apply the Precautionary principle*

The Precautionary principle is identified as a guide in the application of international environmental law where scientific uncertainty exists.⁷¹ It determines that in cases where threats of serious or irreversible damage can configure, lack of scientific certainty cannot be argued for postponing the implementation of measures to prevent environmental damage.⁷² It has been used specially to promote taking measures to protect the marine environment.⁷³

At a general level States must act carefully when taking decisions that relate to activities that may have a negative effect on the environment, and particularly requires that activities that can be harmful must be controlled,⁷⁴ even though there is not scientific certainty of a possible harmful effect.⁷⁵

⁶⁸ *Record* ¶14&19.

⁶⁹ *Id.* at 60.

⁷⁰ *Pulp Mills on the River Uruguay (Arg. v. Uru.)*, Judgment, 2010 I.C.J. Reports 14, ¶204 (Apr. 20).

⁷¹ Phillipe Sands et al, *Principles of International Environmental Law* 456 (2012).

⁷² Rio Declaration on Environment and Development, Principle 15, U.N. Doc. A/CONF.151/126 (June 14, 1992).

⁷³ *Id.* at 71.

⁷⁴ Phillipe Sands et al, *Principles of International Environmental Law* 461 (2012).

⁷⁵ Phillipe Sands et al, *Principles of International Environmental Law* 461 (2012), *see also* *Southern Bluefin Tuna (N.Z. v Japan & Austl. v. Japan)*, Awards of International Arbitral Tribunals, 2000 U.N. Reports XXIII, ¶77,79 &80 (Aug. 4).

This principle determines a due diligence obligation in charge of States and requires them to take all the appropriate measures to prevent damage, even in situations where scientific evidence is insufficient to establish the scope of damage.⁷⁶

Revels refused to control the SEA Corporation conduct alleging the absence of scientific evidence that demonstrates how the SEA Corporation initiative has negatively affected the Sargasso Sea ecosystem and the European Eel.⁷⁷

From the interpretation of the CBD the Precautionary principle is part of its object and purpose.⁷⁸ In consequence, Revels by not taking any measure to prohibit or monitor the harvesting of the Sargasso Sea, an activity that seriously threatens the spawning stage of the European Eel,⁷⁹ is breaching the Precautionary principle.

(3) *Revels failed to apply the Sustainable Development principle*

The Sustainable Development principle establishes the duty to ensure the use of natural resources in a way that is sustainable.⁸⁰ This principle is composed by four fundamental elements: The Intergenerational Equity; the Sustainable Use; the Equitable Use; and the Integration of economics interests and environmental objectives.⁸¹

⁷⁶ Request for Advisory Opinion on Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, 2011 ITLOS Reports 17, ¶131(Feb. 1).

⁷⁷Record ¶19&23.

⁷⁸ Convention on Biological Diversity, Preamble, June 5,1992, 1760 U.N.T.S.; Vienna Convention on the Law of the Treaties, art. 31, May 23,1969, 1155 U.N.T.S.

⁷⁹ *Id.* at 50.

⁸⁰ Phillipe Sands et al, *Principles of International Environmental Law* 443 (2012).

⁸¹ Phillipe Sands et al, *Principles of International Environmental Law* 444 (2012).

Intergenerational Equity represents the need to preserve resources for the benefit of the future generations.⁸² It has been recognized that the environment is not only important for the life of the present livings, but also for the unborn.⁸³

Sustainable Use aims at the exploitation of natural resources in a prudent and rational manner, it means that standards rating the exploitation of specific natural resources such as the marine living, resources should be used diligently.⁸⁴

Equitable Use of natural resources implies that when States are using natural resources, they must consider other States interests.⁸⁵

Integration, as a requirement of international law,⁸⁶ determines that environmental considerations must be unified with the economic development plans and programs, through the application of environmental objectives.⁸⁷ In this way, marine biodiversity is recognized as a critical natural resource in need of protection through the Sustainable Development Principle.⁸⁸

Revels supported and allowed the SEA Corporation's initiative with the purpose of accomplishing its renewable energy assessments.⁸⁹

Revels failed to integrate the environmental objectives that shall be intertwined to the sustainable use of natural resources in its Governmental project. It also failed to consider Equitable and Sustainable Use of the Sargasso Sea by allowing and omitting to control of the harvesting that

⁸² Phillippe Sands et al, *Principles of International Environmental Law* (2012).

