



Universiteit Utrecht

INAUGURAL
EDITION

NETHERLANDS INSTITUTE FOR THE LAW OF THE SEA MOOT COURT COMPETITION PROGRAMME

DE BRAUW
BLACKSTONE
WESTBROEK

22-24
MAY
2019

UNIVERSITY COLLEGE
UTRECHT CAMPUS &
JANSKERK

Kriekenpitplein 18-19, 3584 EC Utrecht
Janskerkhof 26, 3512 BN Utrecht



TABLE OF CONTENTS

**ORGANISING
OFFICE & THE
CASE**

02-07

08-10

**THE AWARDS &
PARTICIPATING
TEAMS**

**JUDGES OF THE
ROUNDS &
COMMITTEE OF
APPOINTED
JUDGES**

11-16

17-20

PHOTOS

Please contact NILOS for the
original size pictures.

PREFACE

By the Organising Committee of the Netherlands Institute for the Law of the Sea Moot Court Competition

The Netherlands Institute for the Law of the Sea (NILOS) Moot Court Competition is the first moot court simulating proceedings under Part XV of the United Nations Convention on the Law of the Sea. The moot court thus simulates proceedings either before the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice (ICJ) or an Annex VII Arbitral Tribunal. This year marked the inaugural edition of the competition, where the students pleaded the *Case Concerning Certain Activities in the DeGroot Sea* before ITLOS. This was a unique opportunity to discuss fascinating issues of the law of the sea and international dispute settlement.

The Organising Committee of NILOS wishes to express its gratitude to all sponsors for their involvement and support. We are pleased that all teams, judges and participants were able to join us for this first, inaugural edition, and look forward to meeting you again in 2020.



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NILOS MCC 2019 ORGANISING OFFICE

The Organising Committee

Alex Oude Elferink, Professor of International Law of the Sea, Director of NILOS;

Seline Trevisanut, Professor of International Law and Sustainability, Senior Research Associate at NILOS;

Erik J. Molenaar, Deputy Director of NILOS;

Cedric Ryngaert, Professor of International Law and Programme Leader of the Utrecht Master in Public International Law; and

Machiko Kanetake, Assistant professor of International Law and Programme Coordinator of the Utrecht Master in Public International Law

Catherine Blanchard, PhD Fellow at NILOS

Organising Office

The staff members of the Netherlands Institute for the Law of the Sea (NILOS)

Helena Skolozdra, Secretary at the Law, Economics and Governance Faculty of Utrecht University School of Law, International and European Law Department;

Miranda Walraven, Managing Coordinator of the International and European Law Department, Utrecht University School of Law;

Irina-Elena Girbea, Student Assistant of the International and European Law Department; Utrecht University School of Law and

Lucie Pourquery, Léa Allix, Konstantina Stravou, Caroline Correira and Chuxiao Yu, Bailiffs and volunteers

NILOS MCC 2019 THE CASE

Case Concerning Certain Activities in the DeGroot Sea (Kingdom of Vattel v. Federal Republic of Fulton)

1. The Federal Republic of Fulton (Fulton) and the Kingdom of Vattel (Vattel) are located in the Pradelle region. Their coasts are opposite to each other and separated by the semi-enclosed Sea of DeGroot, which has a width of 380 nautical miles at its narrowest part. Both States are developing States. After having both gained their independence from the Kingdom of Scelle in 1954, the two States have enjoyed a generally peaceful relationship.

2. Their only disagreement (until recently) has been the unresolved delimitation of their respective exclusive economic zones (EEZs) as their respective coasts are separated by less than 400 nautical miles. The main disagreement on delimitation concerns the Bay of Selden in Vattel and its effect on the median line between their coasts. Vattel considers that the Bay of Selden is a historic bay and has drawn a closing line with a length of 30 nautical miles between the low-water marks of its natural entrance points, thereby enclosing its waters as internal waters. Fulton contests the historic nature of the Bay of Selden. It therefore takes the position that the closing line is inconsistent with Article 10(5) of the United Nations Convention on the Law of the Sea (UNCLOS) and that the waters enclosed by the line are not internal waters.

