

THE PHILIP C. JESSUP INTERNATIONAL LAW MOOT
COURT COMPETITION

1963

Case Concerning a Collision on the
High Seas, Belgium v. United States,
1963.

Problem

ASSOCIATION OF STUDENT INTERNATIONAL LAW SOCIETIES
1963 International Law Moot Competition
Statement of the Case

Situation: Contentious case on the merits before the International Court of Justice. Belgium (plaintiff) and the United States of American (respondent) have agreed to refer the dispute to the International Court of Justice under Article 36-1 of the Statute of the Court for decision in accordance with the function of the Court set out in Article 38-1 of the Statute. The parties have stipulated the following facts:

S.S. Alpha of British flag, registry, and ownership and M/S Beta of Belgian flag, registry, and ownership collided in fog twenty nautical miles off the east coast of the United States. Alpha was worth \$30,000,000 and was a total loss. Beta had a fair value of \$15,000,000 and was damaged \$1,000,000. Beta was towed to a United States port and thereafter was libeled in rem in a United States District Court sitting in Admiralty by the owners of cargo carried on Alpha for the value of their cargo, \$15,000,000, lost with that vessel. The cargo owners are Canadian nationals, Beta's motion to dismiss on the ground of forum non conveniens was denied. At the trial before the Federal Court in Admiralty, Beta contended that the Court should apply the Maritime (Brussels Collision) Convention of 1910.

Great Britain, Belgium and all other major maritime nations except the United States are parties to this Convention. Under the Convention the liabilities of vessels mutually at fault are divided in accordance with the respective degrees of fault of the vessels involved, and cargo may claim against a particular vessel only in proportion to the fault of that vessel. Under the maritime law of the United States, however, damages resulting from mutual fault, where the fault of one vessel is not merely "minor" or technical, are divided equally; and cargo may claim its total losses against the non-carrying

vessel, leaving the vessel thus charged with total liability to recover against the other under the divided damages principle.

The American trial court, after argument, ruled that it must apply the "ancient maritime law accepted in the United States" and allowed the cargo claim in full against Beta, although finding as a fact that Beta was only 1/5 at fault. After a review of the United States precedents, American counsel for Beta decided not to appeal; and time for appeal has now expired.

Beta's owners paid the cargo claimants \$15,000,000 plus costs. Thereafter they attempted to recover 4/5 of the total paid out in the United States from Alpha's owners through proceedings in the United Kingdom but lost.

The Belgian Government protested the American decision to the Department of State as exceeding the jurisdiction of the United States and as a "denial of justice," but the protest was rejected on the grounds (i) that internally the matter was entirely within the competence of the national judiciary under the Constitution of the United States and (ii) that no violation of international law was involved.

The Belgian Government replied proposing that the second contention in the United States note be referred to the International Court of Justice. The United States agreed to this course, accepting jurisdiction as indicated in the opening paragraph of this statement.