



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

STETSON INTERNATIONAL ENVIRONMENTAL MOOT COURT COMPETITION 2025

---

**QUESTIONS RELATING TO SUBSISTENCE USE AND TROPHY HUNTING**

---

**ASTOR**

APPLICANT

v.

**RISHMAK**

RESPONDENT

---

**MEMORIAL *for* RESPONDENT**

---

---

## TABLE OF CONTENTS

---

---

INDEX OF AUTHORITIES .....	4
QUESTIONS PRESENTED .....	15
STATEMENT OF JURISDICTION .....	16
STATEMENT OF FACTS .....	17
SUMMARY OF ARGUMENTS .....	18
ARGUMENTS.....	19
 I. THE TROPHY HUNTING OF ROYAL MARKHOR THROUGH AUCTION PROCESS COMPLIES WITH CONVENTIONAL INTERNATIONAL LAW .....	 19
A. Trophy Hunting of RMs through auctioning is permissible under ICESCR and ILO 169. ....	 20
B. Taking of RM is permissible under Article III(5) of CMS. ....	21
a. Taking is for purpose of enhancing survival of RM. ....	21
b. Taking accommodates needs of traditional subsistence users of RM. ....	22
c. The use of exceptions is precise to content and limited in time and space. ....	23
d. The use of exceptions is not disadvantageous to RM. ....	24
 II. THE BAN ON IMPORTATION OF RM HUNTING TROPHIES VIOLATES CONVENTIONAL INTERNATIONAL LAW .....	 25
A. Ban is not permitted by ARTA.....	25
a. The ban violates object and purpose of ARTA. ....	26
b. The ban defeats legitimate expectation of Rishmak. ....	26
B. Ban contravenes permitted exceptions under ARTA.....	27
a. Ban violates Article 20. ....	27
b. The ban violates Article 11 of ARTA. ....	32

<b>C. The Ban on Importation of RM Hunting Trophies Violates CITES. ....</b>	<b>33</b>
<b>a. The ban on import of RM Hunting Trophies violates Article III.....</b>	<b>34</b>
<b>b. <i>Arguendo</i>, Astor cannot ban import of RM hunting trophies as it constitutes         personal effects Article VII(3).....</b>	<b>35</b>
<b>c. The ban on import of RM Hunting Trophies violates Article XIV .....</b>	<b>36</b>
<b>D. Astor must lift ban and compensate Rishmak .....</b>	<b>40</b>
<b>CONCLUSION .....</b>	<b>41</b>

---

## INDEX OF AUTHORITIES

---

### **I.C.J. and P.C.I.J. Judgments**

Accordance with International Law of Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, 2010, I.C.J.423 (Jul.22).....	14
Avena and Other Mexican Nationals (Mexico v. United States of America), Judgment, I.C.J. Reports 2004. ....	33
Certain activities carried out by Nicaragua in border area (Costa Rica v. Nicaragua) Judgment, 2018 I.C.J. Rep., 32 (Feb 2). ....	33
Certain German Interests in Polish Upper Silesia (F.R.G. v. Pol.), 1928 P.C.I.J. (ser. A) No. 17 (Sept. 13). ....	33
Conditions of Admission of a State to Membership in United Nations, 1948 I.C.J. 57 (Dec. 12).17	
Corfu Channel (U.K. and Northern Ireland v. Alb.), Judgment 1949 I.C.J. 4, (Apr. 9). ....	21
East Timor (Port. v. Aus.), 1995, I.C.J. 90, (June 30) .....	15
LaGrand (Germany v. United States of America), Judgment, I. C. J. Reports 2001.....	33
Legal Consequences for States of Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, 1971 I.C.J. 16, (June 21). ....	15
Legal Consequences of Construction of a Wall in Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 136, (July 9).....	15
Legality of Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226 (Jul.8). ....	14
Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), Judgment, 1986 I.C.J. 14 (Jun.27). ....	14

Republic of Guinea v. Democratic Republic of Congo, Merits, Judgment, I.C.J. Reports 2010 (II). .....	33, 34
Reservations to Convention on Genocide, Advisory Opinion, 1951, I.C.J. 15, (May 28) .....	17
Rights of Nationals of United States of America in Morocco (Fran. v. USA), 1952 I.C.J. Rep. (Aug. 27). .....	20
S.S. Lotus (Fr. v. Turk.), 1927 P.C.I.J. (ser. A) No. 10, (Sept. 7) .....	14
Western Sahara, Advisory Opinion, 1975, I.C.J. 12, (Oct. 16). .....	15
Whaling in Antarctic (Aus. v. Jap.), Judgment, 2014 I.C.J. 226, (Mar.31).....	28

## **WTO Reports**

Appellate Body Report, European Communities – Regime for Importation, Sale and Distribution of Bananas, WT/DS27/AB/R (adopted 25 Sept. 1997).....	21
WTO Appellate Body Report, Brazil – Measures affecting imports of Retreated Tyres, WT/DS332/AB/R (adopted Dec.3, 2007). .....	26, 27
WTO Appellate Body Report, United States – Import Prohibition of Certain Shrimp and Shrimp Products, WT/DS58/AB/R (adopted 6 November 1998).....	22, 26
WTO Appellate Body Report, United States – Measures Affecting Cross-Border Supply of Gambling and Betting Services, WT/DS285/AB/R (adopted 20 April 2005). .....	21
WTO Appellate Body Report, United States – Standards for Reformulated and Conventional Gasoline, WT/DS2/AB/R (adopted 20 May 1996) DSR 1996:I, 3. ....	22, 25, 26
WTO Appellate Body Reports, European Communities – Measures Prohibiting Importation and Marketing of Seal Products, WT/DS400/AB/R / WT/DS401/AB/R, (adopted Jun.18 2014). .	23
WTO Appellate Report, European Communities – Customs Classification of Certain Computer Equipment, (WT/DS62/AB/R), (adopted Jun.5,1998).....	21

WTO Panel Report, Brazil - Certain Measures Concerning Taxation and Charges, WT/DS472/R	
WT/DS497/R (adopted August 30, 2017), P. 171-178. ....	23
WTO Panel Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/R, (adopted Sept.18,2000), .....	26
WTO Panel Report, India - Patent Protection for Pharmaceutical and Agricultural Chemical Products, (Complaint by United States), (WT/DS50/AB/R) (adopted Sep.5, 1997). ....	21
WTO Panel Report, Japan—Taxes on Alcoholic Beverages. WT/DS8/R (adopted Feb.14, 1997), .....	25
WTO Panel Report, Korea, Republic of—Taxes on Alcoholic Beverages, WT/DS75/AB/R, 124 (adopted Sept. 17, 1998). ....	25
WTO Panel Report, US — Tariff Measures on Certain Goods from China WT/DS543/R (adopted Sept. 15, 2020). ....	23
WTO Panel, Canada-Measures Affecting Exports of Unprocessed Herring and Salmon, L/6269, (adopted Nov.12, 1987).....	25
WTO Report of Panel, China-Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products, WT/DS363/R (adopted 20 August, 2009). ....	21

## United Nations Documents

COOPERATION BETWEEN STATES IN FIELD OF ENVIRONMENT, A/RES/2995 (XXVII) (DEC. 15, 1972).....	33
Cooperation in Field of Environment Concerning Natural Resources Shared by Two Or More States, A/RES/3129 (XXVIII) (Dec. 13, 1973) .....	32
Draft Report of Technical Sub-Committee, U.N. Doc. E/PC/T/C.11/54 (Nov. 16, 1946).....	24

G.A. Res. 59/25, 83 (Jan.17,2005).....	28
G.A. Res. 61/105, ( March 6, 2007).....	28
G.A.Res.3129 (XXVII) 28 Sess. (Dec.13, 1973).....	32
GA Res 1541 (XV), 15 UN GAOR Supp (No 16) (Dec.15, 1960) .....	15
GA. Res/61/295, United Nations Declaration onRights of Indigenous Peoples (Oct.2, 2007) ....	15
HRC, <i>General Comment No. 12: Article 1,Right to Self-determination of Peoples</i> , UN Doc HRI/GEN/1/Rev.6 (13 March 1984).....	15
ILC, <i>Fragmentation of International Law: Difficulties Arising fromDiversification and Expansion of International Law: Report ofStudy Group of ILC</i> , UN Doc. A/CN/.4/L.682 (2006). .....	20
Int'l Law Comm'n, Rep. onWork of Its Fifty-Eigth Session, U.N. Doc. A/61/10, Draft principles onallocation of loss incase of transboundary harm arising out of hazardous activities, with commentaries (2015).....	28
Int'l Law Comm'n, Rep. onWork of Its Sixty-Seventh Session U.N. Doc. A/74/10, Draft Conclusions on Peremptory norms of General International Law (Jus cogens) (2015). ....	15
Int'l Law Comm'n, Responsibility of States for Internationally Wrongful Acts, Jan. 28, 2002, A/RES/56/83. ....	33
Preparatory Committee ofInternational Conference on Trade and Employment, UN Docs. E/PC/T/C.II/50 (Nov.13, 1946).....	25
Report of2nd session ofPreparatory Committee ofUnited Nations Conference on Trade and Employment, U.N. Doc. E/PC/T/189 (Aug. 30, 1947). ....	24
Report ofPreparatory Committee OnInternational Conference On Trade and Development, U.N. Doc. E/PC/T/C.II/50 (Nov. 13, 1946) .....	24

Report of working group established in accordance with Commission on Human Rights resolution 1995/32, UN Doc E/CN.4/1997/102 (Dec.10, 1996).....	15
Rio Declaration. ....	32
The Declaration on Principles of International Law concerning Friendly Relations and Co- operation among States, A/RES/2625 (XXV) (Oct. 24, 1970) .....	32

