

**29TH ANNUAL STETSON INTERNATIONAL ENVIRONMENTAL MOOT COURT
COMPETITION 2024-2025**



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

**CASE CONCERNING THE QUESTIONS RELATING TO SUBSISTENCE USE AND
TROPHY HUNTING**

ASTOR_____ **APPLICANT**

VERSUS

RISHMAK_____ **RESPONDENT**

MEMORIAL FOR THE RESPONDENT

TABLE OF CONTENT

INDEX OF AUTHORITIES	4
QUESTIONS PRESENTED	5
1. Whether the trophy hunting of the Royal Markhor through the auction process, by hunters who are not Dione Ginsu, violates or complies with conventional international law.....	5
2. Whether the ban on the importation of Royal Markhor hunting trophies violates or complies with conventional international law.....	5
STATEMENT OF JURISDICTION	6
SUMMARY OF FACTS.....	7
SUMMARY OF ARGUMENTS	9
1. The trophy hunting of the Royal Markhor through the auction process, by hunters who are not Dione Ginsu, complies with conventional international law.....	10
A. Comply with CMS article 3 Para 5.....	10
a) The taking is for purpose the of enhancing the propagation or survival of affected species	10
b) The taking is to accommodate the needs of traditional subsistence users of such species.	10
B. Comply with Articles of International Covenant on Economic Social and Cultural rights.	11
a) Comply with Article 1	11
b) Comply with article 11.....	11
c) Comply with Article 12.....	12
C. Comply with non-commercial trade:.....	12
2. The ban on the importation of Royal Markhor hunting trophies violates the conventional international law.....	13
A. Astor-Rishmak Trade Agreement (ARTA) Provisions and Articles:	13
a) Quantitative Restriction Article 11 of ARTA	13
b) General Exception Article 20 of ARTA.....	14
i. Article 20(a) Public Morals	14
ii. Article 20(g) Conservation of Exhaustible Resources.....	15

c) Promote Sustainable Development and Broad-based Economic Development to Reduce Poverty.	15
B. Exportation of Royal Markhor Hunting Trophies Complies with Article III of CITES:.....	15
1. Scientific Authority of Rishmak.....	16
C. Article XIV Para 3 of CITES	16

INDEX OF AUTHORITIES

Conventions

Astor-Rishmak Trade Agreement	13
CITES Resolution..2.11	13
CMS	10
international covenant on economic social and cultural rights.	11
to convention on international trade in endangered species	12
Trade in hunting trophies of species listed in Appendix I, Conf. 2.11 (Rev.)	13
United Nations Sustainable Development Summit.....	15

Articles

Article 1	4, 11
article 11	11
Article 11 of ARTA	13
Article 12	12
Article 20 of ARTA	14
Article 20(a)	14
Article 20(g)	15
CMS article 3	10

Cases

Botswana Elephant Hunting Case.....	16
-------------------------------------	----

Other Resources

https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-02-11-R09.pdf	13
https://sdgs.un.org/sites/default/files/2020-09/SDG%20Resource%20Document_Targets%20Overview.pdf	15

QUESTIONS PRESENTED

1. Whether the trophy hunting of the Royal Markhor through the auction process, by hunters who are not Dione Ginsu, violates or complies with conventional international law.
2. Whether the ban on the importation of Royal Markhor hunting trophies violates or complies with conventional international law.

STATEMENT OF JURISDICTION

In accordance with Article 40, paragraph 1 of the Statute of the ICJ, Astor and Rishmak have submitted the following dispute to the ICJ. By Special Agreement, both parties have agreed to submit their dispute, Concerning Questions relating to Subsistence use and trophy hunting to the Registrar of the Court by a Joint Notification dated July 1st, 2024.

The Registrar of the Court addressed a notification to the parties on July 31, 2024. Therefore, Astor and Rishmak have accepted the jurisdiction of the Court pursuant to Article 36(1) of the Statute, and request the Court to adjudge the dispute in accordance with the rules and principles of general international law, as well as any applicable treaties.

The parties have agreed to respect the decision of this Court.