⁸³ Advisory Opinion on The Legality of the Threat or Use of Nuclear Weapons, 1996 I.C.J. Reports 226, ¶29 (July 8).

⁸⁴ *Id.* at 83.

⁸⁵ Phillippe Sands et al, *Principles of International Environmental Law* (2012); See Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. Reports 14 (Apr. 20).

⁸⁶ Iron Rhine Railway (U.K. v Neth.), Awards of International Arbitral Tribunals, 2005 U.N. Reports XXVII, ¶59&243 (May 24).

⁸⁷ *Id.* at 83.

⁸⁸ G.A. Res. 66, The Future we Want, ¶158&197, (July 27,2012).

⁸⁹ Record ¶14&19.

affects the European Eel life cycle.⁹⁰ As a result, Revels breached the principle of Sustainable Development.

2. REVELS USED THE SEA CORPORATION CONDUCT TO ACCOMPLISH ITS NDC

Revels acted against the object of the UNFCCC and the Paris Agreement breaching its obligations, by using and supporting the SEA Corporation project, with the purpose to achieve its NDC.

a) Revels breached the UNFCCC and the Paris Agreement

States are bound to comply with the obligations provided in treaties in force when they have given their consent to be obliged by them.⁹¹

A treaty is understood by its interpretation in good faith, in accordance with the ordinary meaning of its terms, and particularly considering its aims, nature and goals expressed in their object and purpose.⁹²

In consequence, Alliguna will demonstrate how Revels acted against the object and purpose of the UNFCCC and the PA by using the SEA Corporation project to achieve its NDC, breaching its obligations.

⁹⁰ *Id.* at 50.

⁹¹ Vienna Convention on the Law of the Treaties, art. 26, May 23, 1969, 1155 U.N.T.S.; See Mark E. Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (2009).

⁹² Vienna Convention on the Law of the Treaties, art. 31, May 23, 1969, 1155 U.N.T.S.; Mark E. Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (2009).

(1) *Revels breached the UNFCCC*

The object of the UNFCCC is to minimize greenhouse gas concentrations, with the purpose to prevent interference with the climate system.⁹³

States have the obligation to ensure that their developmental policies do not cause environmental damage in areas beyond the limits of national jurisdiction.⁹⁴ In this context, parties of the UNFCCC have the obligation to promote and cooperate with the conservation of reservoirs such as oceans and marine ecosystem.⁹⁵

Revels selected and subsidized the SEA Corporation initiative as part of its governmental program of implementation of renewable energy projects.⁹⁶

The Sargasso Sea is a special marine protected area thus recognized by the States parties of this controversy.⁹⁷

Hence, Revels is violating its obligations under the UNFCCC by using the SEA Corporation project for the creation of renewable energy projects that help minimize and stabilize greenhouse gas concentrations, without recognizing that the project is affecting the Sargasso Sea.⁹⁸

(2) *Revels did not comply with the object of the Paris Agreement*

State parties to the PA recognized the negative impacts produced by measures taken as a response to climate change. As well, they recognized the importance of the protection of reservoirs

⁹³ United Nations Framework Convention on Climate Change, art. 2., May 5, 1992, 1771 U.N.T.S.

⁹⁴ United Nations Framework Convention on Climate Change, Preamble, *supra* 96.

⁹⁵ United Nations Framework Convention on Climate Change, art. 4-d, *supra* 96.

⁹⁶ Record ¶14.

⁹⁷ *Id.* at 29.