## **Treatises**

ANTONIO CASSESE, SELF DETERMINATION OF PEOPLE: A LEGAL REAPPRAISAL (1995). ....	15
BRUNNO SIMMA, CHARTER OF UNITED NATIONS, A COMMENTARY (2012).....	15
D. RAIC, STATEHOOD AND LAW OF SELF-DETERMINATION (Brill, 2002). ....	15
HINCHCLIFF KW ET AL., VETERINARY MEDICINE: A TEXTBOOK OF DISEASES OF CATTLE, HORSES, SHEEP, PIGS AND GOATS (Elsevier Health Sciences, 10th ed., 2016). ....	16
HUDSON, MANLEY O, PERMANENT COURT OF INTERNATIONAL JUSTICE, (1943).....	17
IAN BROWNLIE, PRINCIPLES OF INTERNATIONAL LAW (1991) .....	15
JAMES CRAWFORD, CREATION OF STATES IN INTERNATIONAL LAW (2nd ed., 2006).....	15
JAMES CRAWFORD, RIGHTS OF PEOPLES (Oxford, 1988). ....	15
JESSIE HOHMANN & MARC WELLER, UN DECLARATION ON RIGHTS OF INDIGENOUS PEOPLES: A COMMENTARY, (2019).....	15
Lauren Coad et al., TOWARDS A SUSTAINABLE, PARTICIPATORY, AND INCLUSIVE WILD MEAT SECTOR, (CIFOR, 2019).....	18
MALANCZUK, AKEHURST'S MODERN INTRODUCTION TO INTERNATIONAL LAW (7 <sup>th</sup> ed. 1997)....	34
MARK E. VILLIGER, CUSTOMARY INTERNATIONAL LAW AND TREATIES, DEVELOPMENTS IN INTERNATIONAL LAW (1986).....	20



ODILE AMMANN, DOMESTIC COURTS AND INTERPRETATION OF INTERNATIONAL LAW (Brill, 2019)	16
P. BIRNIE ET. AL., INTERNATIONAL LAW AND ENVIRONMENT (1992).....	33
PHILIPPE SANDS, INTERNATIONAL ENVIRONMENTAL LAW, (2012) .....	28
SUREDA, A. RIGO. EVOLUTION OF RIGHT OF SELF-DETERMINATION : A STUDY OF UNITED NATIONS PRACTICE (Leiden, 1973). .....	15

## Reports

Ghafoor, Abdul, Sustainability of Markhor Trophy Hunting Programme in District Kohistan Pakistan. DISS. UNIVERSITI SAINS MALAYSIA, 2014. ....	17
IUCN SSC, Guiding Principles on Trophy Hunting as a Tool for Creating Conservation Incentives, Ver. 1.0, 5 (09 August 2012). ....	30
IUCN SSC, <i>Position Statement on sustainable use of wild living resources</i> . ....	32
IUCN, Informing decisions on trophy hunting; A Briefing Paper for European Union Decision-makers regarding potential plans for restriction of imports of hunting trophies (April 2016) 17, 24	
NACSO, 2010. Namibia's communal conservancies: a review of progress 2009. NACSO, Windhoek, Namibia .....	30, 32

## Treaties and Conventions

Agreement on Conservation of Polar Bears 13 I.L.M. 13 (Nov.15, 1973).....	18, 28
Convention Concerning Protection of World Cultural and Natural Heritage, (Nov.16, 1972) .....	28
Convention for Conservation of Antarctic Seals, Jun.1, 1972, 11 ILM 251 .....	28
Convention on International Trade in Endangered Species of Wild Fauna and Flora, March 3, 1973, 993, U.N.T.S. 243. ....	19, 24, 28

Convention on Conservation of Antarctic Marine Living Resources, May 20, 1980. ....	28
Convention on Conservation of Migratory Species of Wild Animals, Jun. 23, 1979, 1651 UNTS 333.....	16, 17, 28
General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing World Trade Organization, 1867 U.N.T.S. 187, 33 I.L.M. 1153 (1994). ....	24
International Convention for Regulation of Whaling, Jun. 28, 1937, 190 U.N.T.S. 80 .....	28
International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 .....	15
International Covenant on Cultural, Economic and Social Rights, Jan. 3, 1976, 993 U.N.T.S. 3 15	
International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C.169 (Jun.27, 1989).....	16
Vienna Convention on Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331. ....	passim

## Articles

Betsy Baker, <i>Protection, Not Protectionism: Multilateral Environmental Agreements and GATT</i> , 26 VANDERBILT LAW REVIEW 459 (2021). ....	25
Bond et.al, <i>Private land contribution to conservation in South Africa</i> in PARKS IN TRANSITION (B. Child ed. Routledge, 2004). ....	17
C Tomuschat, <i>Secession and Self-Determination</i> , in SECESSION: INTERNATIONAL LAW PERSPECTIVES (M.G. Kohen ed., 2006) .....	15
Chris Wold, <i>Multilateral Environmental Agreements and GATT: Conflict and Resolution</i> , 26 ENVTL. L., (1996) .....	19
Christoph T. Feddersen, <i>Focusing on Substantive Law in International Economic Relations: Public Morals of GATT's Article XX(a) and Conventional Rules of Interpretation</i> , MINNESOTA J. INT'L LAW, P. 120 (75-217), (1998). ....	24

Damm, Gerhard R., <i>Recreational Trophy Hunting What do we know and what should we do?</i> in BEST PRACTICES IN SUSTAINABLE HUNTING—A GUIDE TO BEST PRACTICES FROM AROUNDWORLD (Dr. Rolf Balduss ed., 2008). .....	17
Feddersen, Christoph T, " <i>Focusing on Substantive Law in International Economic Relations:Public Morals of GATT's Article XX(a) and Conventional Rules of Interpretation</i> " MINNESOTA J.INT'L LAW, (1998). .....	22
Kemmerer Lisa, <i>Hunting Tradition: Treaties, Law, and Subsistence Killing</i> , ANIMAL LIBERATION PHILOSOPHY AND POLICY JOURNAL, vol.2 (2004). .....	18
Khan, B., et.al, <i>Abundance, distribution and conservation status of Siberian ibex, Marco Polo and Blue sheep in Karakoram-Pamir mountain area</i> , J. KING SAUD UNIV. - SCI. 28, (2016)..	19
Lipy Adhikari et.al., <i>Community-based trophy hunting programs secure biodiversity and livelihoods: Learnings from Asia's high mountain communities and landscapes</i> , ENV. CHALLENGES VOL.4 (2021). .....	19
Mbaiwa, J. E., <i>Community-Based Natural Resource Management in Botswana</i> in INSTITUTIONAL ARRANGEMENTS FOR CONSERVATION, DEVELOPMENT AND TOURISM IN EASTERN AND SOUTHERN AFRICA (R. van der Duim eds., Springer, 2015). .....	17
Michel et.al., <i>Population status of Heptner's markhor Capra falconeri heptneri in Tajikistan: challenges for conservation</i> , ORYX 49 (2015). .....	17
Naidoo et. al., <i>Complementary benefits of tourism and hunting to communal conservancies in Namibia</i> , CONSERV. BIOL. 30, (Oct., 2015).....	17
Naidoo et.al. <i>Effect of biodiversity on economic benefits from communal lands in Namibia</i> , JOURNAL OF APPLIED ECOLOGY 48, 310-316 .....	30, 32

Schwarz & Douglas O, <i>Indian Rights and Environmental Ethics: Changing Perspectives, and a Modest Proposal</i> , ENVIRONMENTAL ETHICS 9, (1987). .....	18
--	----

## Other Judgments

Case concerning Land Reclamation by Singapore in and around Straits of Johor (Malaysia v. Singapore), 27 UNRIAA 133, (2005). .....	32
Mahuika et. al. v New Zealand, H.R.C. Communication No. 547/1993 (27 October 2000).....	18
MOX Plant (Ireland v. U.K.), Case No. 10, Order of Dec. 3, 2001, 10 ILTOS 95, ¶83. ....	32
Request For An Advisory Opinion Submitted by Commission of Small Island States on Climate Change and International Law Advisory Opinion, ITLOS Case No. 31, Order of May.21,2024 .....	28
Southern Bluefin Tuna (N.Z., Australia v. Japan), Case No. 3, Order of Aug. 27, 1999, 3 ILTOS ¶60 .....	32
Yakye Axa Indigenous Community v Paraguay, Merits, Reparations, and Costs, Judgment, Inter-Am.Ct.H.R. (ser. C) No.125 (Jun.17, 2005).....	15

## Domestic Legislations

Endangered and Threatened Wildlife and Plants; Enhancement of Survival and Incidental Take Permits, 89 Fed. Reg.72 (Apr.12, 2024). ....	16
---	----

## Miscellaneous

CITES Strategic Vision 2021-2030.....	28
CMS Secretariat, MoU concerning conservation, restoration, and sustainable use of saiga antelope, UNEP/CMS/Saiga/MOS4/Doc.7/Rev.1, (Sep.28-29, 2021). ....	18
CMS, Communiqué African Lion Range State Meeting (May 30, 2016). ....	19

World Trade Organization, Export Prohibitions and Restrictions, Information note, Apr. 23, 2020.....	24
--	----

