

**2026 Space Law Moot Court Competition Study Round in Japan
English Division**

Team No. 105

IN THE INTERNATIONAL COURT OF JUSTICE
AT THE
PEACE PALACE, THE HAGUE

Case Concerning Liability and Responsibility for Space Activities of
Non-Governmental Corporate Actors

Inkaton
v.
Accadia

ON SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE MEMORIAL FOR
THE RESPONDENT

Accadia

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LIST OF ABBREVIATIONS

ADR	Active Debris Removal
ARRA	Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space
ARSIWA	Articles on Responsibility of States for Internationally Wrongful Acts
CIL	Customary International Law
COSPAR	Committee on Space Research
ESA	European Space Agency
ILC	International Law Commission
IISL	International Institute of Space Law
LC	Convention on International Liability for Damage Caused by Space Objects
LEO	Low Earth Orbit
OST	Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies
REG	Convention on Registration of Objects Launched into Outer Space
SPE	Solar Proton Event
UN	United Nations
UNCOPUOS	United Nations Committee on the Peaceful Uses of Outer Space

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QUESTIONS PRESENTED

I. WHETHER ACCADIA IS NOT RESPONSIBLE OR LIABLE UNDER INTERNATIONAL LAW FOR SARGON'S REMOVAL OF OBSERVER-1 FROM ORBIT.

II. WHETHER INKATON IS LIABLE AND RESPONSIBLE UNDER INTERNATIONAL LAW FOR COMPENSATION FOR QUIPU'S NON-CONSENSUAL TAKING OF COMPONENT PARTS FROM THE DRAGNET WRECKAGE.

III. WHETHER INKATON IS NOT ENTITLED TO COMPENSATION UNDER INTERNATIONAL LAW FOR DAMAGE SUSTAINED BY QUIPU'S LUNAR EXTRACTION FACILITY NOR COSTS AND EXPENSES QUIPU INCURRED IN RESCUING AND PROVIDING MEDICAL CARE FOR DRAGNET'S CREW.

STATEMENT OF FACTS

1. Accadia and Inkaton are each party to the UN Charter, the OST, the LC, the REG, and the ARRA. Additionally, they are each a signatory to the Artemis Accords. Neither State is a party to the Moon Agreement. Sabaku is a party to the REG and the Moon Agreement. It is not a party to any other space treaty and is not a signatory to the Artemis Accords.
2. Accadia hosts Sargon Industries (Sargon), which owns and operates an orbital service platform in LEO known as Earth Orbit Station 1 (EOS-1), providing services for upgrading, repairing, and recycling of space objects, extraction of abiotic space resources, docking and storage services, and transportation services in Cislunar space. Sargon also owns two fully autonomous spacecraft named Dragnet and Dragonfly. The neighboring country, Sabaku, classified as a Highly Indebted Poor Country (HIPC), is the Registry State for all space objects Sargon operates and is the issuing State for Sargon's abiotic space resource extraction license. Inkaton hosts Quipu Enterprises (Quipu), which engages in various space activities, including launching space objects from its facilities located in Inkaton, operating satellites in Earth orbit, and operating a lunar abiotic resource extraction facility on the Moon, licensed by Inkaton, known as the Quilla Extraction Zone.
3. They were constructed on EOS-1 using abiotic resources extracted from Cislunar space, including Earth orbit, as well as materials and parts manufactured on Earth, and through the use of 3D printers. Each spacecraft is operated with a constant crew of three Accadian citizens. Each spacecraft is also equipped with Sargon's proprietary AI software and quantum computing systems to monitor and operate critical systems such as guidance, navigation, and control, power, communications,

command and data handling, and life support. Accadia's domestic law prohibits Sargon from transferring any component of its proprietary technology, directly or indirectly, to any foreign government, foreign national, or other person without the express written approval of the Accadian national security authorities.

4. Quipu perfected stealth technology for use on space objects and launched a stealth Earth observation satellite named Observer-1 into LEO. Immediately after it was placed in orbit, Observer-1 failed and became a non-responsive satellite, failing to respond to any commands. Sargon became aware of this unknown, non-responsive satellite when EOS-1 narrowly avoided a collision with an anomalous object crossing its orbit. Sargon subsequently identified Observer-1 as a dangerous and hazardous space object with a high probability of colliding with EOS-1 and space objects of other space actors in LEO. Sargon sought Quipu's consent for the removal of Observer-1 from orbit, citing its capability to use non-kinetic means, but Quipu refused. Thereafter, Sargon used Dragnet to remove Observer-1 from orbit for reasons of space safety and economic efficiency. Quipu did not have any insurance policy regarding this type of occurrence.
5. Before the deployment of Transat, which was the refurbished Observer-1, into lunar orbit, a massive CME resulted in a SPE classified as S5. Because the sun was in a solar minimum, Sargon's AI and quantum computing systems had not calculated a high probability for a major SPE, and Sargon and the Dragnet crew were caught off guard by the S5 SPE. Sargon recognized that Dragnet could not reach the protection of Earth's magnetosphere or safely execute an emergency lunar landing before the arrival of the SPE, and instructed Dragnet's crew to retreat to the internal radiation shelter. The SPE lasted for several hours, significantly damaging Dragnet's life

