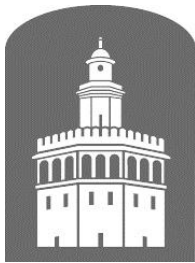


**Questions Relating to the Protection
of Sea Turtles
(Federal States of Atterac/Republic of Redonda)**

RECORD
Eighteenth Annual
Stetson International Environmental
Moot Court Competition
2013–2014



STETSON LAW

NOTIFICATION, DATED 21 JUNE 2013, ADDRESSED TO
THE MINISTER OF FOREIGN AFFAIRS OF THE FEDERAL STATES OF ATTERAC
AND
THE MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF REDONDA

The Hague, 21 June 2013.

On behalf of the International Court of Justice, and in accordance with Article 26 of the Rules of Court, I have the honor to acknowledge receipt of the joint notification dated 14 June 2013. I have the further honor to inform you that the case of Questions Relating to the Protection of Sea Turtles (Federal States of Atterac/Republic of Redonda) has been entered as 2013 General List No. 118. The written proceedings shall consist of memorials to be submitted to the Court by 8 November 2013. Oral proceedings are scheduled for 10–12 April 2014.

/s/

Registrar
International Court of Justice

JOINT NOTIFICATION, DATED 14 JUNE 2013, ADDRESSED TO
THE REGISTRAR OF THE COURT

The Hague, 14 June 2013.

On behalf of the Federal States of Atterac and the Republic of Redonda, 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 English texts of the Special Agreement Between the Federal States of Atterac and the Republic of Redonda for Submission to the International Court of Justice of Differences Between Them Concerning Questions Relating to the Protection of Sea Turtles, signed at George Town, Cayman Islands, on 14 June 2013.

For the Federal States of Atterac:

/s/

Lea T. Herback
Minister of Foreign Affairs

For the Republic of Redonda:

/s/

Nat A. Tordepressa
Minister of Foreign Affairs

SPECIAL AGREEMENT
BETWEEN
THE FEDERAL STATES OF ATTERAC
AND
THE REPUBLIC OF REDONDA
FOR SUBMISSION TO THE
INTERNATIONAL COURT OF JUSTICE OF DIFFERENCES
BETWEEN THEM CONCERNING
QUESTIONS RELATING TO THE PROTECTION OF SEA TURTLES

The Federal States of Atterac and the Republic of Redonda,

Recalling that the Federal States of Atterac and the Republic of Redonda are Members of the United Nations and that the Charter of the United Nations calls on Members to settle international disputes by peaceful means,

Observing that the Kilpkonn sea turtle spends parts of its life cycle in the Federal States of Atterac and the Republic of Redonda,

Recognizing that differences have arisen concerning the protection of the Kilpkonn sea turtle,

Noting that the Federal States of Atterac and the Republic of Redonda have been unable to settle their differences through negotiation,

Desiring that the International Court of Justice, hereinafter referred to as “the Court,” consider these differences,

Desiring further to define the issues to be submitted to the Court,

Have agreed as follows:

Article I

The Federal States of Atterac and the Republic of Redonda, hereinafter referred to as “the Parties,” shall submit the questions contained in Annex A of this Special Agreement to the Court pursuant to Article 40, paragraph 1, of the Statute of the International Court of Justice.

Article II

1. The Parties shall request the Court to decide this matter on the basis of the rules and principles of general international law, as well as any applicable treaties.
2. The Parties also shall request the Court to decide this matter based on the Agreed Statement of Facts, attached as Annex A, which is an integral part of this Agreement.

3. The Parties also shall request the Court to determine the legal consequences, including the rights and obligations of the Parties, arising from any judgment on the questions presented in this matter.

Article III

1. The proceedings shall consist of written pleadings and oral arguments.
2. The written pleadings shall consist of memorials to be submitted simultaneously to the Court by the Parties.
3. The written pleadings shall be consistent with the Rules of the 2013–2014 Stetson International Environmental Moot Court Competition (International Finals).
4. No changes may be made to any written pleading once it has been submitted to a Regional Round. A written pleading submitted to the International Finals must be an exact copy of the written pleading submitted to the Regional Round.

Article IV

1. The Parties shall accept the Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.
2. Immediately after the transmission of the Judgment, the Parties shall enter into negotiations on the modalities for its execution.
3. If the Parties are unable to reach agreement within six months, either Party may request the Court to render an additional Judgment to determine the modalities for executing its Judgment.

Article V

This Special Agreement shall enter into force upon signature.

DONE at George Town, Cayman Islands, this 14th day of June 2013, in two copies, each in the English language, and each being equally authentic.