## Resolutions

10 <sup>th</sup> CoP, Inter-American Convention for Protection and Conservation of Sea Turtles, Resolution CIT-COP10-2022-R5 (2022). .....	18
CBD, Addis Ababa Principles and Guidelines for Sustainable Use of Biodiversity, (2004). .....	24
CITES 16th CoP, <i>Non-detriment Findings</i> , Conf. 16.7 (2013). .....	24, 27, 28
CITES, 13th CoP, <i>Control of trade in personal and household effects</i> , Annex 1, (2004).....	29
CITES, 13th CoP, <i>Control of trade in personal and household effects</i> , Conf. 13.7 (2004). .....	29
CITES, 16 <sup>th</sup> CoP, <i>CITES and Livelihoods</i> , CoP 16.6, (2013).....	28, 31
CITES, 17th CoP, <i>Trade in hunting trophies of species listed in Appendix I or II</i> , Conf. 17.9, (2016). .....	30
CITES, 17th CoP, <i>Trade in hunting trophies of species listed in Appendix I or II</i> , UNEP/Res./conf. 17.9 (October 4,2016).....	24
CITES, 18th CoP, <i>Interpretation and implementation matters, Regulation of trade, Enhancement of Quotas for Markhor Hunting Trophies</i> , Conf. 18 (2019). .....	31
CITES, 18th CoP, <i>Legal acquisition findings</i> , Conf. 18.7, (2019). .....	29
CITES, 2nd CoP, <i>Trade in Hunting Trophies of Species listed in Appendix I</i> , Conf. 2.11 (Rev.), (1979). .....	28
CITES, 4th CoP, <i>Proof of Foreign Law</i> , Preamble, Conf. 4.22* (1983). .....	33
CITES, 5th CoP, <i>Definition of “primarily commercial purposes”</i> (1985). .....	29
CITES, 6th CoP, <i>Interpretation of Article XIV</i> , Conf. 6.7 (2013). .....	27

CITES, 9th CoP, <i>Interpretation and application of quotas for species included in Appendix I</i> , 8	
Conf. 9.21(Rev. CoP18), (1994). ....	28
CITES, 9th CoP, <i>Interpretation and application of quotas for species included in Appendix I</i> , 8	
Conf. 9.21(Rev. CoP18), (1994); .....	28
<i>CITES</i> , Art. III (3)(a); Conf. 10.3: Designation and Role of Scientific Authorities.....	29
<i>CITES</i> , Conf. 2.11 (Rev.)*, <i>Trade in Hunting Trophies of Species listed in Appendix I</i> . ....	29
<i>CMS</i> , 13 <sup>th</sup> CoP, <i>Review mechanism and national legislation programme</i> ,	
UNEP/CMS/COP13/Doc.22 (Nov.15, 2019).....	19

---

---

**QUESTIONS PRESENTED**

---

---

**I.**

WHETHER TROPHY HUNTING OF ROYAL MARKHOR THROUGH AUCTION PROCESS  
COMPLIES WITH CONVENTIONAL INTERNATIONAL LAW

**II.**

WHETHER BAN ON IMPORTATION OF ROYAL MARKHOR HUNTING TROPHIES  
VIOLATES CONVENTIONAL INTERNATIONAL LAW.

---

---

## STATEMENT OF JURISDICTION

---

---

In accordance with *Article 40 of Statute of ICJ*, Ashtor and Rishmak have submitted to ICJ by Special Agreement, questions concerning their differences relating to Subsistence Use and Trophy Hunting as contained in Annex A, including Clarifications. Parties transmitted a copy of Special Agreement to Registrar of ICJ on July 1, 2024.

The Registrar of Court, in accordance with *Article 26 of Rules of Court*, addressed a notification of receipt of Special Agreement to parties on July 31, 2024.

The parties have accepted jurisdiction of ICJ. Consequently, they request Court to adjudge merits of this matter based on rules and principles of general international law, as well as any applicable treaties. The parties further request this Court to determine legal consequences, including rights and obligations of Parties arising from any judgment on questions presented in this matter. Parties have agreed to accept Judgment of court as final and binding upon them and execute it in its entirety and in good faith.



---

---

## STATEMENT OF FACTS

---

---

Rishmak is a low-income country with high poverty rates, particularly in Indigenous Dione Ginsu [DG] community. Bordering Astor is a high-income diversified economy. Royal Markhor [RM], an endangered wild goat, is now found only in Astor and Rishmak. As of 2023, RM population is 2,200, including 440 adult males. Both countries prohibit hunting RM, except for DG in Rishmak, which has a longstanding tradition of hunting male RM for subsistence and cultural reasons. DG started auctioning right to hunt 10 RM annually to foreign hunters in 2016, generating funds annually to community needs of housing, healthcare, food and RM conservation.

The 2003 Astor-Rishmak Trade Agreement [ARTA] promotes economic development and prohibits quantitative trade restrictions. However, in 2022, Astor abruptly banned import of RM hunting trophies. Rishmak argued that this ban violated DG's subsistence rights and that limited exports of RM trophies do not harm species. Despite ongoing discussions, Astor maintained its stance, invoking ARTA's Article 20 as a defense.

Unable to resolve the dispute, Rishmak and Astor submitted case to International Court of Justice in May 2024. Both countries are parties to UN Charter, CITES, CMS, and VCLT, with Rishmak also party to ILO 169 and ICESCR.

---

---

## SUMMARY OF ARGUMENTS

---

---

Trophy hunting of RM through auctioning is permissible, and thus in compliance with conventional international law ICESCR and ILO 169. Rishmak has complied with CMS as trophy hunting is allowed as an exception in CMS because it 1) enhances purpose of RM's survival, 2) accommodates needs of traditional subsistence users of DG, and 3) exceptions are precise and limited.

Meanwhile, Astor has violated ARTA by imposing an import ban on RM hunting trophies against permissible exceptions of quantitative restriction as it was not necessary to protect public morals or related to conservation of exhaustible natural resources. In imposing ban, Astor also failed to consider non-detrimental findings and relevant benefits of hunting and failed its duty to cooperate with Rishmak before adopting stricter domestic measures under CITES.

Thus, Astor must lift ban and compensate Rishmak.

---

---

## ARGUMENTS

---

---

### I. THE TROPHY HUNTING OF ROYAL MARKHOR THROUGH AUCTION PROCESS COMPLIES WITH CONVENTIONAL INTERNATIONAL LAW

While assessing legality of situation, the Court must presume permissibility of action unless proved otherwise. PCIJ in *Lotus* case has established that "restrictions upon independence of States cannot be presumed" and that international law leaves to States "a wide measure of discretion which is only limited in certain cases by prohibitive rules."<sup>1</sup> Likewise, this Court held in *Kosovo Advisory Opinion* that it is entirely possible for an act to not violate international law without necessarily constituting exercise of a right conferred by it.<sup>2</sup> Therefore, to establish that auctioning of trophy hunting of Royal Markhor [“**RM**”] by Indigenous<sup>3</sup> Dione Ginsu [“**DG**”] is permitted, a right to trophy hunting or auctioning thereof need not be established. It is sufficient to demonstrate that act is permissible in applicable conventional international law to which Astor and Rishmak are parties,<sup>4</sup> viz. [A] ICESCR and ILO 169.

---

<sup>1</sup> S.S. *Lotus* (Fr. v. Turk.), 1927 P.C.I.J. (ser. A) No. 10, ¶¶18-19 (Sept. 7); *Military and Paramilitary Activities in and against Nicaragua* (Nicar. v. U.S.), Judgment, 1986 I.C.J. 14, ¶269 (Jun.27).

<sup>2</sup> *Accordance with International Law of Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, 2010, I.C.J.423 ¶56 (Jul.22).

<sup>3</sup> *Record*, ¶3.

<sup>4</sup> *Legality of Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996 I.C.J. 226, ¶23 (Jul.8).

## A. Trophy Hunting of RMs through auctioning is permissible under ICESCR and ILO

169.

ICESCR and ILO 169 codify *jus cogens*<sup>5</sup> right to self-determination,<sup>6</sup> which is epistemologically intrinsic to indigenesness.<sup>7</sup> Self-determination is a pre-requisite to enjoyment of other rights<sup>8</sup> such as right to determine means of subsistence<sup>9</sup> and right to *freely* pursue their economic, social and cultural development.<sup>10</sup> States, therefore, are obliged to respect Indigenous pursuance by refraining from dictating method by which subsistence is achieved,<sup>11</sup> except when it must ascertain compliance with international law.<sup>12</sup> In line with this, right to means of subsistence is purposively interpreted<sup>13</sup> to allow indigenous people control over economic and cultural development to *extent*

---

<sup>5</sup> Int'l Law Comm'n, Rep. on Work of Its Sixty-Seventh Session U.N. Doc. A/74/10, Draft Conclusions on Peremptory norms of General International Law (*Jus cogens*), Conclusion 23(h) (2015); IAN BROWNLIE, PRINCIPLES OF INTERNATIONAL LAW 513 (1991); D. RAIC, STATEHOOD AND LAW OF SELF-DETERMINATION 218-219 (Brill, 2002); BRUNNO SIMMA, CHARTER OF UNITED NATIONS, A COMMENTARY 316 (2012); ANTONIO CASSESE, SELF DETERMINATION OF PEOPLE: A LEGAL REAPPRAISAL 133-136 (1995) [**"Cassese"**]; JAMES CRAWFORD, RIGHTS OF PEOPLES 166 (Oxford, 1988).

<sup>6</sup> International Covenant on Cultural, Economic and Social Rights art.1, Jan. 3, 1976, 993 U.N.T.S. 3 [**"ICESCR"**]; HRC, *General Comment No. 12: Article 1, Right to Self-determination of Peoples* 27, 123, UN Doc HRI/GEN/1/Rev.6 (13 March 1984); Western Sahara, Advisory Opinion, 1975, I.C.J. 12, ¶¶54-59 (Oct. 16) [**"Western Sahara"**]; East Timor (Port. v. Aus.), 1995, I.C.J. 90, ¶102 (June 30) [**"East Timor"**]; Legal Consequences of Construction of a Wall in Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 136, ¶118. (July 9) [**"Wall Advisory"**]; Legal Consequences for States of Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, 1971 I.C.J. 16, ¶52 (June 21).