⁹⁸ *Id.* at 30.

of the greenhouse gases, such as the ocean and marine ecosystems. But most importantly, parties noted the significance of protecting oceans and its biodiversity.⁹⁹

The object of the PA is to address the threat of climate change by holding the increase of global average temperature, adapting to the climate change and making finance flows,¹⁰⁰ through the NDC.¹⁰¹

While parties achieve their NDC, they also have the duty to conserve reservoirs of greenhouse gases such as the Sargasso Sea as a marine ecosystem.¹⁰²

Revels argued that the SEA Corporation project would help to achieve its NDC commitments under the PA. The respondent State alleged that through the private initiative it was acting according to the PA.¹⁰³

Therefore, States can't affect the biological diversity through their NDC, because it would be against the object and purpose of the agreement breaching its obligations determined in article 2, 3 and 5.

Thus, Revels is acting against the object of the agreement and violating its obligations by achieving its NDC through a project that negatively affects the Sargasso Sea and the European Eel.¹⁰⁴

⁹⁹ Paris Agreement, Preamble, Nov. 4,2016.

¹⁰⁰ Paris Agreement, art. 2, Nov. 4,2016.

¹⁰¹ Paris Agreement, art. 3, Nov. 4,2016.

¹⁰² Paris Agreement, art. 5, Nov. 4,2016.

¹⁰³ Record ¶19.

¹⁰⁴ *Id.* at 30.

B. THE SEA CORPORATION'S ACTIONS ARE ATTRIBUTABLE TO REVELS

In order to establish whether Revels is responsible for the consequences of the conduct of the SEA Corporation, it must be proven that it failed to take the necessary measures to prevent those effects. Therefore, it is necessary to analyze the scope of Revels' power to control the SEA Corporation's conduct in the high seas and whether the Respondent set effective domestic law to avoid national private entities to engage its international obligations.

1. REVELS HAS THE POWER TO EXERCISE ITS CONTROL OVER NATIONAL PRIVATE ENTITIES AND REFRAINED FROM DOING SO

The Court will find that Revels has control over the SEA Corporation and did not exercise it through the deployment of necessary measures. Thus, the Applicant will demonstrate why the SEA Corporation is under Revel's jurisdiction, how the omission of its due diligence obligations engages its responsibility for the conduct of a private company and, how it did not take the necessary measures to comply with its international obligations.

a) The SEA Corporation is under Revel's jurisdiction

In the Respondent's view, the SEA Corporation has the freedom to harvest in the Sargasso Sea because it is on the high seas. However, as will be shown as follows, the SEA Corporation is under Revels' jurisdiction and control.

Article 94 of the UNCLOS states that ships flying a flag of a State are subject to its jurisdiction when they are on the high seas¹⁰⁵.

¹⁰⁵ United Nations Framework Convention on Climate Change, Preamble, *supra* 95.

Additionally, Principle 17 of the Rio Declaration provides that States must ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction¹⁰⁶. The obligation to ensure is not an obligation of result, but one of making the best effort to obtain that result¹⁰⁷.

Since the SEA Corporation is a private company from Revels and the Columbus is flying its flag, the company is under its jurisdiction and control, even though it is harvesting in the Sargasso Sea, an area beyond national jurisdiction.

Revels did not make the best effort to ensure that its nationals, in this case, the SEA Corporation, do not cause damage to the environment or to Alliguna, and also to ensure that vessels flying its flag are not involved in activities which will undermine its international obligations as flag State.¹⁰⁸

Thus, Revels failed to take the necessary measures to prevent the negative environmental effects of the private company's conduct. Consequently, it shall be found responsible for the conduct of the SEA Corporation.¹⁰⁹

¹⁰⁶ *Id.* at 96.

¹⁰⁷ Request for Advisory Opinion on Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, 2011 ITLOS Reports 17, ¶10 (Feb. 1); *See* United Nations Convention on the Law of the Sea, art. 94, 92, 192, 10.

¹⁰⁸ Request for Advisory Opinion on Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, 2011 ITLOS Reports 17 (Feb. 1); *See* United Nations Convention on the Law of the Sea, art. 92&94, 10 Dec. 1982, 1833 U.N.T.S.

¹⁰⁹ United States Diplomatic and Consular Staff in Tehran, (U.S. v. Iran), Judgment, 1980 I.C.J. Reports 3, ¶76 (May 24).

b) Revels did not set effective domestic laws to control national private's activities that harm or may harm the environment

It must be determined whether a private company can carry out any activity beyond national jurisdiction without any legal restriction.