support, propulsion, and navigation and control systems, making it difficult for Dragnet to maintain orbit until rescue from EOS-1 could arrive and exposing the crew to high doses of radiation, necessitating a medical assessment to determine required medical treatment. Before the hard landing, in the process of Dragnet's descent from lunar orbit, the crew of Dragnet jettisoned the payload in accordance with Sargon's safety procedures for emergency descent and landing. Furthermore, when Quilla transmitted the landing zone coordinates, it included safety procedures requiring the jettisoning of all payloads during an emergency landing. Accordingly, Dragnet jettisoned Transat in the process of descending from low lunar orbit. Consequently, damage occurred to the surface structures within Quilla.

6. Upon inspection of the Dragnet wreckage and the surrounding area, the Dragonfly crew discovered that Sargon's proprietary AI software, quantum computing systems, and propulsion systems had been removed from Dragnet. Sargon contacted Quipu regarding the missing technology from the Dragnet wreckage. In response, Quipu acknowledged that it had salvaged or recovered those technologies and abiotic space resources from the Dragnet wreckage. Furthermore, Quipu presented Sargon with an invoice for the costs associated with the rescue and medical care of the Dragnet crew.
7. Sargon contacted Quipu regarding the missing technology from the Dragnet wreckage, and Quipu acknowledged that it had lawfully salvaged or recovered those technologies and abiotic space resources from the Dragnet wreckage. Quipu also presented Sargon with an invoice for the costs associated with the rescue and medical care of the Dragnet crew. Consultations between the respective corporations and States regarding these claims did not lead to a resolution, and they agreed to

submit the dispute to the International Court of Justice, accepting the jurisdiction of this Court.

SUMMARY OF ARGUMENT

I . ACCADIA IS NEITHER RESPONSIBLE NOR LIABLE UNDER INTERNATIONAL LAW FOR SARGON'S REMOVAL OF OBSERVER-1 FROM ORBIT.

The capture of an object, such as the seizure of a vessel, does not constitute a “use of force”. Since the removal of Observer-1 was conducted without any hostile intent, it does not fall under the definition of a use of force in international law.

Moreover, Article VIII of the Outer Space Treaty does not grant exclusive jurisdiction to the Registry State. Since the non-functional satellite posed a collision risk and the Registry State failed to act, Accadia’s removal was justified and did not violate Article VIII.

In accordance with Article IX Sentence 1 of the OST, the activity was conducted with due regard. The removal was a necessary measure for space safety and economic prudence, as Observer-1 had become an uncontrolled satellite, and no effective alternative means existed to avoid collision risk with EOS-1.

Furthermore, since Accadia conducted prior notification, the obligation under Article IX Sentence 3 of the OST was fulfilled.

Alternatively, the wrongfulness of the removal of Observer-1 was precluded by a countermeasure, and distress.

Furthermore, no claim for compensation regarding the removal can be sustained under the LC. The claim is barred as the period for seeking consultation has already expired. Even if the moment of damage is assumed to be the crash of Transat, no fault can be attributed to Accadia, as it acted as a reasonable government, given that the incident was caused by an unforeseeable and extreme S5-class SPE. Therefore, no liability for damages arises.

**II. INKATON IS LIABLE AND RESPONSIBLE UNDER INTERNATIONAL LAW FOR
COMPENSATION FOR QUIPU'S NON-CONSENSUAL TAKING OF COMPONENT PARTS FROM THE
DRAGNET WRECKAGE.**

The nonconsensual taking was a violation of Accadia's jurisdiction and control under Article VIII of the OST. The State has jurisdiction and control based on its effective control. Since Accadia has ownership and bears national responsibility over Dragnet, Accadia has jurisdiction and control over Dragnet.

Even if Accadia does not have jurisdiction, Accadia has standing under Article VIII of the OST. It is because the obligation under Article VIII of the OST is an obligation *erga omnes partes*, as it contributes to the achievement of the common interest of the OST. Inkaton's taking was an infringement of Sabaku's jurisdiction and control over Dragnet. Therefore, Inkaton violated Article VIII of the OST, and thus Accadia has standing for the present taking.

Additionally, Inkaton violated Article 5(3) of the ARRA. Both violations are not justified as a salvage operation, as the law of salvage cannot be invoked under space law. Even if it were applicable, salvage would not apply in this instance because Dragnet was not in peril at the time of extraction.

Furthermore, Inkaton has liability for the present conduct. Inkaton's liability for damages arises because the loss of the component parts of Dragnet falls within "damage," which was caused by a space object.

Finally, even if all of the aforementioned arguments are not accepted, Inkaton is obligated to provide compensation under unjust enrichment, which is established as a general principle of law.