<sup>7</sup> GA Res 1541 (XV), 15 UN GAOR Supp (No 16) at 66 (Dec.15, 1960); SUREDA, A. RIGO.EVOLUTION OF RIGHT OF SELF-DETERMINATION : A STUDY OF UNITED NATIONS PRACTICE (Leiden, 1973).

<sup>8</sup> International Covenant on Civil and Political Rights art.1, Dec. 16, 1966, 999 U.N.T.S. 171 [**"ICCPR"**]; ICESCR, art.1; *Western Sahara*, ¶¶54-59; *East Timor*, ¶102; *Wall Advisory*, ¶118.

<sup>9</sup> ICESCR, art. 1(3); *Yakye Axa Indigenous Community v Paraguay*, Merits, Reparations, and Costs, Judgment, Inter-Am.Ct.H.R. (ser. C) No.125, ¶135 (Jun.17, 2005).

<sup>10</sup> ICCPR, art.1; ICESCR, art. 1.

<sup>11</sup> Report of working group established in accordance with Commission on Human Rights resolution 1995/32, ¶¶103-129, UN Doc E/CN.4/1997/102 (Dec.10, 1996); GA. Res/61/295, United Nations Declaration on Rights of Indigenous Peoples art.20, 21, (Oct.2, 2007) [**"UNDRIP"**].

<sup>12</sup> JAMES CRAWFORD, CREATION OF STATES IN INTERNATIONAL LAW 383-418 (2nd ed., 2006); *Cassese* at 167, 283, 334, 349; C Tomuschat, *Secession and Self-Determination*, in SECESSION: INTERNATIONAL LAW PERSPECTIVES 35-36, 84-86 (M.G. Kohen ed., 2006); JESSIE HOHMANN & MARC WELLER, UN DECLARATION ON RIGHTS OF INDIGENOUS PEOPLES: A COMMENTARY, Part I, 16 (2019).

<sup>13</sup> ODILE AMMANN, DOMESTIC COURTS AND INTERPRETATION OF INTERNATIONAL LAW 209 (Brill, 2019); Vienna Convention on Law of Treaties art. 31, May 23, 1969, 1155 U.N.T.S. 331 [**"VCLT"**].

possible.<sup>14</sup> Thus, trophy hunting of RMs and auctioning thereof is permissible as a means of subsistence pursued by DG as it complies with applicable conventional international obligations of Rishmak under [I.B] CMS, [III.B] CITES.

**B. Taking of RM is permissible under Article III(5) of CMS.**

The RM (RM), though protected as an endangered species under CMS Appendix I<sup>15</sup>, can be hunted through Rishmak's regulated auction process aligning with CMS exceptions<sup>16</sup> as [a] it supports species survival, [b] accommodates needs of traditional subsistence users. Further, use of this exception is [c] precise, limited and [d] not disadvantageous to RM.

**a. Taking is for the purpose of enhancing survival of RM.**

CMS permits hunting for purpose of enhancing a species' survival<sup>17</sup>. Enhancing survival includes actions addressing threats to covered species or otherwise benefiting species' condition to achieve a net conservation benefit.<sup>18</sup>

*Firstly*, threat of acute, severe illness *Mycoplasma capricolum* infections,<sup>19</sup> with a morbidity rate of 100% and mortality rate of 60-100%<sup>20</sup> is addressed by allocating approximately USD 225,000 to develop vaccines and conducting workshops to reduce cross-species transmission.<sup>21</sup>

---

<sup>14</sup> International Labour Organization (ILO), Indigenous and Tribal Peoples Convention art.7(1), C.169 (Jun.27, 1989).

<sup>15</sup> *Record*, ¶18.

<sup>16</sup> Convention on Conservation of Migratory Species of Wild Animals, art. III(5), Jun. 23, 1979, 1651 UNTS 333 [“CMS”]

<sup>17</sup> CMS, art. III(5) (b).

<sup>18</sup> Endangered and Threatened Wildlife and Plants; Enhancement of Survival and Incidental Take Permits, 89 Fed. Reg.72 (Apr.12, 2024).

<sup>19</sup> *Record*, ¶18.

<sup>20</sup> HINCHCLIFF KW ET AL., VETERINARY MEDICINE: A TEXTBOOK OF DISEASES OF CATTLE, HORSES, SHEEP, PIGS AND GOATS 1140 (Elsevier Health Sciences,10th ed., 2016).

<sup>21</sup> *Record*, ¶18.

Secondly, use of funds from trophy hunting has been proven to be an effective tool<sup>22</sup> for net conservation benefit in Pakistan<sup>23</sup>, Namibia<sup>24</sup>, Tajikistan<sup>25</sup>, Zimbabwe,<sup>26</sup> and Botswana.<sup>27</sup> For RM, net conservation benefit is achieved by allocating funds for its protection.

Therefore, taking of RM falls within Article III(5) CMS exceptions.

#### **b. Taking accommodates needs of traditional subsistence users of RM.**

CMS allows hunting to accommodate needs of traditional subsistence users.<sup>28</sup> CMS regime does not explicitly define “traditional subsistence users”, so a textual interpretation based on ordinary meaning<sup>29</sup> must be pursued in light of “drafter’s intention”<sup>30</sup>. Such interpretation suggests that traditional subsistence users are those who have historically hunted a species using “traditional means”<sup>31</sup> to fulfil their “basic survival needs”.<sup>32</sup>

---

<sup>22</sup> IUCN, Informing decisions on trophy hunting; A Briefing Paper for European Union Decision-makers regarding potential plans for restriction of imports of hunting trophies 5 (April 2016) [**“IUCN Recommendation”**]; Damm, Gerhard R., *Recreational Trophy Hunting What do we know and what should we do?* in BEST PRACTICES IN SUSTAINABLE HUNTING—A GUIDE TO BEST PRACTICES FROM AROUND WORLD, 5-11 (Dr. Rolf Balduss ed., 2008).

<sup>23</sup> Ghafoor, Abdul, Sustainability of Markhor Trophy Hunting Programme in District Kohistan Pakistan. DISS. UNIVERSITI SAINS MALAYSIA, 2014.

<sup>24</sup> Naidoo et. al., *Complementary benefits of tourism and hunting to communal conservancies in Namibia*, CONSERV. BIOL. 30, 628–638 (Oct., 2015).

<sup>25</sup> Michel et.al., *Population status of Heptner’s markhor Capra falconeri heptneri in Tajikistan: challenges for conservation*, ORYX 49, 506–513 (2015).

<sup>26</sup> Bond et.al, *Private land contribution to conservation in South Africa* in PARKS IN TRANSITION 29–61 (B. Child ed. Routledge, 2004).

<sup>27</sup> Mbaiwa, J. E., *Community-Based Natural Resource Management in Botswana* in INSTITUTIONAL ARRANGEMENTS FOR CONSERVATION, DEVELOPMENT AND TOURISM IN EASTERN AND SOUTHERN AFRICA 59–80 (R. van der Duim eds., Springer, 2015).

<sup>28</sup> CMS, art. III(5)(c).

<sup>29</sup> VCLT, art.31(1).

<sup>30</sup> Reservations to Convention on Genocide, Advisory Opinion, 1951, I.C.J 15, (May 28); Conditions of Admission of a State to Membership in United Nations, 1948 I.C.J. 57, 65 (Dec. 12); HUDSON, MANLEY O, PERMANENT COURT OF INTERNATIONAL JUSTICE, 1920-1942, 643-45 (1943).

<sup>31</sup> Agreement on Conservation of Polar Bears, art.III(1)(d) 13 I.L.M. 13 (Nov.15, 1973) [**“ACPB”**]

<sup>32</sup> Lauren Coad et al., TOWARDS A SUSTAINABLE, PARTICIPATORY, AND INCLUSIVE WILD MEAT SECTOR, (CIFOR, 2019).

*Firstly*, DG qualifies as traditional subsistence users of RM as they have hunted RM to meet their nutritional and traditional needs since time immemorial.<sup>33</sup>

*Secondly*, subsistence hunting need not necessarily be limited to food and may also be extended to economic subsistence needs<sup>34</sup> including clothing, shelter, medicine and to satisfy other basic needs.<sup>35</sup> Controlled taking of RM accommodates DG's basic survival needs as an estimated USD 1.125 million is allocated to housing, medicine, and food<sup>36</sup>- aligning with CMS's intent to safeguards survival needs of such communities.

In any case, taking of RM through auction should not be deemed invalid simply because it deviates from traditional methods since “traditions can change”<sup>37</sup>. Maori fishing rights were recognized both as traditional livelihood and an adaptation to modern needs in *Mahuika*<sup>38</sup> as indigenous cultural rights include economic activities. Similarly, low-income DG<sup>39</sup> has adjusted their hunting methods to meet their economic and subsistence requirements<sup>40</sup>.

**c. The use of exceptions is precise to content and limited in time and space.**

In 13th CoP it was concluded, that exception is “precise as to content and limited in space” when it covers species, duration of license for hunting, area covered, number of species allowed for

---

<sup>33</sup> *Record*, ¶14.

<sup>34</sup> Inter-American Convention for Protection and Conservation of Sea Turtles, 10<sup>th</sup> CoP, Resolution CIT-COP10-2022-R5 (2022).

<sup>35</sup> CMS Secretariat, MoU concerning conservation, restoration, and sustainable use of saiga antelope, 44, UNEP/CMS/Saiga/MOS4/Doc.7/Rev.1, (Sep.28-29, 2021).

<sup>36</sup> *Record*, ¶16.

<sup>37</sup> Schwarz & Douglas O, *Indian Rights and Environmental Ethics: Changing Perspectives, and a Modest Proposal*, ENVIRONMENTAL ETHICS 9, 291-302 (1987).

