

2001 PHILIP C. JESSUP
INTERNATIONAL LAW MOOT COURT COMPETITION

CORRECTIONS AND CLARIFICATIONS TO THE COMPROMIS

The following corrections and clarifications have been agreed by the parties in response to many requests of Jessup Competitors, and the Compromis should be considered amended accordingly. In offering these, the parties remind all participants of the following:

- a. The Compromis is, in essence, a stipulation of facts. Its words have been carefully chosen, and are the results of extensive negotiation. The parties decline to "clarify" the facts by providing conclusory characterizations, *e.g.* of the nature of their political systems. And, obviously, the parties will not stipulate as to what arguments are acceptable or unacceptable.
- b. The response to any request for a clarification **not** addressed in the following paragraphs is already included in the Compromis or has been considered inappropriate or immaterial, or the parties were unable to reach agreement on a mutually acceptable answer.
- c. Except to the extent that corrections and clarifications are set out below, participants are to assume that the Compromis is accurate and complete in all respects.

Corrections to the Compromis

1. In ¶ 12, the reference should be to **Chapter VII**, not **Article VII**, of the U.N. Charter.
2. ¶ 21(a)(2) should refer to mining operations **near**, not **in**, the Grand Basin.
3. In ¶ 18, "the operation" means the attack on the Erebian mining facility by The Aqua Protectors.
4. ¶ 8 should state that Merapi, like Erebus, is a party to the four 1958 Geneva Conventions on the Law of the Sea.
5. The parties intended to make clear that the annexed Map was jointly prepared as a part of the Compromis, and was not available to either side before this litigation began.
6. The map (Annex A) incorrectly indicates that the Exclusive Economic Zone is 200 nautical miles wide. The outer boundary of the Exclusive Economic Zone is in fact 200 nautical miles from the coast, but the Zone begins at the outer edge of the territorial sea, *i.e.*, 12 miles from shore. The EEZ itself is therefore 188 (not 200) nautical miles wide.

Clarifications

1. **Clarifications concerning the map:** Both countries claim territorial seas and Exclusive Economic Zones as indicated in the map. Prior to its movement due to the hurricanes of 1996, 1998, and 1999, the location of the principal arm of the Krakatoa River was the dotted line on the map, which corresponds with Merapi's boundary claim. That channel of the

Krakatoa River no longer exists, and the former river bed is not discernable. The new principal arm of the Krakatoa River, corresponding to Erebus's boundary claim, is navigable by commercial vessels.

2. **Clarifications concerning the River Delta:** The ancient burial sites are located throughout the Krakatoa Delta area between Pigeon Rock and the Cape of Realto, both north and south of the principal arm of the Krakatoa River as it existed in 1947. Before the 1990s, the principal arm of the Krakatoa River had been stable, with its last shift (a minor northward movement) occurring following a hurricane in 1901. The Krakatoa Delta has never had roads, settlements, or a permanent population, because the land area between the tributaries of the River is swampy most of the year. A few hundred Merapi and Erebus nationals engage in fishing and hunting in the area. Neither Merapi nor Erebus has ever established any sort of legislative or regulatory regime to administer the Krakatoa River Delta area.
3. **Clarifications concerning Pigeon rock and the Alma Shoals:** Pigeon Rock is a bird-shaped rocky outcropping that is above water only at low tide. Located 15 nautical miles off the coast of the mainland, it is currently considered incapable of sustaining fixed economic activities. The Alma Shoals consist of an area located between 15 and 50 nautical miles east of the coast, running from 20 nautical miles north to 30 nautical miles south of Pigeon Rock. The types of fish found in the Alma Shoals are primarily straddling, not migratory. The potentially extensive petroleum reserves, which were discovered by a Erebian oil company in 1999, lie 50 nautical miles off the coast of the mainland, and 10 nautical miles south of Pigeon Rock. Large numbers of Merapi fishermen have fished in the Alma Shoals since the Merapi-Erebus Treaty of Amity came into force in 1947. Until recently, a few fishermen of other nationalities, including Erebbians, have also fished in the Shoals without incident.
4. **Clarifications concerning the Seabed Mining Facility:** The Erebus Seabed Mining Facility is owned and operated by the Government of Erebus. It uses a novel hybrid process developed by Erebus, employing elements of the hydraulic system, the continuous line bucket system, and the submersible modular system. The Facility is fixed to the seabed, and does not float. Erebbian studies on the potential environmental impact of its process were done using computer simulations and comparative data from other seabed mining sites. Construction of the Seabed Mining Facility began just before the announcement referenced in ¶ 9 of the Compromis (*i.e.*, in April 2000).
5. **Clarifications concerning The Aqua Protectors:** The Aqua Protectors who carried out the attack on the Erebbian Seabed Mining Facility were Merapi nationals and nationals of a third state located south of Merapi. The disabling of the seabed mining facility resulted in no significant environmental damage to sea life in the area.
6. **Clarifications concerning extradition:** Although Merapi does not have an extradition treaty with Erebus, Merapi has on occasion surrendered wanted fugitives for prosecution in Erebus on the basis of comity. Under Merapi domestic law, the decision to extradite is vested in the country's Foreign Minister. Neither Erebus nor Merapi applies the death penalty. Despite Erebus's request for their extradition on charges of homicide and destruction of government property, the members of The Aqua Protectors publicly implicated

in the attack on the Erebian Seabed Mining Facility have not been taken into custody or charged with any crime in Merapi.

7. **Clarifications concerning the Grand Basin:** Merapi fishermen have had essentially exclusive use of the Grand Basin for fishing for at least half a century. Primarily by virtue of the distances involved and other economic factors, no other country's fishing vessels have carried out substantial fishing operations in the Grand Basin area.