III. INKATON IS NOT ENTITLED TO COMPENSATION UNDER INTERNATIONAL LAW FOR DAMAGE SUSTAINED BY QUIPU'S LUNAR EXTRACTION FACILITY NOR COSTS AND EXPENSES QUIPU INCURRED IN RESCUING AND PROVIDING MEDICAL CARE FOR DRAGNET'S CREW.

Under Article IX Sentence 1 of the OST, the damage to the lunar facility was not foreseeable; therefore, Inkaton's alleged damage does not constitute an interest that must be accounted for under the "due regard" obligation. Accordingly, Accadia conducted the jettisoning of the payload with due regard. Even if the damage were foreseeable, the protection of the lives of astronauts—representing the interest of the international community as a whole—outweighs the economic interests of a single State considering Article V of the OST.

Additionally, the jettisoning of Transat by Dragnet did not violate Article IX Sentence 2 of the OST. The primary purpose of Article IX of the OST was to govern its sustainable exploration and threshold for contamination should be set relatively low. There was no visible celestial contamination caused by Transat's crash and the action did not cause "harmful contamination".

Alternatively, the wrongfulness is precluded as distress since a situation of extreme peril existed, the jettisoning of Transat was the only reasonable way to save lives, and Accadia did not contribute to the situation of distress.

Under Article 4 of the ARRA, Accadia has no obligation to reimburse rescue costs since Inkaton has an obligation to rescue Dragnet crew, astronauts.

Furthermore, Accadia bears no liability for the damage caused to Quilla under the LC. Given that an S5-class SPE had never been recorded since observations began in 1976, Accadia's decision to jettison Transat aligns with the conduct of a reasonable

government. Since no fault can be attributed to Accadia under these unprecedented circumstances, Accadia bears no liability.

PLEADINGS

I . Accadia is not responsible nor liable under international law for Sargon's removal of Observer-1 from orbit.

Accadia is not responsible for the removal of Observer-1 [I-A]. Alternatively, the wrongfulness of the removal is precluded [I-B]. Separately, Accadia bears no liability for the removal [I-C].

I-A. Accadia is not responsible for the removal of Observer-1.

Article VI of the OST holds States responsible for all national activities in outer space, irrespective of the entity, requiring assurance of their conformity with the Treaty.¹

Sargon is incorporated under the laws of Accadia, all officers, directors, and shareholders are Accadian citizens and Accadia is the location of its headquarters and principal place of business.² Quipu is incorporated under the laws of Inkaton, all officers, directors, and shareholders are Inkaton citizens and Inkaton is the location of its headquarters and principal place of business.³ Accordingly, Accadia bears international responsibility for the activities of Sargon, while Inkaton bears international responsibility for those of Quipu.

Accadia is not responsible for the removal of Observer-1 as the action did not violate Article 2(4) of the UN Charter [I-A-1] nor Articles VIII [I-A-2], IX Sentence 1 [I-A-3], or IX Sentence 3 [I-A-4] of the OST.

¹ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies art. VI, Jan. 27, 1967, 610 U.N.T.S. 20 [hereinafter "OST"].

² *Facts*, ¶1.

³ *Facts*, ¶5.

I-A-1. Accadia’s removal did not violate Article 2(4) of the UN Charter.

Article III of the OST requires States Parties to conduct space activities in accordance with international law, including the UN Charter.⁴ Accordingly, States Parties bear the obligation to refrain from the threat or use of force stipulated in Article 2(4) of the UN Charter.⁵ In determining whether an act amounts to a prohibited “use of force”, the assessment has been conducted on a case-by-case basis by examining various aspects,⁶ in particular the following elements: [1] the means and the effects; [2] the intention of the action.⁷

Regarding [1], the capture of objects such as the seizure of shipments is generally not classified as a “use of force.”⁸ The removal of Observer-1 constitutes a capture and thus does not amount to a “use of force”.

As to [2] the intention, the existence of hostile intent is specifically considered.⁹ The essential purpose of Accadia’s removal is risk mitigation and space safety¹⁰ and

⁴ OST, art. III.

⁵ U.N. Charter art. 2(4); MCGILL MANUAL ON INTERNATIONAL LAW APPLICABLE TO MILITARY USES OF OUTER SPACE: VOLUME I, RULES 22 (Ram S. Jakhu & Steven Freeland eds., 2022); FRANCIS LYALL & PAUL B. LARSEN, SPACE LAW A TREATISE 431 (3rd ed. 2025).

⁶ *Official Compendium of voluntary national contributions on the subject of how international law applies to the use of information and communications technologies by States submitted by participating governmental experts in the Group of Governmental Experts on Advancing Responsible State Behaviour in Cyberspace in the Context of International Security established pursuant to General Assembly resolution 73/266*, at 137, U.N. Doc. A/76/136 (July 13, 2021).