<sup>38</sup> *Mahuika et. al. v New Zealand*, H.R.C. Communication No. 547/1993, ¶9.3 (27 October 2000).

<sup>39</sup> *Record*, ¶¶3, 16.

<sup>40</sup> Kemmerer Lisa, *Hunting Tradition: Treaties, Law, and Subsistence Killing*, ANIMAL LIBERATION PHILOSOPHY AND POLICY JOURNAL, vol.2 (2004).

hunting, and method used for hunting.<sup>41</sup> Rishmak's exception for DG hunting is precise and limited as hunting is limited to 10 RMs<sup>42</sup> with hunting rights auctioned annually<sup>43</sup>, RMs are hunted within Rishmak's territory,<sup>44</sup> with help of DG guides using traditional methods of hunting.<sup>45</sup>

**d. The use of exceptions is not disadvantageous to RM.**

The 13th CoP established that hunting operates to disadvantage of a species when take undermines species' conservation status or proves detrimental to its survival.<sup>46</sup>

Limited trophy hunting of Appendix I enlisted species, like in present case, *first* contributes to species conservation<sup>47</sup>, and *second*, increases populations of key wildlife species<sup>48</sup>, especially incase of Markhors<sup>49</sup>. *Third*, scientific authority of Rishmak concluded that hunting is not detrimental to RM's survival.<sup>50</sup> Thus taking is not disadvantageous to RM.

---

<sup>41</sup> CMS, 13<sup>th</sup> CoP, *Review mechanism and national legislation programme*, ¶64 UNEP/CMS/COP13/Doc.22 (Nov.15, 2019) [**"13<sup>th</sup> CoP"**]

<sup>42</sup> *Record*, ¶15; *Clarifications to Record* ¶A6.

<sup>43</sup> *Record*, ¶16.

<sup>44</sup> *Record*, ¶14.

<sup>45</sup> *Record*, ¶17.

<sup>46</sup> *13th CoP*, ¶64.

<sup>47</sup> CMS, Communiqué African Lion Range State Meeting (May 30, 2016).

<sup>48</sup> Lipy Adhikari et.al., *Community-based trophy hunting programs secure biodiversity and livelihoods: Learnings from Asia's high mountain communities and landscapes*, ENV. CHALLENGES VOL.4 (2021).

<sup>49</sup> Khan, B., et.al, *Abundance, distribution and conservation status of Siberian ibex, Marco Polo and Blue sheep in Karakoram-Pamir mountain area*, J. KING SAUD UNIV. - SCI. 28, 216– 225 (2016).

<sup>50</sup> *Record*, ¶32.



## II. THE BAN ON IMPORTATION OF RM HUNTING TROPHIES VIOLATES CONVENTIONAL INTERNATIONAL LAW

Article XIV (2)<sup>51</sup> warrants that CITES has no effect on subsequent international agreements creating obligations related to “other aspects” of trade.<sup>52</sup> Since Astor and Rishmak entered into Astor-Rishmak Trade Agreement [“ARTA”] in 2003,<sup>53</sup> i.e. after they became parties to CITES, ARTA is a subsequent agreement in relation to CITES. Comparatively, ARTA enumerates standards for legality of trade ban,<sup>54</sup> comprising “other aspects” of trade as there are no corresponding provisions in CITES. Therefore, ARTA is *lex specialis*<sup>55</sup> with regard to trade ban and thus takes precedence in application. Imposing a ban on import of hunting trophies is not [A] permitted by ARTA. Further, ban contravenes [B] permitted exceptions under ARTA and [C] CITES.

### A. Ban is not permitted by ARTA

ARTA was concluded to expand regional trade, broaden international cooperation, promote sustainable development, and reduce poverty.<sup>56</sup> Astor’s ban contravenes [a] object and purpose of ARTA and [b] legitimate expectations of Rishmak.

---

<sup>51</sup>Chris Wold, *Multilateral Environmental Agreements and GATT: Conflict and Resolution*, 26 ENVTL. L., 841, 870 (1996) [“Wold”].

<sup>52</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora, art. XIV (2), March 3, 1973, 993, U.N.T.S. 243 [“CITES”].

<sup>53</sup> *Record*, ¶1.

<sup>54</sup> *Record*, Astor-Rishmak Trade Agreement, Art. 20 [“ARTA”].

<sup>55</sup> ILC, *Fragmentation of International Law: Difficulties Arising from Diversification and Expansion of International Law: Report of Study Group of ILC* ¶409, UN Doc. A/CN.4/L.682 (2006).

<sup>56</sup> ARTA, Preamble.

**a. The ban violates object and purpose of ARTA.**

The *raison d'être*<sup>57</sup> or object and purpose<sup>58</sup> of ARTA derived from its title and preamble<sup>59</sup> is to expand regional trade, strengthen international cooperation and reduce poverty.<sup>60</sup> Astor's ban contravenes very object and purpose of ARTA.

**b. The ban defeats legitimate expectation of Rishmak.**

The legitimate expectations of treaty parties are derived from its language,<sup>61</sup> and common intentions of parties.<sup>62</sup> Interpretation of such expectations precludes subjective and unilaterally determined expectations of one of parties to a treaty.<sup>63</sup> Common intention of Astor and Rishmak is promotion of trade and development<sup>64</sup> - which Astor blatantly ignored. It proceeded to unilaterally ban imports<sup>65</sup> in guise of animal welfare,<sup>66</sup> disregarding its obligations related to trade, development, and poverty reduction<sup>67</sup> - thereby defeating legitimate expectation of Rishmak from ARTA.

---

<sup>57</sup> MARK E. VILLIGER, CUSTOMARY INTERNATIONAL LAW AND TREATIES, DEVELOPMENTS IN INTERNATIONAL LAW 321 (1986).

<sup>58</sup> VCLT, art. 31.

<sup>59</sup> Rights of Nationals of United States of America in Morocco (Fran. v. USA), 1952 I.C.J. Rep. ¶¶176, 183, 184, 197 & 198 (Aug. 27).

<sup>60</sup> Record, ¶12.

<sup>61</sup> WTO Panel Report, India - Patent Protection for Pharmaceutical and Agricultural Chemical Products, (Complaint by United States), (WT/DS50/AB/R) (adopted Sep.5, 1997) ¶45.

<sup>62</sup> VCLT, art 31.

<sup>63</sup> WTO Appellate Report, European Communities – Customs Classification of Certain Computer Equipment, (WT/DS62/AB/R), (adopted Jun.5,1998) ¶84.

<sup>64</sup> ARTA, Preamble.

<sup>65</sup> Record, ¶29.

<sup>66</sup> Record, ¶33.

<sup>67</sup> ARTA, Preamble.

## **B. Ban contravenes permitted exceptions under ARTA**

In interpreting ARTA, GATT must reasonably be inferred<sup>68</sup> given textual similarities<sup>69</sup> between Articles 11 and 20 of ARTA and Articles XI and XX of GATT. Additionally, parties have explicitly agreed to abide<sup>70</sup> by decisions of GATT and WTO panel in interpreting ARTA.<sup>71</sup> Therefore, GATT and WTO decisions will be referred to interpret<sup>72</sup> ARTA hereinafter.

Under ARTA, Astor can impose bans on import of RM hunting trophies. However, ban contravenes permitted exceptions under [a] Article 20 of ARTA. Consequently, Astor is also in violation of [b] Article 11 of ARTA.

### **a. Ban violates Article 20.**

The chapeau of Article 20 of ARTA prevents illegitimate use of exceptions through substantive requirements of public morals and conservation of exhaustible natural resources.<sup>73</sup> Similarly, it protects against abuse of exceptions through procedural requirements of non-arbitrariness and undisguised restriction.<sup>74</sup> However, Astor violated conjunctive<sup>75</sup> [i] substantive and [ii] procedural requirements making invocation of general exceptions unlawful.

---

<sup>68</sup> Corfu Channel (U.K. and Northern Ireland v. Alb.), Judgment 1949 I.C.J. 4, ¶18 (Apr. 9).

<sup>69</sup> Appellate Body Report, European Communities – Regime for Importation, Sale and Distribution of Bananas, WT/DS27/AB/R (adopted 25 Sept. 1997) p. 591.

<sup>70</sup> VCLT, art. 14.

<sup>71</sup> ARTA, art. 25(2).

<sup>72</sup> WTO Appellate Body Report, United States – Measures Affecting Cross-Border Supply of Gambling and Betting Services, WT/DS285/AB/R (adopted 20 April 2005) ¶7.817 [“**Betting**”]; WTO Report of Panel, China-Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products, WT/DS363/R (adopted 20 August, 2009), ¶6.84.

<sup>73</sup> WTO Appellate Body Report, United States – Standards for Reformulated and Conventional Gasoline, WT/DS2/AB/R (adopted 20 May 1996) DSR 1996:I, 3, ¶25 [“**Gasoline**”].

<sup>74</sup> WTO Appellate Body Report, United States – Import Prohibition of Certain Shrimp and Shrimp Products, WT/DS58/AB/R (adopted 6 November 1998), ¶151 [“**Shrimp**”].

<sup>75</sup> ARTA, Article 20.

*i. Ban on importation violates substantive requirements.*

The ban on importation violates substantive requirements as it is neither [1] necessary to protect public morals nor [2] related to conservation of exhaustible natural resources in conjunction with restrictions on domestic production or consumption.

1. Ban was not necessary to protect public morals.

States don't have unfettered discretion to invoke public morals.<sup>76</sup> It can only be invoked<sup>77</sup> under Article 20(a) of ARTA when trade restriction is [01] necessary and [02] not for promotion of temperance by Astor.