For the Federal States of Atterac:

/s/

Lea T. Herback
Minister of Foreign Affairs

For the Republic of Redonda:

/s/

Nat A. Tordepressa
Minister of Foreign Affairs

Annex A

1. The Federal States of Atterac (hereinafter Atterac) and the Republic of Redonda (hereinafter Redonda) are located in the Chelonia Sea region. The region consists of twelve states and is home to the endangered Kilpkonn sea turtle. Its nesting grounds are wholly within the territory of Redonda, but the species spends parts of its life cycle throughout the region, including in Atterac's exclusive economic zone.
2. Atterac is a developed nation with a population of approximately 35 million people. Atterac is listed among the "strongest performers" in the Environmental Performance Index published by Yale University. It is viewed as a regional and international leader in species conservation. Tourism, with an emphasis on ecotourism, accounts for approximately 5% of its gross domestic product.
3. Redonda is a developing island nation with a population of approximately 2 million people. Its population consists of an indigenous people, known as the Redondans, immigrants, and Maroons. The Maroons, who number about 50,000, are descendants of slaves who escaped from plantations in the Chelonia Sea region, primarily from Atterac, in the 1700s and early 1800s. The Maroons are dependent on subsistence harvesting from the Chelonia Sea. The Maroons, who are Redondan nationals, generally live in their own communities and have maintained their cultural traditions. One Maroon community, which has a population of about 2,000 individuals, has a unique rite of adulthood involves the hunting of the Kilpkonn sea turtle (for males) and the collecting of Kilpkonn sea turtle eggs (for females).
4. Atterac and Redonda are Members of the United Nations and are Parties to the Statute of the International Court of Justice.
5. Atterac and Redonda are Parties to the Vienna Convention on the Law of Treaties.
6. Atterac and Redonda are Contracting Parties to the Convention on Biological Diversity (CBD).
7. Atterac and Redonda are Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
8. Atterac and Redonda are States Parties to the United Nations Convention on the Law of the Sea (UNCLOS).
9. Atterac and Redonda are States Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

10. High-level representatives from Atterac and Redonda attended and fully participated in the 1972 United Nations Conference on the Human Environment at Stockholm; the 1992 United Nations Conference on Environment and Development at Rio de Janeiro; the 2002 World Summit on Sustainable Development at Johannesburg; and the 2013 Rio+20 Conference at Rio de Janeiro.
11. Atterac is a Party to the Chelonia Sea Agreement for the Protection and Conservation of Sea Turtles (known as the CSA). Redonda has signed the CSA but has not ratified it. The ten other states in the Chelonia Sea region are Parties to the CSA, relevant portions of which are attached at Annex B.
12. The CSA has been registered in accordance with Article 102 of the Charter of the United Nations.
13. The CSA was negotiated in 1995. All states within the Chelonia Sea region quickly signed the CSA, which entered into force in 1997. All CSA Parties have rigorously enforced their national laws that prohibit the intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts, or products.
14. Redonda has not ratified the CSA because of concerns regarding the potential impact on Maroons.
15. Redonda has an exclusive economic zone (EEZ) that extends 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. Redonda also asserts a claim to the “presential sea,” an area that is between 200 and 250 nautical miles from its territorial sea baseline. Redonda’s relationship to this “presential sea” is described in its domestic legislation.
16. The Redonda Presential Sea Act (RPSA), which was enacted by the Redondan parliament in 2002, provides that

In recognition that the Republic of Redonda, as a coastal state, has a continuing and significant national interest in activities that occur in proximity to its exclusive economic zone, it is hereby enacted that

- (a) The presential sea of the Republic of Redonda is an area that is located between 200 and 250 nautical miles from the baselines from which the breadth of Redonda’s territorial sea is measured.