⁷ OLIVIER CORTEN, LAW AGAINST WAR: THE PROHIBITION ON THE USE OF FORCE IN INTERNATIONAL LAW 90 (2nd ed. 2021) [hereinafter, “Corten”]; ERIN POBJIE, PROHIBITED FORCE: THE MEANING OF ‘USE OF FORCE’ IN INTERNATIONAL LAW 197 (2024) [hereinafter, “Pobjie”].

⁸ Detention of Three Ukrainian Naval Vessels (Ukr. v. Russ.), Case No. 26, Order of May 25, 2019, 18 ITLOS Rep. 280, ¶¶64-74; Fisheries Jurisdiction (Spain v. Can.), Judgment, 1998 I.C.J. 432, ¶¶81-84 (Dec. 4).

⁹ Corten, at 76; Pobjie, at 225.

¹⁰ Agreed Statement of Facts, ¶7 [hereinafter, “Facts”].

there is no hostile intent toward Inkaton.

Hence, the removal of Observer-1 does not qualify as a use of force and did not violate Article 2(4) of the UN Charter.

I-A-2. Accadia's removal did not violate Article VIII of the OST.

Accadia's removal constitutes a lawful ADR operation and did not violate Article VIII of the OST. First, Article VIII of the OST merely provides that a Registry State "retains" jurisdiction and control over a space object;¹¹ it does not confer exclusive jurisdiction and control upon a Registry State.¹² Moreover, interpreting Article VIII as requiring prior consent of the Registry State in all cases of interference with a space object would not be consistent with the interpretation of the OST as a whole.¹³ If the Registry State were granted a *de facto* veto even with respect to debris posing a grave risk of collision, reasonable risk-mitigation measures in emergency situations would be obstructed. Such an interpretation would run counter to the object and purpose of the OST,¹⁴ namely broad international cooperation in the peaceful uses of outer space. Furthermore, Articles V and IX of the OST require States to take into account the interests and safety of other States,¹⁵ indicating that space activities presuppose mutual coordination and that jurisdiction under Article VIII is not unlimited. In particular, in

¹¹ *Ibid.*; TIAN ZHUANG, LEGAL ASPECTS OF ACTIVE DEBRIS REMOVAL(ADR): REGULATION OF ADR UNDER INTERNATIONAL SPACE LAW AND THE WAY FORWARD FOR LEGAL DEVELOPMENT 83 (2024) [hereinafter, "*Tian Zhuang*"].

¹² Mark J. Sundahl, *Legal Status of Spacecraft*, in Routledge Handbook of Space Law 42, 44 (Ram S. Jakhu & Paul Stephen Dempsey eds., 2016) [hereinafter, "*Sundahl*"].

¹³ Michael Gerhard, *Article VI*, in COLOGNE COMMENTARY ON SPACE LAW VOLUMES I 103, 115-16 (Stephan Hobe et al. eds., 2009) [hereinafter, "*Cologne Commentary I, OST, art. VI*"].

¹⁴ OST, Preamble ¶3.

¹⁵ OST, art. V, IX.

emergency situations involving a high probability of collision, it is not reasonable to interpret Article VIII as making explicit consent indispensable.¹⁶

In the present case, the non-functional Observer-1 faced an imminent risk of collision with EOS-1.¹⁷ The removal of Observer-1 in such a high-risk emergency situation constitutes a lawful ADR operation.

Therefore, Accadia's removal was a lawful ADR measure and did not violate Article VIII of the OST.

I-A-3. Accadia's removal did not violate Article IX Sentence 1 of the OST.

Article IX Sentence 1 of the OST obligates States to act with "due regard" to the corresponding interests of other States Parties when conducting space activities.¹⁸

Whether individual States have acted with due regard is determined on a case-by-case basis, taking into account the balance between [1] the interests of the State whose conduct is at issue and [2] the possibility and significance of anticipated losses of an affected state; if [2] outweighs [1], a violation of due regard obligation is established.¹⁹ [3] The availability of alternative measures is also taken into consideration.²⁰

As for [1], Accadia's interest in the removal lies in ensuring space safety. Both

¹⁶ Melissa Kemper Force, *Active Space Debris Removal: When Consent Is Not an Option*, 29 AIR & SPACE LAW. 9,10 (2016).

¹⁷ *Facts*, ¶6.

¹⁸ OST, art. IX.

¹⁹ Mark J. Sundahl & Jeffrey A. Murphy, *Set the Controls for the Heart of the Moon: Is Existing Law Sufficient to Enable Resource Extraction on the Moon?*, 48 GA. J. INT'L & COMPAR. L. 683, 689 (2020); Chagos Marine Protected Area Arbitration (Mauritius v. U.K.), 31 R.I.A.A. 359, ¶519 (Perm. Ct. Arb. 2015) [hereinafter: "*Chagos Marine*"]; South China Sea Arbitration (Phil. v. China), 33 R.I.A.A. 153, ¶742 (Perm. Ct. Arb. 2016).