3. Both States have ratified the UNCLOS; Fulton on 15 September 1996 and Vattel on 21 November 1994. The marine area created by the overlapping claims of Fulton and Vattel is known as the Monana Region.

4. The Monana Region is of particular importance for both States as it is the main fishing area where fishers of both States fish for *Utrechtis lawis*. The *Utrechtis lawis* is a fish species that occurs in Vattel's waters from October to July, but subsequently migrates into Fulton's EEZ in August and September in order to spawn. *Utrechtis lawis* is very important for the coastal aboriginal communities in Vattel, which have historically engaged in small-scale fishing of the species. Over the years, Vattel and Fulton have undertaken various negotiations aimed at agreeing on joint conservation measures for the stock. Their joint effort has also led the *Utrechtis lawis* to be listed under Annex II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and Annex II of the Convention on the Conservation of Migratory Species of Wild Animals (CMS).

5. In July 2015, the non-governmental organization World Wildlife Fund (WWF) published a report stressing the importance of the migratory route for the very survival of the *Utrechtis lawis*. The report concluded that any change in the migratory route, induced by either environmental changes or man-made structures, could lead to the extinction of the species.

NILOS MCC 2019 THE CASE CONTINUED

6. To fulfil its Nationally Determined Contribution (NDC) under the Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC), Fulton decided, in April 2016, to construct a large wave-energy farm for the production of marine renewable energy. Before commencing the construction activities, Fulton assigned its National University to conduct an environmental impact assessment and invited the public to participate and submit comments. Following public hearings in January 2017, the devices, which compose the farm, were constructed and started operating 150 nautical miles from Fulton's coast, within its EEZ and landward of the Monana Region.

7. In January 2018, Vatteller fishermen noticed a significant decrease in the abundance of *Urechthis lawis* in the Monana Region compared to previous years. The Vattel government suspected that the newly constructed wave farm of Fulton was causing this decrease and requested Fultonian cooperation in assessing the impact of the devices on the status of the stock. Vattel sent this request through a Note Verbale addressed to the Government of Fulton on 14 January 2018. However, having received new alarming reports from WWF's Vatteller branch concerning the status of the *Urechthis lawis* stock, Vattel decided, on 15 February 2018, to send one of its vessels, the SS Newton, to collect data on the state of the marine environment around the wave energy farm. On 17 February 2018, a Fultonian coast guard vessel approached the SS Newton and, after having ascertained that the SS Newton had not obtained prior authorization for data collection, requested that the SS Newton leave the area, a request with which the SS Newton complied. Two days later, Ms Reena Stroming, president of Fulton, made the following public declaration to address the incident:

“Conducting marine scientific activities in our waters is a violation of our sovereign rights in our EEZ. Vattel cannot unilaterally decide to undertake this until it has complied with the necessary procedures, and obtained prior authorization. Indeed, the construction of the wave farm was built following an environmental impact assessment conducted by independent academics, and public consultations took place. There is no proof that the decreased abundance of the *Urechthis lawis* in the Monana Region is a consequence of the construction and operation of the wave energy farm in our EEZ. Fulton has complied with all of its obligations under international law concerning the conservation of the *Urechthis lawis* as the stock's abundance in Fultonian waters has actually increased over the last two years.”

Exasperated by the situation and still concerned by the declining state of the fish stocks, Vattel sent the SS Newton back to the site of the wave energy farm on 24 August 2018. Once again, the SS Newton was asked to leave the area by the Fultonian coast guard, and the scientific vessel retreated into Vatteler waters.

NILOS MCC 2019 THE CASE CONTINUED

8. Following the events and in light of the fact that the Note Verbale of 14 January 2018 remained unanswered, Vattel decided to submit the dispute to the International Tribunal for the Law of the Sea (ITLOS) as both Fulton and Vattel have adopted a declaration pursuant to Article 287 of the UNCLOS where they choose ITLOS as the preferred judicial dispute settlement mechanism.

