

BRADLEY UNIVERISTY INTERNATIONAL LAW MOOT COURT 2007

COUNSEL FOR EMERALDA

IN THE INTERNATIONAL COURT OF JUSTICE

AT

BRADLEY UNIVERSITY, PEORIA, ILLINOIS

Case Concerning Atrocities

Emeralda v. Mazonia

Counter Memorial

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Admission of Facts

The Counsel for Emeraldalda admits to the following facts found in the respondent's memorial:

1. Multinational Corporation SkyQuest established in the Kingdom of the Lowlands developed the Skyhunter NSV designed to be launched from a specialized ship.

Ship used was privately owned and registered in Philamina.

2. The Skyhunter NSV comprised the Skyhunter space plane and a launcher rocket.

A company, Minergia, established in Rhumenistan, was responsible for the design and the manufacturing of the Skyhunter space plane. The rocket was

manufactured by the multinational industrial group Space Systems ("SSC"),

which was also responsible for the integration of the launcher rocket with the

Skyhunter space plane. The space plane and launcher were registered in Isla

Roca.

3. The day before the launch, SkyQuest forwarded a message to the Emeraldian

Maritime Authority, which circulated an announcement to all ships in territorial

waters informing them of the launch to remain at least 15nm from the site but

failed to announce the reason.

4. SkyQuest invited 100 people onto the *Condor* which flew the Emeraldian flag.

The ship was brought to 8nm from the launch site to view the launch of the

Skyhunter NSV

5. The night before the launch, the *Barracuda* left the Emeraldian coast for a fishing expedition that was within 10nm of the launch area.

6. Emeraldal did not notify the Secretary-General of the United Nations that it has in its custody Col. Van den Bergh and Mr. Brady.

7. Both the *Condor* and the *Barracuda* were in international waters at the time of the launch of the *Skyhunter* NSV.

Denial of Facts

1. The *Skyhunter* NSV did reach low Earth orbit as it was planned to do before returning to Earth.

The respondent is speculating the mission parameters of the *Skyhunter* NSV, as nowhere in the list of facts is their evidence of the altitude of the *Skyhunter* NSV.

Observations Concerning the Statement of Law

A. Defense States “Return of people and pieces of spaceplane supported under International Law”

- a. The agreement cited in this portion of the defense’s argument, 1968 Rescue Agreement, does not address the issue of those being rescues being criminals. The defense does not properly address this issue. ¹

B. Defense States “No legal basis for claim to prosecute astronauts in defendant’s courts”

¹ 1968 Rescue Agreement

- a. The defense claims that the debris leaving the craft was a natural occurrence, and both crewmembers were not responsible for the actions the craft took. The defense states the occurrence was an act of God. Unfortunately, in now shape or form can “God” be used as justification because there has never been a case proven where “God” intended to murder an individual.

C. Defense States “**Defendant is not liable for damage caused to the two vessels**”

- a. The argument laid out claims that Mazonia is not considered the launching state, but this is false according to the 1968 Rescue Agreement. Also, Mazonia is demanding the return of not only the crew, but also the materials from the launch. Logically, this demand is interesting, as the country is not claiming responsibility, but still wants the criminals and items back.²
- b. The defense also states that Emeraldalda was negligent in the manner that the parties involved disregarded the warning sent out by SkyQuest. The negligence does not lay in the hands of Emeraldalda, but rather in the hands of Skyquest, under Mazonia, as the warning was only given out a day in advance.

D. Defense States “**No violation of Prosecuting State’s sovereignty has occurred**”

- a. The defense argues that because the crewmembers were in a state of distress they, in no way, could have violated Emeraldian sovereignty. The claim is irrelevant, as the two are protected from physical harm under the

² 1968 Rescue Agreement

1968 Rescue Agreement, but are not protected from prosecution in a criminal matter. The two, along with the craft, did fly into Emeraldian territory without consent.³

Statement of Law in Response

I. 1968 Rescue Agreement

³ 1968 Rescue Agreement

- a. In no shape or manner does the agreement discuss the prosecution of criminals, it merely discusses the return of distressed individuals and their crafts.
 - i. Since the two crewmembers are criminals a new customary law emerges as found in the Lotus Case (France v. Turkey), allowing the prosecution of the two men, and barring the immediate return.⁴
- b. The agreement states: "For the purposes of this Agreement, the term "launching authority" shall refer to the State responsible for launching, or, where an international intergovernmental organization is responsible for launching, that organization, provided that that organization declares its acceptance of the rights and obligations provided for in this Agreement and a majority of the States members of that organization are Contracting Parties to this Agreement and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies."⁵ This statement makes Mazonia the launching state, because they sponsored the flight plan.

II. SkyQuest Code of Conduct

- a. As defined by the Code of Conduct both members were considered crewmembers, as they both were involved in a mission set out by Skyquest.⁶
- b. As stated in the Code of Conduct the "crew members" are responsible for

⁴ The S.S. Lotus (France v. Turkey)

⁵ 1968 Rescue Agreement

⁶ SkyQuest Code of Conduct

the actions taken during the mission that are not laid out in the mission plan.⁷

- c. Violations, as stated in the code, may give rise to criminal prosecution.⁸

III. 1976 Registration Convention

- a. Article II, III, IV, and V lay out that the launching state (sponsoring state) must register not only craft, but also the flight plan with the Secretary General of the United Nations. The information should then be free to access by any state.⁹

- i. Mazonia, in failing to do this, did not give Emeralda enough time to prepare its citizens for the launch.

⁷ SkyQuest Code of Conduct

⁸ SkyQuest Code of Conduct

⁹ 1976 Registration Convention