²⁰ *Ibid.*

Observer-1 and EOS-1 were operated in LEO,²¹ which is densely populated with satellites, which increases the risk of collisions.²² Satellite collisions generate space debris,²³ elevating the probability of further collisions.²⁴ Such risks are widely recognized by many States.²⁵

Regarding [2], Inkaton's alleged claim concerns economic losses resulting from the removal, which amount merely to a single state's interest. By contrast, [1] ensuring the safety of outer space constitutes a significant public interest shared by the international community as a whole.²⁶

Accordingly, [2] the importance of Inkaton's economic losses did not outweigh [1] the importance of Accadia's asserted interest in space safety.

Additionally, [3] less restrictive measures are recognized as alternative measures.²⁷ Even if EOS-1 successfully avoided Observer-1, the residual risk of future collisions arising from the uncontrolled Observer-1 could not be eliminated. Accordingly, the avoidance is not considered an alternative measure.

²¹ *Facts*, ¶¶1, 6.

²² *News*, Feb. 11, 2025; *Filho*, at 1.

²³ Natalie Pusey, *The Case for Preserving Nothing: The Need for a Global Response to the Space Debris Problem*, 21 COLO. ENV'T L. J. 425, 427 (2024).

²⁴ J.-C. Liou & N. L. Johnson, *Planetary Science: Risks in Space from Orbiting Debris*, 311 SCIENCE 340, 340 (2006).

²⁵ ESA SPACE DEBRIS OFFICE, ESA'S ANNUAL SPACE ENVIRONMENT REPORT, 8-10 (2025), https://www.sdo.esoc.esa.int/environment_report/Space_Environment_Report_latest.pdf; PHILIPPINE SPACE AGENCY, PHILIPPINE NATIONAL STATEMENTS DURING THE 64TH SESSION OF THE LEGAL SUBCOMMITTEE (LSC) OF THE UNITED NATIONS COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE (UN COPUOS) (2025), <https://philsa.gov.ph/news/philippine-national-statements-during-the-64th-session-of-the-legal-subcommittee-lsc-of-the-united-nations-committee-on-the-peaceful-uses-of-outer-space-un-copuos/>; SPACE DEBRIS MITIGATION STANDARDS, COMPENDIUM OF SPACE DEBRIS MITIGATION STANDARDS ADOPTED BY STATES AND INTERNATIONAL ORGANIZATIONS, at 5, 51 (2024).

²⁶ Jinyuan Su, *Active Debris Removal: Potential Legal Barriers and Possible Ways Forward*, 9 J. E. ASIA & INT'L L. 403, 421 (2016).

²⁷ *Chagos Marine*, ¶541.

Therefore, Accadia conducted the removal in accordance with the due regard obligation stipulated in Article IX Sentence 1 of the OST.

I-A-4. Accadia’s removal did not violate Article IX Sentence 3 of the OST.

Article IX Sentence 3 of the OST obliges States to undertake appropriate international consultations when there is reason to believe that an activity would cause potentially harmful interference with the space activities of other States.²⁸

Under the consultation obligation, a State is required to initiate contact with the States potentially affected by harmful interference,²⁹ but prior consent is not required.³⁰ Accadia requested Inkaton’s consent for the removal.³¹ Although Inkaton declined the request,³² Accadia’s declaration of its intention to undertake the removal is recognized as contact.

Therefore, Accadia’s removal is fully consistent with the obligation stipulated in Article IX Sentence 3 of the OST.

I-B. Alternatively, the wrongfulness of Accadia’s removal is precluded.

The wrongfulness of Accadia’s removal is not precluded either as a “countermeasure” [I-B-1] or as a “distress” [I-B-2].

²⁸ OST, art. IX.

²⁹ Michael C. Mineiro, *FY-1C and USA-193 ASAT Intercepts: An Assessment of Legal Obligations under Article IX of the Outer Space Treaty*, 34 J. SPACE L. 321, 330 (2008).

³⁰ *Ibid.*, at 339.

³¹ *Facts*, ¶7.

³² *Ibid.*

I-B-1. the wrongfulness of Accadia’s removal is precluded by a “countermeasure.”

Based on CIL as reflected in ARSIWA,³³ a “countermeasure” is justified if: [1] taken by an injured State against another’s wrongful act,³⁴ [2] preceded by a request for cessation;³⁵ [3] proportionate to the injury;³⁶ and [4] compliant with Article 50 obligations.³⁷

As for [4], Accadia’s removal does not contravene any provisions of Article 50 of ARSIWA. Regarding [1]-[3], the countermeasure in question was conducted by Accadia, the injured State of the wrongful act [I-B-1-a]. Accadia was not required to request Inkaton to cease the wrongful conduct in the present case [I-B-1-b] and the requirement of proportionality was satisfied [I-B-1-c]. Therefore, the wrongfulness of the removal is precluded by a countermeasure.

I-B-1-a. Accadia’s removal was implemented in response to Inkaton’s violation of Article IX Sentence 1 of the OST.