SUMMARY OF FACTS

Astor and Rishmak are two states and members of United Nations. Astor and Rishmak are range states of Royal Markhor. The royal Markhor is critically endangered species. The Royal Markhor were extended over six countries but due to habitat loss disease and hunting, the species now lives in only Astor and Rishmak. Astor and Rishmak shares a border over which Royal Markhor migrate. Astor and Rishmak are sovereign state with population of 220 million and 3.5 million simultaneously, but Rishmak including an indigenous community known as the Dione Ginsu approximately 4000 members. Astor and Rishmak are parties to the statute of the international court of justice, Vienna Convention on the law of treaties, CITES and CMS. Rishmak is party to the Indigenous and Tribal Peoples Convention 1989, ILO convention 169 and the International Covenant on Economic, Social and Cultural Rights. Astor is not a party to either agreement. In 2003 Astor and Rishmak signed and ratified a bilateral trade agreement known as Astor Rishmak trade agreement (ARTA). This agreement provides special bonds of friendship, cooperation among peoples, expand regional trade, enhance and enforce environmental laws and regulations, strengthen cooperation on environmental matters and promote broad based economic development to reduce poverty. The issue has arisen between Astor and Rishmak on trophy hunting and exportation of Royal Markhor. The national laws of Astor and Rishmak strictly prohibit the taking of Royal Markhor but with exception for Dione Ginsu living in Rishmak has right to hunt the Royal Markhor. In the beginning of 2016, the Dione Ginsu community annually auctioned off their right of hunting the Royal Markhors to foreign hunters. The auction took place in Astor with minimum bids USD \$100,000 and winning bid approximately USD \$150,000 per Royal Markhor. The Dione Ginsu community used money for housing, medical expenses,

and conservation programs. The winning bidders are mostly Astori nationals, who hire Dione Ginsu guides for successful hunt. After successful hunt, the meat is shared with the Dione Ginsu community and horns were usually imported to Astor with appropriate CITES permits until this dispute occurred. The Royal Markhor is susceptible to mycoplasma capricolum infection when it come in to contact with domestic goats, result in respiratory distress and morality rate. The funds from auctions allocated to conservation programs are used for research to develop vaccines to respond mycoplasma capricolum and other disease threat to Royal Markhor. On 11 December 2022, the national legislature of Astor enacted a law that prohibited the importation of hunting trophies. Proposed legislation to ban domestic trophy hunting in Astor was not enacted. As a result of the ban on importation of hunting trophies, the Dione Ginsu has been unable to auction off the right to hunt the Royal Markhor.

The government of Rishmak sent a diplomatic note to the government of Astor that stated in part: the ban on the importation of Royal Markhor hunting trophies is an infringement on the subsistence rights of the Dione Ginsu. Furthermore, the ban is an impermissible quantitative restriction in violation of ARTA article 11. CITES resolution 2.11 obliges the scientific authority of Astor to accept this non-detriment finding.

Government of Astor sent a diplomatic note to the government of Rishmak that stated such an action is justified under ARTA article 20(a) as necessary to protect public morals. It is also permitted by ARTA article 20(g), as the ban relates to conserving natural resources.

Furthermore negotiations did not resolve the dispute, Astor and Rishmak agreed to submit this matter to the ICJ.

SUMMARY OF ARGUMENTS

- 1. The trophy hunting of the Royal Markhor through the auction process, by hunters who are not Dione Ginsu, complies with conventional international law.**

The hunting of Royal Markhor through auction process, by hunters who are not Dione Ginsu comply with conventional international law because the funds from auction process used to respond grave threat to continued existence of Royal Markhor the taking of Royal Markhor accommodates the needs of Dione Ginsu community, which are subsistence users of these species and the money which comes from auction process used for community housing, medical, food, and educational purpose.

- 2. The ban on the importation of Royal Markhor hunting trophies violates the conventional international law.**

The ban on the importation of Royal Markhor hunting trophies is an infringement on the subsistence rights of the Dione Ginsu, the scientific authority of Rishmak has advised that such limited export will not be deter-mental to the survival of the Royal Markhor and that CITES Resolution..2.11 obliges the scientific authority of Astor to accept this non-deter-mental findings. The ban is counter-productive by depriving funding for the conservation of Royal Markhor the ban makes it more likely that this iconic species will go extinct. Moreover, the ban on the importation of Royal Markhor hunting trophies deprives the Dione Ginsu of funding for housing, medical, and food expenses.