9. In its submission to the ITLOS Registry, Vattel sustains that:

- By constructing the wave energy farm Fulton is violating its international obligations related to cooperation, including those under relevant conventions;
- Fulton's actions are inconsistent with its obligations on the protection and preservation of the marine environment and the conservation and management of transboundary fish stocks under international law;
- The exclusion of the SS Newton was an infringement of Vattel's freedoms existing in Fulton's EEZ.

10. Fulton contests the jurisdiction of ITLOS on two main grounds: (a) because there was no real and clear attempt by Vattel to solve the dispute by other means; and (b) because of the exceptions included in its declaration pursuant to Article 287 of the UNCLOS. Alternatively, Fulton respectfully requests ITLOS:

- To reject each of Vattel's claims; and
- To declare that Vattel has infringed the sovereign rights of Fulton by sending the SS Newton to conduct marine scientific activities in Fulton's EEZ on two occasions.

11. Fulton and Vattel are parties to the UNCLOS, the Fish Stocks Agreement (UNFSA), the Convention on Biological Diversity (CBD), the CITES, the CMS, the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), and the Paris Agreement under the UNFCCC.

NILOS MCC 2019 THE CASE CONTINUED

Annex

Declaration of the Kingdom of Vattel under Article 287 of the UNCLOS

The Kingdom of Vattel declares, under paragraph 1 of article 287 of the United Nations Convention on the Law of the Sea done at Montego Bay on the tenth day of December one thousand nine hundred and eighty-two that it chooses the following means for the settlement of disputes concerning the interpretation or application of the Convention, without specifying that one has precedence over the other:

- (a) the International Tribunal for the Law of the Sea established in accordance with Annex VI of the Convention; and
- (b) the International Court of Justice.

Declaration of the Republic of Fulton under Article 287 of the UNCLOS

In the absence of any other peaceful means to which it would give preference, the Government of the Republic of Fulton hereby chooses one of the following means for the settlement of disputes concerning the interpretation or application of the [United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea] in accordance with article 287 of the Convention on the Law of the Sea, in the following order:

1. The international Tribunal for the Law of the Sea established in accordance with Annex VI;
2. A special arbitral tribunal constituted in accordance with Annex VIII; and
3. The International Court of Justice.

Also, in the absence of any other peaceful means, the Government of the Republic of Fulton hereby recognizes as of today the validity of special arbitration for any dispute concerning the interpretation or application of the Convention on the Law of the Sea relating to fisheries, the protection and preservation of the marine environment, and navigation, including pollution from vessels and by dumping.

NILOS MCC 2019 WINNERS AND AWARDS

Winner of the Final Round

Utrecht University, The Netherlands

The Finalist Team Award

National and Kapodistrian University of Athens, Greece

The Award for the Best Memorial for the Applicant

Utrecht University, The Netherlands

The Award for the Best Memorial for the Respondent

University of Cyprus

The Award for the Best Oral Argumentation for the Applicant

University of Hamburg, Germany

The Award for the Best Oral Argumentation for the Respondent

Utrecht University, The Netherlands

The Award for the Best Overall Score

University of Hamburg, Germany

The Award for the Runner-Up Best Oralist

Eleni Gerasoudi Anomitri, National and Kapodistrian University of Athens

The Award for the Best Oralist

Baine Kerr, Utrecht University

NILOS MCC 2019

PARTICIPATING TEAMS

China - Wuhan University

Team coaches: Lingjie Kong & Xiaolu Le

Team participants: Youheng Mo, Zehao Qin, Xinyuan Li, Li SSili Fang

Cyprus - University of Cyprus

Team coach: Athena Herodotou & Aristoteles Constantinides

Team participants: Yiouli Stylianidou & Christina Ioanna Tzalavreta

Germany - University of Hamburg

Team coaches: Sara Wissmann, Maximilian Bahnsen & Maurus Wollensak

Team participants: Alena Rathke, Dorothea Lampe, Pauline Lehmann & Julius Adler

Greece - National & Kapodistrian University of Athens

Team coaches: Mr. Antonis Antonopoulos, Ms. Sandrine De Herdt & Mr. Emmanouil Somarakis