Inkaton did not comply with the due regard obligations to Accadia in terms of its close approach to EOS-1. Under the requirements of Article IX Sentence 1 of the OST,³⁸ [i] Inkaton’s interest is the freedom of space activities and [ii] Accadia’s loss is the potential risk posed to astronauts aboard EOS-1 due to satellite approach or collision.

In 2021, SpaceX approached China’s Tian Gong space station, China

³³ Satoru Taira, *WTO Dispute Settlement and Trade Sanctions as Permissible Third-Party Countermeasures under Customary International Law*, 26 INT’L COMM. L. REV. 151, 166 (2024).

³⁴ G.A., Res. 56/83: Responsibility of States for Internationally Wrongful Acts, arts. 42, 49, A/56/49(Vol. I)/Corr.4 (Dec. 12, 2001) [hereinafter, “ARSIWA”].

³⁵ ARSIWA, art. 52.

³⁶ ARSIWA, art. 51.

³⁷ ARSIWA, art. 50.

³⁸ Memorial, I-A-3.

condemned the US for endangering the astronauts, invoking Article IX as the legal basis.³⁹

The protection of safe distances is also reflected in the Artemis Accords Section 11(7), which requires States to establish and respect a “safety zone” to coordinate with relevant actors to avoid harmful interference.⁴⁰ In this regard, States acknowledge the significance of preventing approaches that could cause collisions between space objects. In the light of the risks of satellite approach, [ii] prevails over [i], thereby violating Article IX Sentence 1 of the OST by Observer-1’s approach to EOS-1. Accordingly, Accadia took the countermeasures in response to Inkaton’s prior wrongful act.

I-B-1-b. Accadia was not required to request Inkaton to cease the wrongful conduct in the present case.

If the injured State carried out negotiations regarding the prior wrongful act before taking countermeasures, providing further notification is not required.⁴¹

Accadia sought Inkaton’s consent to the removal,⁴² which aimed at resolving issues arising from the prior wrongful act. Such conduct falls within “negotiations.” Accordingly, as Accadia had already conducted negotiations before taking a

³⁹ MINISTRY OF FOREIGN AFF. CHINA, FOREIGN MINISTRY SPOKESPERSON ZHAO LIJIAN’S REGULAR PRESS CONFERENCE ON FEBRUARY 10, 2022 (2022), https://www.fmprc.gov.cn/eng/xw/fyrbt/lxjzh/202405/t20240530_11347221.html.

⁴⁰ The Artemis Accords: Principles for Cooperation in the Civil Exploration and Use of the Moon, Mars, Comets, and Asteroids for Peaceful Purposes, §11(7) (2020), <https://www.nasa.gov/wp-content/uploads/2022/11/Artemis-Accords-signed-13Oct2020.pdf?emrc=677f7afaa1218>.

⁴¹ Int’l L. Comm’n, Rep. on the Work of Its Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, at 136, U.N. Doc. A/56/10 (2001) [hereinafter, “*ARSIWA commentary*”].

⁴² *Facts*, ¶7.

countermeasure, no additional notification was required.

I-B-1-c. The requirement of proportionality was satisfied.

Proportionality must be assessed in considering whether the alleged countermeasure taken by the injured State is proportionate to the injury suffered,⁴³ taking into account the importance of the rights involved and the gravity of the wrongful acts of both States.⁴⁴

Observer-1 was equipped with stealth technology which has military capability and Inkaton law restricts Quipu from transferring the technology to anyone or entity other than the Inkaton government,⁴⁵ underscoring its importance and confidentiality.

By contrast, EOS-1 is a manned platform that provides various services such as upgrading, repairing of space objects, docking.⁴⁶ Observer-1's approach to EOS-1 posed serious threats to both the lives of astronauts and ongoing space activities. Accordingly, the significance of Accadia's removal was proportionate to the harm incurred by Inkaton.

Therefore, Accadia's removal meets all the requirements, and the wrongfulness of the removal is precluded by a countermeasure.

I-B-2. The wrongfulness of the removal is precluded by "distress."

As reflected in Article 24 of ARSIWA, to justify a wrongful action as "distress", it must

⁴³ ARSIWA, art. 51; *Dommages Colonies Portugaises (Port. v. Ger.)*, 2 R.I.A.A. 1011, 1028 (1928).

⁴⁴ *ARSIWA commentary*, art. 51, ¶6; *Air Service Agreement (U.S. v. Fr.)*, 18 R.I.A.A. 417, ¶83 (1978); *Gabčíkovo-Nagymaros Project (Hung./Slovk.)*, Judgment, 1997 I.C.J. 7, ¶85 (Sept. 25).

⁴⁵ *Facts*, ¶6.

⁴⁶ *Facts*, ¶1.

fulfill all three of the following requirements: [1] a situation of extreme peril; [2] no other reasonable way to save lives; and [3] non-applicability of exceptions under Article 24(2) of ARSIWA.⁴⁷

Regarding [1], Observer-1 had been left on the orbit of manned platform EOS-1, thereby creating collision risk.⁴⁸ Thus, the crew on board EOS-1 were placed in a situation of extreme peril.