ADVANCED ARGUMENTS

- 1. The trophy hunting of the Royal Markhor through the auction process, by hunters who are not Dione Ginsu, complies with conventional international law.**

The hunting of royal Markhor through the auction process who are not Dione Ginsu, complies with conventional international law, because it fulfills the needs of indigenous community.

A. Comply with CMS article 3 Para 5

With respect to article 3 Para 5 parties that are range states of a migratory species listed in appendix 1 shall prohibit the taking of animals belonging to such species exceptions may be made to this prohibitions only if

- a) The taking is for purpose the of enhancing the propagation or survival of affected species**

This Refers to the capture handling other direct an interactions with animals or plants that aim to increase their populations or improve their chance of survival.

The Dion Ginsu community receives funds from auction process and these funds are used to respond to a grave threat to the continued existence of the royal Markhor¹.

- b) The taking is to accommodate the needs of traditional subsistence users of such species.**

In the present case the taking of the royal Markhors accommodates the needs of Dion Ginsu Community which are subsistence users of these species and the money which comes from auction was used as, 30% of the money for the

¹ Record 20

community housing expenses, 30% for community of medical expenses, 15% for food expenses, 15% was allocated for the royal Markhor conservations² all these activities meets for survival which refers to the subsistence.

B. Comply with Articles of International Covenant on Economic Social and Cultural rights.

a) Comply with Article 1

All people have the right of self-determination by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development³.

In the present case article 1 of international covenant on economic social and cultural rights also supports that all people to sustain their livelihood and ensure access to resources, necessary for their survival including food water⁴ land and other essential means of economic and social well-being.

b) Comply with article 11⁵

Article 11 of international covenant of economic social and cultural rights enshrines the right to an adequate food, clothing and housing and to the continuous improvements of living conditions. In the present case in the present case the auction process in which non indigenous hunters pay for licenses generate substantial revenue that is often used to fund local community development projects or conservation initiatives. if these funds directly contribute to improving the standard of living of indigenous people by

² Record 16

³ ICESCR Article 1

⁴ Record 20

⁵ ICESCR Article 11

supporting education, healthcare or infrastructure these all meets the requirements of article 11.

c) Comply with Article 12⁶

Right to the highest attainable standard of health article 12 protect the right to health, including the improvements of all aspects of environmental and industrial hygiene, in the present case revenue from controlled the trophy hunting could fund habitat conservation efforts that protect the eco system and species which in turn preserve biodiversity. A well-managed conservational program could ensure sustainable populations of The Royal Markhor and other wild life, benefiting local environments and by extensions the health of indigenous communities.

C. Comply with non-commercial trade:

Non-commercial trade refers to the movement of endangered species that is not intended for commercial gain focusing on conservation and sustainable use of species⁷. The term non-commercial trade refers to the exchanges or transfers that are not primarily profit driven, often intended for cultural or conservation purposes rather than monetary gain. In the present case the funds from the trophy hunting, license are primarily reinvested into community welfare a conservation purpose. Indigenous community viewed this transfer as means to support the conservation goals and community needs rather than as a profit venture.

⁶ ICESCR Article 12

⁷ According to convention on international trade in endangered species

2. The ban on the importation of Royal Markhor hunting trophies violates the conventional international law.

The ban on the importation of Royal Markhor hunting trophies is an infringement on the subsistence rights of the Dione Ginsu⁸, the scientific authority of Rishmak has advised that such limited export will not be detrimental to the survival of the Royal Markhor⁹ and that CITES Resolution..2.11¹⁰ oblige the scientific authority of Astor to accept this non-detrimental finding. The ban is counter-productive by depriving funding for the conservation of Royal Markhor the ban makes it more likely that this iconic species will go extinct. Moreover, the ban on the importation of Royal Markhor hunting trophies deprives the Dione Ginsu of funding for housing, medical, and food expenses.

A. Astor-Rishmak Trade Agreement (ARTA) Provisions and Articles:

a) Quantitative Restriction Article 11 of ARTA

Astor has violated the Article 11¹¹ of ARTA by banning importation from Rishmak, where Article clearly states that, “No prohibitions or restrictions (other than duties, taxes, or similar charges), whether made effective through quotas, import or export licenses, or other measures, shall be instituted or maintained by any Party regarding the importation of any product from the territory of any other Party”

⁸ Right to food, housing, and physical health, Article 11 and 12 of International Convention on Economic, Social, and Cultural Rights (ICESCR)

⁹ Record 32

¹⁰ Trade in hunting trophies of species listed in Appendix I, Conf. 2.11 (Rev.)