Team participants: Konstantinos Deligiannis-Virvos, Ms. Eleni Gerasoudi Anomitri, Mr. Alexandros Kazimirov, Mr. Dimitrios Panousos & Ms. Aikaterini Stathakarou

NILOS MCC 2019

PARTICIPATING TEAMS

Italy - University of Genoa

Team coaches: Mr. Lorenzo Schiano Di Pepe &
Elena Maresca

Team participants: Ms. Carola Annitto, Ms.
Deborah Cooper & Ms. Giulia Demontis

Italy - University of Eastern Piedmont

Team coach: Ms. Andrea Valentina Salamino

Team participants: Ms. Greta Accatino, Ms. Chiara
Bertoldi, Ms. Cornelia Ancuta Roman, Mr. Davide
Chiaramonte & Ms. Laura Razeto

Indonesia - University of Indonesia

Team coaches: Arie Afriansyah, Barata Ramedhan &
Gulardi Nurbiantoro

Team participants: Dominique Virgil Tuapetel,
Kenneth Nicholas, Christ Novriant Tambunan &
Amira Bilqis

The Netherlands - Utrecht University

Team coaches: Otto Spijkers & Wen Duan

Team participants: Daniela Buhler, Maarten
Christiaens, Fachry Hasani Habib, Baine Kerr & Frits
Portheine

JUDGES OF THE PRELIMINARY ROUNDS

Abdullahi Abdulrahman Abdalla, Lecturer in International and European Law, Erasmus School of Law, Erasmus University Rotterdam

Dona Azizi, PhD Candidate, Copernicus Institute of Sustainable Development, Utrecht University

Irina Buga, Senior Associate, De Brauw Blackstone Westbroek

Erin Cronjé, Senior Associate, De Brauw Blackstone Westbroek

Hanne Cuyckens, Lecturer in International Law, Leiden University

Charlotte Duijf, Senior Legal Advisor at The Cabinet of the Minister Plenipotentiary of Sint Maarten

Nikolas Giannopoulos, PhD Fellow, NILOS, Utrecht University

Solène Guggisberg, Postdoctoral Researcher, NILOS, Utrecht University; Nippon Foundation Senior Nereus Fellow

James Harrison, Senior Lecturer in International Law, University of Edinburgh

Corina Heri, Postdoctoral Researcher, Amsterdam Center for International Law, University of Amsterdam

JUDGES OF THE PRELIMINARY ROUNDS

Diem Huong Ho, Assistant Legal Counsel, Permanent Court of Arbitration

Maurice Kamga, Secretary of the Court, International Court of Justice

Rakhyun E. Kim, Assistant Professor of Global Environmental Governance, Copernicus Institute of Sustainable Development, Utrecht University

Matthias Kuschner, Partner, De Brauw Blackstone Westbroek

Massimo Lando, Associate Legal Officer, International Court of Justice

Joris Larik, Assistant Professor of Comparative, EU and International Law, Leiden University

Zara Mathew LLM, Project Manager and Compliance Officer, Virology Education

Lan Nguyen, Assistant Professor of International Law, Utrecht University

Vid Prislán, Postdoctoral Researcher, Amsterdam Center for International Law, University of Amsterdam

Siti Noor Malia Putri, PhD Researcher in International and European Law, Maastricht University

JUDGES OF THE PRELIMINARY ROUNDS

Olivier Ribbelink, T.M.C. Asser Instituut and OMRConsult

Rozemarijn Roland Holst, PhD Fellow, NILLOS, Utrecht University

Garth Schofield, Senior Legal Counsel, Permanent Court of
Arbitration

Mistale Taylor, Assistant Professor of International Law,
Utrecht University

Minh Tran, PhD Fellow, NILLOS, Utrecht University

Maria Veder, Lawyer/Juriste, ClientEarth Brussels

Geraldo Vidigal, Assistant Professor of International Law,
University of Amsterdam