The UNFCCC provides that States should enact effective domestic legislation to be coherent with their international obligations and with environmental standards.¹¹⁰

Even though, the rules of an international instrument are binding only to the subjects of international law that have expressed their consent to be bound¹¹¹, they can be enforced to private entities or persons through the application of domestic law and the creation of obligations which States must fulfill by exercising their power over national private entities under their control.¹¹²

Moreover, States can authorize private entities to carry out activities that would have a negative impact on the environment, but only under controlled conditions and under strict vigilance, all intertwined with the duty of prevention of transboundary harm.¹¹³

The SEA Corporation is not obliged, *prima facie*, to comply with Revels' international obligations, thus, its conduct would not entail Revels' responsibility.¹¹⁴ However, Revels' omission of its due diligence obligations, particularly the implementation of effective domestic law that must

¹¹⁰ United Nations Framework Convention on Climate Change, Preamble, *supra* 97.

¹¹¹ Vienna Convention on the Law of Treaties, art 11-23, *supra* 24.

¹¹² Request for Advisory Opinion on Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, 2011 ITLOS Reports 17, ¶ 131 (Feb. 1). *See* United Nations Convention on the Law of the Sea, art. 94, 92, 192, 10 Dec. 1982, 1833 U.N.T.S.

¹¹³ Rao, 2nd report on the legal regime for the allocation of loss in case of transboundary harm arising out of hazardous activities, ¶159, ILC Doc. A/CN.4/540 – ILC 56th session (2004) *see also* Roda Verheyen, *Climate Change and International Law: Prevention Duties and State Responsibility* (Martinus Nijhoff eds., vol. 54).

¹¹⁴ Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission, 2015 ITLOS Reports 21, ¶146 (Apr. 2), *see also* Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. Reports 14, ¶197 (Apr. 20).

be coherent with the protection goals of marine environment, implies its international responsibility.

In conclusion, it is clear that Revels omissions went beyond mere negligence or lack of appropriate means, because, due to Alliguna's communications, Revels was fully aware of its obligations and of the urgent need of action to mitigate risks of harming the eels. Therefore, it also had the means at its disposal¹¹⁵ to exercise control over its nationals, and it completely failed to comply with its obligations¹¹⁶.

2. REVELS' ACCEPTANCE OF THE SEA CORPORATION'S CONDUCTS AS ITS OWN

The Respondent alleged that the conduct of the SEA Corporation does not engage its responsibility since the company is not a State organ and does not exercise public authority. Notwithstanding, those are not the only alternatives in which a private person's conduct can be attributable to a State.

Article 11 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) provides that the conduct of an entity or person who is not a state organ, shall be considered an act of that State under international law if the State acknowledges and adopts the conduct as its own¹¹⁷.

¹¹⁵ See *supra* p. 28 Section II,A.2, a).

¹¹⁶ United States Diplomatic and Consular Staff in Tehran, (U.S. v. Iran), Judgment, 1980 I.C.J. Reports 3 (May 24), see also Corfu Channel Case (U.K. v. Alb.), Judgment, 1949 I.C.J. Reports 4 (Apr. 9).

¹¹⁷ Articles on Responsibility of States for Internationally Wrongful Acts, art. 11, in Reports of the International Law Commission, Fifty-third Session, U.N. Doc. A/56/10 at 59 (2001); see also United States Diplomatic and Consular Staff in Tehran, (U.S. v. Iran), Judgment, 1980 I.C.J. Reports 3, ¶74 (May 24).

The Government of Revels issued a press release and a report discussing the progress and success of the country's new renewable energy program, highlighting the SEA Corporation's initiative, is an expression of approval¹¹⁸.

Revels is not only remarking its acknowledgment of the company's conduct, it is also making a statement of the adoption of the activities carried out in the Sargassum deemed as a "success of the country's new renewable energy program"¹¹⁹. By approving such activities on the Sargasso, through policies and public statements, Revels is engaging its international responsibility.

III. REVELS' RESPONSIBILITY FOR ITS INTERNATIONAL WRONGFUL ACTS ENTAILS THE OBLIGATION OF CESSATION

Revels is in breach of several international obligations and the harvesting of seaweed of the Sargasso Sea is still carried out. Therefore, it is necessary to establish measures to avoid the continuation of wrongful acts.