- (b) Any activity undertaken within the presential sea by Redondan nationals and/or vessels flying the Redondan flag must comply with all laws and regulations of the Republic of Redonda to the same extent as if the activity had occurred on Redondan territory, territorial sea, and/or exclusive economic zone.
 - (c) This Act shall not be interpreted as excluding any other state from regulating its nationals and vessels within the Redondan presential sea.
 - (d) The Ministry of Foreign Affairs and other relevant ministries are instructed to enter into negotiations with other states to develop mechanisms to ensure that any activity undertaken within the presential sea by nationals and/or vessels of other states is consistent with Redondan laws and regulations.
17. Neither Atterac nor any other state in the Chelonia Sea region has recognized or accepted Redonda's claim regarding a "presential sea."
 18. Consistent with its traditions, one Maroon community has continued to hunt the Kilpkonn sea turtle and capture their eggs. Prior to 2002, the hunting occurred in the Redondan territorial sea and its EEZ. The egg collection occurred on Redondan territory. The sea turtle meat and eggs are eaten by the Maroon community as part of the celebration of the passage of Maroons to adulthood.
 19. Beginning in 2003, with the cooperation and support of the Redondan Ministry of Cultural Affairs, Maroons tagged certain Kilpkonn sea turtles with tracking devices. This allowed the Maroons to hunt and capture Kilpkonn sea turtles in the area that is located between 200 and 250 nautical miles from the baselines from which the breadth of Redonda's territorial sea is measured. In the Maroon culture, great respect is accorded to those hunters who capture a sea turtle far from shore.
 20. The hunting of the Kilpkonn sea turtle and the collection of its eggs, as described in paragraphs 18 and 19, continue to today.
 21. The following diplomatic note was forwarded to the Government of the Republic of Redonda on 21 January 2010:

The Embassy of the Federal States of Atterac presents its compliments to the Government of the Republic of Redonda and wishes to convey its concern regarding the status of the Kilpkonn sea turtle, which is listed in

Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

We request that our Ministries of Environment meet to discuss activities that are detrimental to survival of this species. As the Kilpkonn sea turtle is critically endangered, any killing or collection of its eggs imperils its continued existence. We request that such discussions occur at the highest levels appropriate and in an expeditious fashion.

Please accept the assurance of my highest consideration.

/s/

Bill K. Shaw
Ambassador

22. On 2 February 2010, the following diplomatic note was forwarded from the Government of the Republic of Redonda to the Government of the Federal States of Atterac:

The Embassy of the Republic of Redonda presents its compliments to the Government of the Federal States of Atterac and has the honor to acknowledge receipt of the diplomatic note dated 21 January 2010.

As an initial matter, the Government of the Republic of Redonda appreciates the concern expressed by the Government of the Federal States of Atterac. We accept the proposal to discuss the status of the Kilpkonn sea turtle. In doing so, however, we note that any such discussions should not be construed as an indication that the Republic of Redonda will accept interference with its sovereignty and its natural resources.

Please accept the assurance of my highest consideration.

/s/

Kyle D. Primes
Ambassador

23. Discussions between Atterac and Redonda, which focused on the Maroons' hunting and egg collecting, did not resolve Atterac's concerns over the status of the Kilpkonn sea turtle.
24. On 20 March 2013, the Government of the Federal States of Atterac forwarded to the Government of the Republic of Redonda a diplomatic note that stated in part:

We believe that, by facilitating and allowing the Maroons to hunt the Kilpkonn sea turtle, Redonda has violated international law. Specifically, Redonda is violating CITES because the transport of the Kilpkonn sea

turtle from an area beyond Redonda's EEZ into Redondan territory constitutes "an introduction from the sea." Such an introduction from the sea, as explained in Resolution Conf. 14.6 (recently clarified at COP16), renders CITES Article III, paragraph 5, applicable.

Moreover, the hunting and killing of the Kilpkonn sea turtle within Redonda's EEZ violates international law, especially its obligations under UNCLOS and the CBD. Furthermore, of particular note is the CSA, which Redonda has signed. Although Redonda may not be a party to the CSA, as a signatory, it is obliged to refrain from acts that would defeat the CSA's object and purpose. Moreover, in light of the long and near universal acceptance of the CSA in the Chelonia Sea region, its provisions constitute regional customary law.

Similarly, the collection of sea turtle eggs violates the CBD and customary law as reflected in the CSA.

25. On 23 March 2013, the Government of the Republic of Redonda replied to the Federal States of Atterac with a diplomatic note that stated in part:

As we have discussed the past three years, Redonda has fully complied with international law. Our Scientific and Management Authorities have not taken any action with respect to the Maroons' hunting of the Kilpkonn sea turtle because CITES is inapplicable. The hunting is occurring in the Redondan EEZ and our presential sea.

We observe that UNCLOS and the CBD recognize that Redonda has the sovereign right to exploit its own resources pursuant to its own environmental policies. Sea turtles (and their eggs) are natural resources that Redonda and its people may exploit.

With respect to the argument that the Republic of Redonda is somehow bound by the CSA, we most emphatically reject that. A treaty cannot pass into custom and apply to us when we are not a party to that treaty. Such an approach would undermine basic notions of national sovereignty.

Finally, Redonda observes that the provisions of ICESCR would trump any perceived restriction on the Maroons' activities. Article 1, paragraph 2, states that "[i]n no case may a people be deprived of its own means of subsistence." The Maroons also have the right, pursuant to Article 15,

“[t]o take part in cultural life.” The hunting of the Kilpkonn sea turtle and the collection of its eggs are an intrinsic part of the Maroons’ cultural life.