<https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-02-11-R09.pdf>

¹¹ Quantitative Restriction Article 11 of Astor-Rishmak Trade Agreement

b) General Exception Article 20 of ARTA

i. Article 20(a) Public Morals

In this case, ban on the bases of public morals is not satisfying. Because a non-governmental organization namely Astor Society for the Humane Treatment of Animals (ASHTA) with population 12 million¹² Astori national, launched a campaign called “Ban Trophy Hunting Now”. The national legislature of Astor banned importation¹³ of hunting trophy but proposed legislation to ban domestic trophy hunting was not enacted¹⁴ which is not in the favor of public morals. It must be noted ASHTA stated that the trophy hunters murder animals¹⁵ in Astor every year where thousands of animals are being murdered by trophy hunters. And also polling was held¹⁶ in Astor regarding public attitudes in Astor;

Do you support or oppose trophy hunting of wild animals in Astor?

(80% opposed, 12% supported, and 8% had no opinion)

Do you support or oppose trophy hunting of wild animals abroad?

(79% opposed, 12% supported, and 9% had no opinion)

80% of people opposed trophy in Astor and 79% opposed trophy hunting in Abroad which shows that the trophy hunting of animals in Astor is more problematic then abroad. If the public morals were highly under consideration, than why the trophy hunting was not banned in Astor.

¹² Record 24

¹³ Record 29

¹⁴ Record 30

¹⁵ Record 25

¹⁶ Record 28

ii. Article 20(g) Conservation of Exhaustible Resources

The ban works crosswise for conserving the Royal Markhor and we note that domestic trophy hunting in Astor continues to be permitted¹⁷ which is contrary to article 20(g) of ARTA.

c) Promote Sustainable Development and Broad-based Economic Development to Reduce Poverty.

As the Rishmak is a low economic country and poverty rates within the Rishmak are highest in Dione Ginsu community. In accordance with sustainable development goals (SDGs), it is aimed to end poverty and ensure prosperity which is also a portion of ARTA for sustainable development. The Dione Ginsu community auctioned off the right of hunting trophies of Royal Markhor to the foreigner hunters and the fund from auction process used to respond the poverty in form of housing, medical expenses, food expenses, and to end poverty in all its forms everywhere¹⁸.

B. Exportation of Royal Markhor Hunting Trophies Complies with Article III of CITES:

All trade in specimens of species included in Appendix I shall be in accordance with the provisions of Article III of CITES.

Article III (a), a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species.

¹⁷ Record 30

¹⁸ Goal 1, United Nations Sustainable Development Summit in September 2015, See.. https://sdgs.un.org/sites/default/files/2020-09/SDG%20Resource%20Document_Targets%20Overview.pdf

1. Scientific Authority of Rishmak

In 2009, Rishmak instituted a lottery system, and given right to Dione Ginsu community to hunt the 10 Royal Markhor annually, which is not detrimental to the survival of Royal Markhor, a better analogy can be derived from CITES permit of hunting 400 elephants in Botswana¹⁹ annually, and it is also advised by scientific authority of Rishmak that such limited export of trophy hunting is not detrimental to the survival of the species. And according to CITES Resolution 2.11 *“the Scientific Authority of the importing country accept the finding of the Scientific Authority of the exporting country that the exportation of the hunting trophy is not detrimental to the survival of the species”*

Astor scientific authority must accept the findings and do not deny the Resolution.

C. Article XIV Para 3 of CITES

The Article XIV Para 3 states that “the provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external Customs control and removing Customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.”

However the Article XIV Para 3 does not affect the Astor-Rishmak Trade Agreement and Astor is violating the ARTA in case of banning the importation which falls under Quantitative Restrictions.

¹⁹ Botswana Elephant Hunting Case

CONCLUSION

Rishmak respectfully requests this Court to adjudge and declare that:

1. The trophy hunting of Royal Markhor through auction process complies with conventional international law.
2. The ban on the importation of Royal Markhor hunting trophies violates conventional international law.

Respectfully submitted,

AGENTS FOR RESPONDENT