01. The ban is not "necessary" to protect public morals.

Under GATT/WTO jurisprudence,<sup>78</sup> "necessity" test requires "weighing and balancing" importance of objective being pursued, contribution of measure to achieving that objective and if any reasonable alternatives would achieve same objective.<sup>79</sup>

*Firstly*, objective of ban was *supposedly* to address animal welfare concerns in Astor.<sup>80</sup> However, Astor still allows trophy hunting of bears, bobcats, panthers, and other Astori wildlife domestically<sup>81</sup> despite an Astori organization comprising 12 million members advocating against

---

<sup>76</sup> Feddersen, Christoph T, "Focusing on Substantive Law in International Economic Relations: Public Morals of GATT's Article XX(a) and Conventional Rules of Interpretation" MINNESOTA J. INT'L LAW, 119, (1998).

<sup>77</sup> WTO Appellate Body Reports, European Communities – Measures Prohibiting Importation and Marketing of Seal Products, WT/DS400/AB/R / WT/DS401/AB/R, (adopted Jun. 18 2014), pg. 146 [**"Seal Products"**]; WTO Panel Report, US — Tariff Measures on Certain Goods from China WT/DS543/R (adopted Sept. 15, 2020) P. 36, ¶7.3.2.2.1 [**"Tariff measures"**]; WTO Panel Report, Brazil - Certain Measures Concerning Taxation and Charges, WT/DS472/R WT/DS497/R (adopted August 30, 2017), P. 171-178, ¶7.3.6.

<sup>78</sup> *Seal Products*, at 146, 153; *Tariff Measures*, P. 36, ¶7.3.2.2.1

<sup>79</sup> *Seal Products*, at 153.

<sup>80</sup> *Record*, ¶33.

<sup>81</sup> *Record*, ¶25.

it.<sup>82</sup> Additionally, 80% of Astor's nationally representative pollers also vehemently opposed trophy hunting domestically.<sup>83</sup> Astor turned a blind eye to overwhelming concerns of its own nationals regarding animal welfare conditions in country- demonstrating that objective of ban imposed on Rishmak was never animal welfare.

*Secondly*, ban is unjustified when there is no connection between ban and objective being pursued.<sup>84</sup> Astor's reliance on *EC Seals Products* case<sup>85</sup> is misguided as connection between ban and objective was established when inhumanely produced seal products were banned to reduce demand, lower seal killings and prevent citizens from supporting industry.<sup>86</sup> Contrastingly, there is no connection between Astor's ban and its objective as welfare of RM is not achieved as auctioning and trophy hunting are ongoing in compliance with conventional international law. Additionally, other evidence of animal welfare results of ban is absent. Astor has further failed to realize animal welfare objective of ban in its own country as trophy hunting is not outlawed domestically.<sup>87</sup>

*Thirdly*, restrictions can only be imposed when reasonable alternatives are pursued to address poor practices and promote hunting management standards.<sup>88</sup> Astor has not even attempted to understand role of DG's trophy hunting program in RM's conservation let alone pursue reasonable

---

<sup>82</sup> *Record*, ¶¶24,25

<sup>83</sup> *Record*, ¶28.

<sup>84</sup> *Seal Products*, at 78.

<sup>85</sup> *Record*, ¶33.

<sup>86</sup> *Seal Products*, at 163,155.

<sup>87</sup> *Record*, ¶30.

<sup>88</sup> *IUCN Recommendation*, no. ii.

alternatives like consultation,<sup>89</sup> notification,<sup>90</sup> temporary suspension<sup>91</sup>, verification<sup>92</sup>, global import quotas<sup>93</sup>, non-automatic licensing<sup>94</sup>, review with the Secretariat,<sup>95</sup> or imposition of duties, taxes, or similar charges.<sup>96</sup>

## 02. Public morals cannot be for promotion of temperance<sup>97</sup>

The negotiating history<sup>98</sup> of GATT reveals that initial proposal to include “promotion of temperance” as a ground to invoke public morals was rejected,<sup>99</sup> and it failed to gain substantial support to extent of being included in subsequent drafts and final Agreement itself.<sup>100</sup> Therefore, Astor cannot invoke promotion of temperance of Astori hunters vis-a-vis trophy hunting.

### 2. Ban is not related to conservation of exhaustible natural resources in conjunction with restrictions on domestic production or consumption.

Article 20(g) of ARTA allows imposition of trade bans for conservation of exhaustible natural resources if ban is made effective in conjunction with restrictions on domestic production or consumption. As evidenced by *travaux* of GATT, this exception cannot be invoked to justify

---

<sup>89</sup> CBD, Addis Ababa Principles and Guidelines for Sustainable Use of Biodiversity, Principle 12 (2004).

<sup>90</sup> *CITES*, 17th CoP, *Trade in hunting trophies of species listed in Appendix I or II*, No. 8, UNEP/Res./conf. 17.9 (October 4, 2016).

<sup>91</sup> General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing World Trade Organization, art.XVIII, 1867 U.N.T.S. 187, 33 I.L.M. 1153 (1994) [“GATT”].

<sup>92</sup> *CITES*, art. 13; *CITES* 16th CoP, *Non-detriment Findings*, ¶¶1,2, Conf. 16.7 (2013).

<sup>93</sup> World Trade Organization, Export Prohibitions and Restrictions, Information note, Apr. 23, 2020.

<sup>94</sup> *Id.*

<sup>95</sup> *CITES*, art. 13.

<sup>96</sup> ARTA, art. 11.

<sup>97</sup> Christoph T. Feddersen, *Focusing on Substantive Law in International Economic Relations: Public Morals of GATT's Article XX(a) and Conventional Rules of Interpretation*, MINNESOTA J. INT'L LAW, P. 120 (75-217), (1998).

<sup>98</sup> VCLT, Art. 32.

<sup>99</sup> Report of Preparatory Committee On International Conference On Trade and Development ¶11, U.N. Doc. E/PC/T/C.II/50 (Nov. 13, 1946); Draft Report of Technical Sub-Committee ¶35, U.N. Doc. E/PC/T/C.II/54 (Nov. 16, 1946).

<sup>100</sup> Report of 2nd session of Preparatory Committee of United Nations Conference on Trade and Employment ¶48, U.N. Doc. E/PC/T/189 (Aug. 30, 1947).

import bans.<sup>101</sup> This is further evinced by, *Herring-Salmon*, wherein panel held that objective of “in conjunction” under Article XX(g) is to ascertain effectiveness of imposed restrictions.<sup>102</sup> This can only be achieved when restrictions can *effectively* be imposed on production and export because effective control can only be exercised when production or consumption is under its own jurisdiction.<sup>103</sup>

Alternatively, ban does not comply with Article 20 (g) as ban is not in conjunction with domestic production and consumption. An equivalent provision in GATT, i.e. Article XX(g), has been interpreted to require “even-handedness in imposition of restrictions...upon production or consumption...resources”<sup>104</sup> where “even-handedness” requires that adopted measure similarly affect domestic and imported products.<sup>105</sup> Additionally, it was held in *Japan Taxes* that states must provide national treatment to all other Members, including by not applying laws, regulations and requirements affecting imported products in a manner that protects domestic production.<sup>106</sup> However, Astor fails to enact domestic legislation banning trophy hunting within its territory.<sup>107</sup> Even-handedness is missing as trophy hunting in Astor continues to exist.<sup>108</sup> Therefore, import restriction measure is not in conjunction with domestic production and consumption.

---

<sup>101</sup> Preparatory Committee of International Conference on Trade and Employment ¶4, UN Docs. E/PC/T/C.II/50 (Nov.13, 1946); E/PC/T/A/PV/25, ¶30; E/PC/T/A/ PV/30, ¶18.

<sup>102</sup> WTO Panel, *Canada-Measures Affecting Exports of Unprocessed Herring and Salmon*, L/6269, (adopted Nov.12, 1987).

<sup>103</sup> Betsy Baker, *Protection, Not Protectionism: Multilateral Environmental Agreements and GATT*, 26 VANDERBILT LAW REVIEW 459 (2021).

<sup>104</sup> *Gasoline*, p. 21.

<sup>105</sup> *Id.*

<sup>106</sup> WTO Panel Report, *Japan—Taxes on Alcoholic Beverages*. WT/DS8/R (adopted Feb.14, 1997), ¶6.21 [“**Japan Taxes**”]; WTO Panel Report, *Korea, Republic of—Taxes on Alcoholic Beverages*, WT/DS75/AB/R ¶¶108-109, 124 (adopted Sept. 17, 1998).

<sup>107</sup> *Record*, ¶30.

<sup>108</sup> *Record*, ¶25.

**b. The ban violates Article 11 of ARTA.**

Article 11 of ARTA restricts Astor from imposing quantitative restrictions on trade with Rishmak. Astor conceded that ban comprises a quantitative restriction under Article 11 and claimed that they were justified under Articles 20(a) and (g).<sup>109</sup> Since violation of Articles 20(a) and (g) has been established, Article 11 of ARTA has been violated *ipso facto*.

**ii. Ban violates procedural requirements.**

As affirmed in *Brazil-Retreaded tyres*,<sup>110</sup> chapeau of Article 20 requires that restriction measures not be arbitrary [1] and a disguised restriction on international trade [2].<sup>111</sup>

**1. Ban constitutes a disguised restriction on international trade.**

The Panel Report on *EC-Asbestos* defined ‘to disguise’ as to conceal beneath deceptive appearances or misrepresent.<sup>112</sup> Although panel does not mandate examining specific intent, it recognizes acts that misrepresent actual intentions as disguised.<sup>113</sup> Astor has misrepresented its objective of banning import of all hunting trophies under disguise of conservation of RM.<sup>114</sup>

**2. Ban is arbitrary.**

---

<sup>109</sup> *Record*, ¶33.