Regarding [2], Observer-1 was equipped with stealth technology,⁴⁹ making it difficult to detect the approach of Observer-1 in advance, thereby rendering the feasibility of avoidance highly uncertain. Thus, avoidance is not recognized as a reasonable way and no other reasonable ways existed apart from the removal.

Regarding [3], Article 24(2)(a) of ARSIWA provides that distress may not be invoked if the situation of distress is due to the conduct of the State invoking it.⁵⁰ Article 24(2)(b) further provides that distress may not be invoked if the act in question is likely to create a comparable or greater peril.⁵¹

In the present case, the state of peril was caused by Inkaton's abandonment of Observer-1,⁵² and Accadia's removal does not fall within Article 24(2)(a). Moreover, the present removal does not give rise to any new threat to human life and thus does not fall within Article 24(2)(b). Accordingly, the wrongfulness of Acadia's removal is precluded by distress.

⁴⁷ ARSIWA, art. 24.

⁴⁸ *Facts*, ¶6.

⁴⁹ *Ibid.*, ¶1.

⁵⁰ ARSIWA, art. 24(2)(a).

⁵¹ *Ibid.*, art. 24(2)(b).

⁵² *Facts*, ¶6.

I-C. Accadia is not liable for the removal of Observer-1.

Inkaton’s claim regarding the removal under the LC is barred by the limitation period [I-C-1]. Even if the damages are assumed to have occurred at the time of Transat’s crash, Accadia bears no liability [I-C-2].

I-C-1. Inkaton’s claim regarding the removal is barred by limitation under the LC.

Under Article X of the LC, claims must be presented within one year of identifying damage.⁵³ Article IX of the LC provides that a claim for compensation for damage shall be presented to a launching State through diplomatic channels.⁵⁴ Although Inkaton requested diplomatic consultation with Accadia 364 days post-crash,⁵⁵ Accadia’s action of removal and the transfer to Lunar Orbit required approximately 2 days.⁵⁶ Accordingly, Inkaton failed to submit its request within one year, as more than 366 days had elapsed.

Therefore, Inkaton cannot claim compensation for the removal.

I-C-2. Even if the damage is assumed to be at the time of Transat’s crash, Accadia is not liable.

Under Article III of the LC, the launching State shall be liable for damage if: [1] the “damage” is caused, [2] ”to space objects”, [3] “elsewhere than on the surface of the

⁵³ Convention on the International Liability for Damage Caused by Space Objects art. X, Mar. 29, 1972, 961 U.N.T.S. 187 [hereinafter, “LC”].

⁵⁴ LC, art. IX.

⁵⁵ *Facts*, ¶17.

⁵⁶ *Facts*, ¶4.

Earth”, [4] with “fault”, [5] there is a “causal link” between the damage and the fault, and [6] the damage is caused “by the space object of the launching State”.⁵⁷ The launching State shall be liable if the damage is due to its fault or the fault of persons for whom it is responsible.⁵⁸ Accadia is not liable because [5] there is no fault.

The existence of fault is determined by whether the action constitutes a “reasonable government” behavior.⁵⁹ While reasonableness must be determined on a case-by-case basis, the availability of alternative measures is one of the key factors in this assessment.⁶⁰ To land uncontrollable Dagnet, jettisoning all cargo was necessary, leaving no room for other measures.⁶¹ Moreover, the jettison of Dagnet’s cargo was conducted in accordance with Sargon’s safety procedures, and Quilla also required that all cargo be jettisoned for the emergency landing. Accordingly, Transat’s jettison was a reasonable course of action, and no fault exists.

Furthermore, fault cannot be claimed based on intentional jettison. “Intent”, as included in “fault” under the LC refers to the intent to cause damage to another space object.⁶² Accadia jettisoned Transat merely to conduct emergency landing without any other intent. Accordingly, lacking the intent to damage Transat, Accadia bears no fault.

⁵⁷ LC, art. III.

⁵⁸ *Ibid.*

⁵⁹ Irmgard Marboe, *The Importance of Guidelines and Codes of Conduct for Liability of State and Private Actors*, in *SOFT LAW IN OUTER SPACE: THE FUNCTION OF NON BINDING NORMS IN INTERNATIONAL SPACE LAW* 119, 135-39 (Irmgard Marboe eds., 2012) [hereinafter, “*Marboe 2012*”]; Irmgard Marboe, *Small Is Beautiful? Legal Challenges of Small Satellites*, in *PRIVATE LAW, PUBLIC LAW, METALAW AND PUBLIC POLICY IN SPACE: A LIBER AMICORUM IN HONOR OF ERNST FASAN* 1, 8 (Patricia Margaret Sterns & Leslie I. Tennen eds., 2016).

⁶⁰ *Marboe 2012*, at 135.

⁶¹ *Facts*, ¶13.