Responsibility arises whenever there is a breach of an international obligation, regardless of its origin¹²⁰. Moreover, Article 2 of ARSIWA provides that wrongful acts comprise both acts and omissions.¹²¹

¹¹⁸ Record ¶19.

¹¹⁹ *Id.*

¹²⁰ *Factory at Chorzów (Ger. v. Pol.)*, Judgment, 1927 P.C.I.J. (ser. A) No. 9, at 21 (July 26), *see also* *Gabčíkovo-Nagymaros Project (Hung./ Slov.)*, Judgment, 1997 I.C.J. Reports 7, ¶47 (Sept. 25).

¹²¹ Articles on Responsibility of States for Internationally Wrongful Acts, art. 2, in Reports of the International Law Commission, Fifty-third Session, U.N. Doc. A/56/10 at 59 (2001); *See* *Corfu Channel Case (U.K. v. Alb.)*, Judgment, 1949 I.C.J. Reports 4, ¶22&23 (Apr. 9).

As Revels is responsible for the internationally wrongful acts, it is under the obligation to cease its inaction,¹²² in this case, the omission of exercising its control over the SEA Corporation, which is harvesting the Sargasso Sea. Thus, the adverse effects on the marine environment can be stopped.¹²³

A. ALLIGUNA IS ENTITLED TO INVOKE REVELS' RESPONSIBILITY AND THE CESSATION OF HARVESTING THE SARGASSUM

Any State is entitled to invoke the responsibility of another State if the obligation breached is owed to a group of States, including the claimant State, and if that obligation is established for the protection of a collective interest of the group¹²⁴.

Also, due to the Hamilton Declaration, the signatory parties shall endeavor in the protection of the Sargasso Sea as an important open ocean ecosystem, which constitutes a geographical area of collaboration¹²⁵.

Revels breached its obligation to ensure that the marine ecosystem of the Sargasso Sea is preserved. Alliguna and Revels are signatory States of the Hamilton Declaration and the Sargasso Sea shall be deemed as an area of collective interest for the States parties of the declaration and thus endeavor to protect this ecosystem.

¹²² Articles on Responsibility of States for Internationally Wrongful Acts, art. 30-a, 14-b, in Reports of the International Law Commission, Fifty-third Session, U.N. Doc. A/56/10 at 59 (2001); *see also* Jurisdictional Immunities of the State (Ger. v. It.; Greece intervening), Judgment, 2012 I.C.J. Reports 99, ¶137 (Feb. 3).

¹²³ Rainbow Warrior (N.Z. v. Fr.), Awards of the International Arbitral Tribunals, 1990 U.N. Reports XX, ¶113&114 (Apr. 30).

¹²⁴ Articles on Responsibility of States for Internationally Wrongful Acts, art. 48, in Reports of the International Law Commission, Fifty-third Session, U.N. Doc. A/56/10 at 59 (2001).

¹²⁵ Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea, Preamble, *supra* 31.

Thus, Alliguna is entitled to demand cessation of Revels' wrongful acts, because it breached its international obligations.¹²⁶

¹²⁶ Factory at Chorzów (Ger. v. Pol.), Judgment, 1927 P.C.I.J. (ser. A) No. 9, at 21 (July 26); *see also* Gabčíkovo-Nagymaros Project (Hung./ Slovak), Judgment, 1997 I.C.J. Reports 7 (Sept. 25). *See* Declaration of the United Nations Conference on the Human Environment, Principle 22 of Stockholm Declaration.

CONCLUSION AND PRAYER OF RELIEF

The Federal States of Alliguna, respectfully requests the Court to declare and adjudge that:

1. This Court has jurisdiction over this dispute because its treaty-based requirements have been satisfied.
2. Revels is internationally responsible for breaching its obligations determined in the treaties and general principles of international environmental law because the SEA Corporation's conduct is attributable to it.
3. Revels is obliged to cease the SEA Corporation actions.

Respectfully submitted,

AGENTS FOR APPLICANT