<sup>110</sup> WTO Appellate Body Report, *Brazil – Measures affecting imports of Retreated Tyres*, WT/DS332/AB/R (adopted Dec.3, 2007), ¶25 [“**Brazil Retreaded**”]; *Gasoline*, ¶¶20-21; *Gambling*, ¶ 339.

<sup>111</sup> *Record* ¶12; *Shrimp*, ¶¶118,158.

<sup>112</sup> WTO Panel Report, *European Communities – Measures Affecting Asbestos and Asbestos-Containing Products*, WT/DS135/R, (adopted Sept.18,2000), ¶¶8.233,8.235,8.236 [“**Asbestos**”].

<sup>113</sup> *Asbestos*, ¶¶8.233,8.235,8.236.

<sup>114</sup> *Record*, ¶29.



For measures to be non-arbitrary, they should appear as reasonable, predictable and foreseeable in light of objective.<sup>115</sup>

*Firstly*, import restriction is unreasonable vis-a-vis animal welfare as established, due to lack of a domestic ban on trophy hunting.

*Secondly*, ban was neither predictable nor foreseeable as there were no indications of impediment to trade let alone a blanket import ban on hunting trophies in communications until November of 2022 between Astor and Rishmak.<sup>116</sup>

### **C. The Ban on Importation of RM Hunting Trophies Violates CITES.**

The CITES framework allows trade of Appendix-I enlisted species through non-detrimental findings<sup>117</sup> [“NDF”] and regulations under Article III. However, states can adopt stricter domestic measures regarding such trade by making relevant considerations and fulfilling duty to notify and consult under Article XIV.<sup>118</sup>

However, Astor has violated [a] Article III by not accepting NDF of Scientific Authority of Rishmak. Even if Court finds Astor’s compliance with Article III,[b] Astor cannot ban import of RM hunting trophies as it constitutes personal effects Article VII(3). Further, Astor has violated [c] Article XIV by failing to follow prescribed procedures for adopting stricter domestic measures.

---

<sup>115</sup> *Brazil Retreaded*, ¶220.

<sup>116</sup> *Record*, ¶23.

<sup>117</sup> *CITES 16th CoP, Non-detriment Findings*, ¶¶1,2, Conf. 16.7 (2013) [“16th CoP”].

<sup>118</sup> *CITES, 6th CoP, Interpretation of Article XIV*, ¶1, Conf. 6.7 (2013) [“6th CoP”].

**a. The ban on import of RM Hunting Trophies violates Article III.**

Article III of CITES regulates trade of Appendix-I enlisted species by issuing permits based on NDF<sup>119</sup> of respective Scientific Authorities of exporting and importing states. Scientific authorities of states consider factors such as species' population structure, threats, species-specific levels and patterns of harvest and mortality, and conservation status<sup>120</sup> to produce best available scientific information<sup>121</sup>, which is used to set export quotas<sup>122</sup> and grant permits for export and import of species<sup>123</sup> for trade.<sup>124</sup>

This conventional obligation of application of “best available scientific information” is further reinforced by CIL, evinced from *opinio juris*<sup>125</sup> and state practice<sup>126</sup>, as a precautionary approach to conservation.<sup>127</sup>

Acknowledging benefits of trophy hunting for livelihood of communities dependent on wildlife,<sup>128</sup> CITES resolutions have emphasized that trade restrictions cannot be imposed without detrimental

---

<sup>119</sup> 16th CoP, ¶¶1,2.

<sup>120</sup> CITES 16th CoP, *Non-detriment Findings*, ¶1(ix), Conf. 16.7 (2013).

<sup>121</sup> CITES Strategic Vision 2021-2030, Goal 2, Objective 2.1; Request For An Advisory Opinion Submitted by Commission of Small Island States on Climate Change and International Law Advisory Opinion, ITLOS Case No. 31, Order of May.21,2024, ¶¶208,215,241,418,441 (2024).

<sup>122</sup> 17th CoP, ¶1.

<sup>123</sup> 16th CoP, ¶¶1,2.

<sup>124</sup> CITES, Art. III.

<sup>125</sup> G.A. Res. 59/25, ¶¶66, 83 (Jan.17,2005); G.A. Res. 61/105, ¶70 ( March 6, 2007); Int'l Law Comm'n, Rep. on Work of Its Fifty-Eighth Session, U.N. Doc. A/61/10, Draft principles on allocation of loss incase of transboundary harm arising out of hazardous activities, with commentaries, Principle 5(b) (2015); *ACPB* art. II; International Convention for Regulation of Whaling art.V(2), Jun. 28, 1937, 190 U.N.T.S. 80; Convention for Conservation of Antarctic Seals, Annex ¶7(b), Jun.1, 1972, 11 ILM 251; Convention Concerning Protection of World Cultural and Natural Heritage, Preamble (Nov.16, 1972); Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matter art.XV(2) (Aug.30, 1975); *CMS*, arts. III(2), XI(3).

<sup>126</sup> Convention on Conservation of Antarctic Marine Living Resources art. ix(1)(f), May 20, 1980.

<sup>127</sup> PHILIPPE SANDS, *INTERNATIONAL ENVIRONMENTAL LAW*, 416 (2012); *Whaling in Antarctic* (Aus. v. Jap.), Judgment, 2014 I.C.J. 226, ¶¶ 96-97 (Mar.31).

<sup>128</sup> CITES, 16<sup>th</sup> CoP, *CITES and Livelihoods*, Preamble¶¶9-13, CoP 16.6, (2013). [“Livelihood”]

findings.<sup>129</sup> *Afortiori*, when Scientific Authority of exporting states *advise* that export of hunting trophies is not detrimental to survival of species importing state must *accept* such finding unless there are scientific or management data to indicate otherwise.<sup>130</sup>

Rishmak's Scientific Authority has advised that trade of RM hunting trophies has been non-detrimental<sup>131</sup> since export of trophies started in 2016.<sup>132</sup> While Astor's Scientific Authority has had opportunity to examine these findings independently<sup>133</sup> every time it issued an import permit,<sup>134</sup> Astor has never demonstrated against or conveyed in insufficiency of Rishmak's non-detrimental findings- failing to produce "data to indicate otherwise". Astor has thus failed obligation of using NDF to make trade decisions under Article III.

***b. Arguendo, Astor cannot ban import of RM hunting trophies as it constitutes personal effects Article VII(3).***

Article VII(3) of CITES waives import regulations under Article III for personal or household effects.<sup>135</sup> Resolution 13.7 states that personally owned or possessed specimens are exempted as personal effects if specimen has been acquired per domestic law,<sup>136</sup> as a hunting trophy that has been legally hunted abroad and imported with appropriate CITES documents.<sup>137</sup> Effects are

---

<sup>129</sup> CITES, 9th CoP, *Interpretation and application of quotas for species included in Appendix I*, ¶¶3(a), 8 Conf. 9.21(Rev. CoP18), (1994).

<sup>130</sup> CITES, 2nd CoP, *Trade in Hunting Trophies of Species listed in Appendix I*, Conf. 2.11 (Rev.), (1979).

<sup>131</sup> *Record*, ¶32.

<sup>132</sup> *Record*, ¶16.

<sup>133</sup> CITES, Conf. 2.11 (Rev.)\*, *Trade in Hunting Trophies of Species listed in Appendix I*, ¶1(c).

<sup>134</sup> CITES, Art. III (3)(a); Conf. 10.3: Designation and Role of Scientific Authorities, ¶2(g).

<sup>135</sup> CITES, Art. VII(3).

<sup>136</sup> CITES, 18th CoP, *Legal acquisition findings*, ¶1(a), Conf. 18.7, (2019).

<sup>137</sup> CITES, 13th CoP, *Control of trade in personal and household effects*, Conf. 13.7 Annex 1, ¶12, (2004).

considered personal when importation is for private use, which is established through predominance of non-commercial aspects of use on a case-by-case basis.<sup>138</sup>

RM trophies were hunted in Rishmak in compliance with domestic laws subject to numerical cap and imported continuously from 2016 to 2023 with required permits under CITES.<sup>139</sup> horns and hides of a successful trophy hunt,<sup>140</sup> i.e. “effects”, are personal as they have been imported by hunters for private use or predominantly non-commercial use. Therefore, as trophies constitute “personal effects”, Astor cannot ban import under Article VII(3).

**c. The ban on import of RM Hunting Trophies violates Article XIV**

States cannot abruptly adopt stricter measures than CITES requires regarding conditions for trade of Appendix I species<sup>141</sup> under Article XIV (1)(a). According to Resolution 17.9, adoption of stricter domestic measures for import is subject to prior considerations.<sup>142</sup> Resolution 6.7 obliges states to notify and consult range states before adopting such measures.<sup>143</sup> Astor has failed to [i] make prior considerations and [ii] priorly consult and notify Rishmak about adoption of stricter measures.

***i. Astor has failed to make prior considerations***

Stricter domestic bans can adversely impact conservation status of species.<sup>144</sup> Therefore, before imposing stricter domestic measures, Astor should have considered if hunting [1] contributes to

---

<sup>138</sup> CITES, 5th CoP, *Definition of “primarily commercial purposes”* Annex a, Conf. 5.10, (1985).

<sup>139</sup> *Record*, ¶¶16,17.

<sup>140</sup> *Id.*

<sup>141</sup> CITES, 17th CoP, *Trade in hunting trophies of species listed in Appendix I or II*, ¶¶2,6,7, Conf. 17.9, (2016) [“17<sup>th</sup> CoP”]

<sup>142</sup> *Id.*

<sup>143</sup> 6th CoP ¶1.