Teresa Vieira da Silva Cabrita, PhD Researcher in International
Law, Amsterdam Center for International Law, University of
Amsterdam

Maddalena Visser, Policy Officer, Dutch Ministry of Agriculture,
Nature and Food Quality

Qi Xu, PhD Researcher, University of Groningen

Suhong Yang, S.J.D. Candidate, Georgetown University Law
Center

JUDGES OF THE FINAL ROUND

Professor Alfred Soons, Professor Emeritus of Public
International Law, Utrecht University

Judge Abdul G. Koroma, Judge of the International Court of
Justice (1994-2012)

Professor Wouter Werner, Professor of International Law,
Centre for the Politics of Transnational Law, Vrije Universiteit
Amsterdam

COMMITTEE OF APPOINTED JUDGES

Nelson Coelho, Postdoctoral Researcher, Aalborg University

Gian Maria Farnelli, Post-Doctoral fellow at the University of
Bologna, Italy

Bruno Gélinas-Faucher, PhD Candidate, University of
Cambridge

Warwick Gullett, Professor of Law, Australian National Centre
for Ocean Resources and Security, University of Wollongong

Arron N. Honniball, Research Fellow in Ocean Law and Policy.
Centre for International Law (CIL), National University of
Singapore

Nicholas A. Ioannides, Adjunct Lecturer of International Law,
University of Nicosia (Cyprus)

Sophia Kopela, Lecturer in Law at Lancaster University Law
School, England

David Ong, Professor at Nottingham Trent University (United
Kingdom)

Constantinos Panteli, LLB, LLM Public International Law,
Associate at Orphanides Christofides & Co LLC.

Paola Patarroyo, International Arbitration Group at Freshfields
Bruckhaus Deringer New York

COMMITTEE OF APPOINTED JUDGES

Maria Pilikou, Associate Lecturer in Law relating to Security at Sea, University of Central Lancashire, Cyprus

Jessica Schechinger, PhD Candidate in International Law, University of Glasgow

Gergana Stoeva, LL.M. in Law of the Sea, UiT The Arctic University of Norway

Suzette V. Suarez, Professor of Maritime Law
Center of Maritime Studies, Hochschule Bremen City
University of Applied Sciences

Steven van Hoogstraten, General Director
Carnegie Foundation (Peace Palace) & Treasurer at
The Hague Academy of International Law

Youri van Logchem, Senior Lecturer, Swansea University

Willem van Reenen, Retired Legal Counsel, Ministry of
Foreign Affairs, The Netherlands

Hilde Woker, Doctoral Research Fellow, K.G. Jebsen Center
for the Law of the Sea, UiT The Arctic University of Norway

UCU CAMPUS



TEAM OF THE UNIVERSITY OF INDONESIA



TEAM OF THE UNIVERSITY OF CYPRUS



TEAM OF THE UNIVERSITY OF HAMBURG, Preliminary Rounds



TEAM OF THE UNIVERSITY OF GENOA



TEAM OF THE UNIVERSITY OF EASTERN PIEDMONT

UCU CAMPUS & JANSKERK



TEAM OF THE UNIVERSITY OF UTRECHT, Preliminary Rounds



TEAM OF THE UNIVERSITY OF CYPRUS, Preliminary Rounds



Final Round



Judges of the Final Round



Final Round



Awards



Announcement of awards

JANSKERK



The Award for the Runner-Up Best Oralist



The Award for the Best Overall Score



The Award for the Best Oralist



The Award for the Best Memorial for the Applicant



Part of the Organising Office



The Award for the Best Memorial for the Respondent



The Winner of the Final Round



The Award for the Best Oral Argumentation for the Applicant



The Finalist Team Award



The Winner of the Final Round





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