26. In a newspaper interview on 27 March 2013, the Atterac Minister of Environment, Olive R. Idley, criticized Redonda’s invocation of the ICESCR, stating that because the Maroons are not indigenous to Redonda, they do not qualify as a “people” under ICESCR. He also suggested that the tagging and tracking of sea turtles for the purpose of hunting are a recent development and should not be viewed as part of the Maroon culture and traditions.
27. On 29 March 2013, Redondan Minister of Foreign Affairs Tordepressa held a press conference on the controversy regarding the Kilpkonn sea turtle and the Maroons. Minister Tordepressa characterized Minister Idley’s statements about the legal status of the Maroons as “outrageous, especially given the history of this brave people.”
28. Additional negotiations between the Federal States of Atterac and the Republic of Redonda failed to resolve the dispute. The Parties agreed to submit these matters to the International Court of Justice under a Special Agreement pursuant to Article 36, paragraph 1, of the Statute of the International Court of Justice.
29. The Federal States of Atterac seeks an order declaring that the Republic of Redonda violated international law by facilitating, allowing and otherwise failing to prevent the Maroons from (1) hunting the Kilpkonn sea turtle in the Redondan EEZ and areas beyond the EEZ; and (2) collecting the eggs of the Kilpkonn sea turtle.
30. The Republic of Redonda opposes the claims in paragraph 29 and seeks an order declaring that the Republic of Redonda has not violated international law with respect to any actions related to the Maroons.

Annex B

Chelonia Sea Agreement for the Protection and Conservation of Sea Turtles

The Parties to this Agreement,

Recognizing the rights and duties of States established in international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the conservation and management of living marine resources,

Inspired by the principles contained in the 1992 Rio Declaration on Environment and Development and the Convention on Biological Diversity,

Recalling that Agenda 21, adopted in 1992 by the United Nations Conference on Environment and Development, recognizes the need to protect and restore endangered marine species and to conserve their habitats,

Understanding that, in accordance with the best available scientific evidence, species of sea turtles in the Chelonia Sea region are threatened or endangered, and that some of these species may face an imminent risk of extinction,

Recognizing that sea turtles are subject to capture, injury or mortality as a direct or indirect result of human-related activities,

Recognizing that sea turtles migrate widely throughout marine areas and that their protection and conservation require cooperation and coordination among States within the range of such species,

Desiring to establish, through this Agreement, appropriate measures for the protection and conservation of sea turtles throughout their range in the Chelonia Sea region, as well as their habitats,

Have agreed as follows:

Article I Definition of Terms

For the purposes of this Agreement:

1. “Sea turtle” means any of the following species:
 - Green sea turtle
 - Hawksbill sea turtle
 - Kemp’s ridley turtle
 - Kilpkonn sea turtle
 - Leatherback turtle
 - Loggerhead turtle
 - Olive ridley turtle

2. “Sea turtle habitats” means all those aquatic and terrestrial environments that sea turtles use at any stage of their life cycles.

**Article II
Objective**

The objective of this Agreement is to promote the protection, conservation, and recovery of sea turtle populations and of the habitats on which they depend, based on the best available scientific evidence, taking into account the environmental, socioeconomic, and cultural characteristics of the Parties.

**Article III
Measures**

1. Each Party shall take appropriate and necessary measures, in accordance with international law and on the basis of the best available scientific evidence, for the protection, conservation, and recovery of sea turtle populations and their habitats in its land territory and in maritime areas with respect to which it exercises sovereignty, sovereign rights, or jurisdiction.
2. Such measures shall include
 - a. The prohibition of the intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts, or products;
 - b. Compliance with the obligations established under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) relating to sea turtles, their eggs, parts or products;
 - c. To the extent practicable, the restriction of human activities that could seriously affect sea turtles, especially during the periods of reproduction, nesting, and migration;
 - d. The protection, conservation and, if necessary, the restoration of sea turtle habitats and nesting areas; and
 - e. Any other measure, in accordance with international law, which the Parties deem appropriate to achieve the objective of this Convention.

* * *

Article X
Non-Parties

1. The Parties shall encourage any eligible State to become Party to this Convention.
2. The Parties shall also encourage all States not Party to this Convention to adopt laws and regulations consistent with the provisions of this Convention.

* * *

Article XXI
Settlement of Disputes

Any dispute between Parties as to the interpretation or application of, or compliance with, this Agreement or any protocol thereto, shall be settled amicably by consultation or negotiation.