<sup>144</sup> *Id.* Preamble, ¶2.

species conservation, [2] socio-economic benefits, and [3] provide incentives to people for conservation.<sup>145</sup>

### 1. Hunting contributes to species conservation

Understanding context within which trophy hunting occurs is critical to understanding its benefit to conservation.<sup>146</sup> For instance, trophy hunting was adopted as a conservation strategy to produce economic benefits in Namibian communal conservancies resulting in a demonstrable increase in species population of elephants, sable, common impala, desert elephant, and black rhino among others.<sup>147</sup> Similarly, in Pakistan, Indigenous Pathan tribe *Jazalai* gave up their traditional methods of hunting for economic benefit through trophy hunting, resulting in a drastic increase in population of Straight-horned Markhor *Capra falconeri megaceros* from 3,000-4,250 to 12,000 in 2017.<sup>148</sup> In the present case, from funds generated through trophy hunting, approximately US \$150,000<sup>149</sup> is primarily dedicated every year to conservational research and workshops to prevent fatal infections of *Mycoplasma capricolum* in RM.<sup>150</sup>

### 2. Hunting has socio-economic benefits

Trophy hunting generates socio-economic benefits when it respects local cultural values and practices, is accepted by most members of local community, involves and benefits local residents

---

<sup>145</sup> 17<sup>th</sup> CoP, ¶7.

<sup>146</sup> IUCN SSC, Guiding Principles on Trophy Hunting as a Tool for Creating Conservation Incentives, Ver. 1.0, 5 (09 August 2012) [“IUCN Guide”].

<sup>147</sup> NACSO, 2010. Namibia’s communal conservancies: a review of progress 2009. NACSO, Windhoek, Namibia; Naidoo et.al. *Effect of biodiversity on economic benefits from communal lands in Namibia*, JOURNAL OF APPLIED ECOLOGY 48, 310-316.

<sup>148</sup> CITES, 18th CoP, *Interpretation and implementation matters, Regulation of trade, Enhancement of Quotas for Markhor Hunting Trophies*, Conf. 18, ¶ B (2019).

<sup>149</sup> Record, ¶16.

<sup>150</sup> Record, ¶18.

equitably and in ways that meet their priorities and promotes long-term economic sustainability.<sup>151</sup>

Hunting of RM yields all aforementioned socio-economic benefits.

*Firstly*, hunting of RMs respects local cultural values and practices as it uses traditional methods of luring<sup>152</sup> with assistance of DG guides<sup>153</sup> and yields meat that has been historically consumed by DG community.<sup>154</sup>

*Secondly*, hunting is accepted by DG as they initiated and actively participate in hunting, demonstrating acceptance.

*Thirdly*, it involves and equitably benefits DG,<sup>155</sup> poorest community in nation,<sup>156</sup> in a way that reduces poverty<sup>157</sup> sustainably.<sup>158</sup>

### 3. Hunting provides incentives for conservation

Revenues from trophy hunting can provide a strong incentive for conservation of species.<sup>159</sup> Sustainable consumptive use<sup>160</sup> incentivises local people to protect wildlife motivates investment in community and inspires research.<sup>161</sup> In Namibian communal conservancies, benefits from consumptive trophy hunting resulted in an estimated US \$112.97 million from 1998-2009, which

---

<sup>151</sup> *IUCN Guide*.

<sup>152</sup> *Record*, ¶17; Clarifications, ¶A3.

<sup>153</sup> *Record*, ¶17; Clarifications, para A3

<sup>154</sup> *Record*, ¶14.

<sup>155</sup> *Record*, ¶16.

<sup>156</sup> *Record*, ¶3.

<sup>157</sup> *Livelihood*, ¶3(a).

<sup>158</sup> *Id.* Preamble, ¶6.

<sup>159</sup> IUCN SSC, *Position Statement on sustainable use of wild living resources*.

<sup>160</sup> *IUCN Guide*.

<sup>161</sup> *Id.*

was used to improve educational, and health facilities.<sup>162</sup> Approximately USD 1.5 million<sup>163</sup> is generated in revenue annually through trophy hunting of Markhors that funds housing, medical, and food expenses and research- sustainably incentivizing and investing in DG community.<sup>164</sup>

*ii. Astor violated its duty of prior notification and consultation under Article XIV.*

Article XIV allows states to impose stricter domestic measures on trade, after making *every* reasonable effort to notify range states about such measures as early as possible and consult with those states.<sup>165</sup> States must cooperate with other States,<sup>166</sup> especially in case of shared natural resources<sup>167</sup> under CIL<sup>168</sup> which entails consultations,<sup>169</sup> direct notification,<sup>170</sup> and prior exchange of information.<sup>171</sup> Additionally, parties adopting stricter domestic measures are required to notify Secretariat about such measures.<sup>172</sup>

Since RMs were previously distributed in four other countries excluding Astor and Rishmak, they are not indigenous to either state.<sup>173</sup> Currently, Rishmak and Astor are only range states vis-à-vis distribution of RMs. Despite ongoing communications between two states until November of

---

<sup>162</sup> NACSO, 2010. Namibia's communal conservancies: a review of progress 2009. NACSO, Windhoek, Namibia; Naidoo et.al. *Effect of biodiversity on economic benefits from communal lands in Namibia*, JOURNAL OF APPLIED ECOLOGY 48, 310-316.

<sup>163</sup> *Record*, ¶¶15,16.

<sup>164</sup> *Record*, ¶¶16,18.

<sup>165</sup> 6th CoP, Preamble, ¶1.

<sup>166</sup> CITES, Preamble, ¶4; MOX Plant (Ireland v. U.K.), Case No. 10, Order of Dec. 3, 2001, 10 ILTOS 95, ¶83.

<sup>167</sup> *Pulp Mills*, ¶113; *Gabčíkovo* ¶150.

<sup>168</sup> CBD, Art. 5; CMS, Art. I; Rio Declaration, Principles 9, 12; Cooperation in Field of Environment Concerning Natural Resources Shared by Two Or More States, A/RES/3129 (XXVIII) (Dec. 13, 1973); Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, A/RES/2625 (XXV) (Oct. 24, 1970).

<sup>169</sup> Southern Bluefin Tuna (N.Z., Australia v. Japan), Case No. 3, Order of Aug. 27, 1999, 3 ILTOS ¶60; Case concerning Land Reclamation by Singapore in and around Straits of Johor (Malaysia v. Singapore), 27 UNRIAA 133, ¶47 (2005).

<sup>170</sup> *Pulp Mills*, ¶113; G.A.Res.3129 (XXVII) 28 Sess. (Dec.13, 1973).

<sup>171</sup> Cooperation between States in Field of Environment, A/RES/2995 (XXVII) (Dec. 15, 1972); P. BIRNIE ET. AL., INTERNATIONAL LAW AND ENVIRONMENT 171 (1992).

<sup>172</sup> CITES, 4th CoP, *Proof of Foreign Law*, Preamble, ¶¶ 1,2,3, Conf. 4.22\* (1983).

<sup>173</sup> *Record*, ¶1.

2022,<sup>174</sup> Astor neither notified nor consulted with Rishmak before adopting ban on December 11, 2022.<sup>175</sup>

#### **D. Astor must lift the ban and compensate Rishmak**

Finally, when breach of international conventional obligations causally linked<sup>176</sup>, results in injury to another state and persons on its territory, offender state is obligated to make full reparations<sup>177</sup> in adequate form<sup>178</sup> applicable also in an international environmental context.<sup>179</sup> Reparation<sup>180</sup> is provided as compensation if it is impossible to restore *status quo ante*.<sup>181</sup> Thus, Rishmak, on behalf of DG, is entitled to resumption of import of hunting trophies and compensation<sup>182</sup> based on equitable consideration.<sup>183</sup> *In any event*, Astor cannot defend itself by referring to its internal law<sup>184</sup> to avoid providing full reparation.<sup>185</sup>

---

<sup>174</sup>Record, ¶23.

<sup>175</sup>Record, ¶29.

<sup>176</sup> Int'l Law Comm'n, Responsibility of States for Internationally Wrongful Acts, Jan. 28, 2002, A/RES/56/83 art. 30["**ARSIWA**"]; Certain activities carried out by Nicaragua in border area (Costa Rica v. Nicaragua) Judgment, 2018 I.C.J. Rep., 32 (Feb 2), [**Certain Activities**] ¶.

<sup>177</sup> Republic of Guinea v. Democratic Republic of Congo, Merits, Judgment, I.C.J. Reports 2010 (II), p. 691, ¶161; Avena and Other Mexican Nationals (Mexico v. United States of America), Judgment, I.C.J. Reports 2004 (I), p. 59, ¶119; *Gabčíkovo*, ¶150.

<sup>178</sup> LaGrand (Germany v. United States of America), Judgment, I. C. J. Reports 2001, p. 466 ¶48.

<sup>179</sup> *Certain Activities* ¶42.

<sup>180</sup>ARSIWA, Art. 34.

<sup>181</sup>Certain German Interests in Polish Upper Silesia (F.R.G. v. Pol.), 1928 P.C.I.J. (ser. A) No. 17, at 377 (Sept. 13).

<sup>182</sup> *Certain Activities* ¶42.

<sup>183</sup> Republic of Guinea v. Democratic Republic of Congo, Merits, Judgment, I.C.J. Reports 2010 (II), p. 691, ¶161, ¶33.

<sup>184</sup>ARSIWA, Art.32.

<sup>185</sup> MALANCZUK, AKEHURST'S MODERN INTRODUCTION TO INTERNATIONAL LAW, 270 (7<sup>th</sup> ed. 1997).



---

---

## CONCLUSION

---

---

Rishmak respectfully requests the Court to adjudge that:

- I. The trophy hunting of Royal Markhor through auction process violates conventional international law; and
- II. The ban on importation of Royal Markhor hunting trophies complies with conventional international law.

Respectfully Submitted,

**AGENTS FORRESPONDENT**