⁶² Frans G. von der Dunk, *Liability Versus Responsibility in Space Law: Misconception or Misconstruction?*, 34 *PROC. COLLOQ. L. OUTER SPACE* 363, 366 (1991) [hereinafter, “*Dunk*”].

Therefore, Accadia is not liable for the present taking under the LC.

II. Inkaton is liable and responsible under international law for compensation for Quipu's nonconsensual taking of component parts from the Dragnet wreckage.

Inkaton bears international responsibility [II-A] and, liability [II-B] for the nonconsensual taking of parts from Dragnet. Moreover, even if the claims II-A and II-B are rejected, Inkaton's taking constitutes unjust enrichment [II-C], and Inkaton is obliged to provide compensation.

II-A. Inkaton bears international responsibility for the nonconsensual taking of component parts from the Dragnet wreckage.

The nonconsensual taking of parts violated Article VIII of the OST [II-A-1] and Article 5 of the ARRA [II-A-2]. Moreover, as the present taking is not justified as a salvage operation [II-A-3], Inkaton bears international responsibility for the taking.

II-A-1. Inkaton bears international responsibility under Article VIII of the OST.

The present taking violated Article VIII of the OST for its infringement of Accadia's jurisdiction and control [II-A-1-a]. Even if Accadia's jurisdiction and control over Dragnet were not recognized, Accadia has standing to assert Inkaton's infringement upon Sabaku's jurisdiction and control over Dragnet [II-A-1-b].

II-A-1-a. Inkaton’s nonconsensual taking violated Article VIII of the OST.

Article VIII of the OST provides for the attribution of jurisdiction and control over space objects.⁶³ Accadia argues that it retains jurisdiction and control over Dragnet based on ownership [II-A-1-a-i] and international responsibility [II-A-1-a-ii], and that the present taking infringed Accadia’s jurisdiction and control [II-A-1-a-iii].

II-A-1-a-i. Accadia has jurisdiction and control over Dragnet based on its ownership.

Facially, the jurisdiction and control under Article VIII of the OST are underpinned by registration. However, registration on the OST or the REG serves merely as one factor proving a celestial body’s attribution to a state; it is the substantive connection, such as ownership, that constitutes the independent basis for generating jurisdiction.⁶⁴ Indeed, the term “retain” in Article VIII indicates that registration does not “confer” jurisdiction but rather maintains a pre-existing authority.⁶⁵ This principle—that rights and obligations should be attributed to the State with the most substantial link—is widely accepted in international practice.⁶⁶

In the present case, as Dragnet is owned and operated by Sargon in Accadia,⁶⁷ Accadia has ownership over Dragnet. Therefore, Accadia has jurisdiction and control

⁶³ OST, art. VIII.

⁶⁴ Setsuko Aoki, *In search of the current legal status of the registration of space objects*, 61ST INT’L ASTRONAUTICAL CONG. 6624, 6627 (2010) [hereinafter, “Aoki”]; TANJA MASSON-ZWAAN & MAHULENA HOFMANN, *INTRODUCTION TO SPACE LAW* 32 (5th ed. 2019); JAKHU, R. S. & PELTON, J. N., *GLOBAL SPACE GOVERNANCE: AN INTERNATIONAL STUDY* 344 (2017); Frigoli Matteo, *Between Active Debris Removal and Space-Based Weapons: A Comprehensive Legal Approach*, in *SPACE SECURITY AND LEGAL ASPECTS OF ACTIVE DEBRIS REMOVAL* 49, 56 (Annette Froehlich eds., 2019).

⁶⁵ *Zhuang*, at 83.

⁶⁶ BIN CHENG, *STUDIES IN INTERNATIONAL SPACE LAW* 415 (1997) [hereinafter, “Cheng”].

⁶⁷ *Facts*, ¶2.

over Dagnet because of its ownership.

II-A-1-a-ii. Accadia has jurisdiction and control over Dagnet based on international responsibility under Article VI of the OST.

Articles VI and VIII are inseparable, and their operation requires the consistency between the attribution of responsibility and the jurisdiction.⁶⁸ Accordingly, the State that effectively controls the launching activity must retain jurisdiction and control under Article VIII and bears the responsibility to fulfil its obligations under international law through authorization and supervision.⁶⁹

In state practice, the Netherlands asserted Article VIII jurisdiction over the NSS satellite after its transfer to a Dutch entity, despite not being the “Registry State”, “launching State”, nor “launching authority” under the LC, ARRA, or REG.⁷⁰ This position was based on the logic that jurisdiction must be coextensive with international responsibility under Article VI.⁷¹

In the present case, Accadia has international responsibility for Sargon’s space activities under Article VI of the OST.⁷² Additionally, considering the fact that Sabaku, the Registry State, is a Highly Indebted Poor Country,⁷³ it lacks sufficient ability to fulfill international responsibility.

Accordingly, regardless of the registration, Accadia has jurisdiction and control

⁶⁸ *Cologne Commentary I, OST, art. VI*, ¶¶50-51.

⁶⁹ *Ibid.*

⁷⁰ *Aoki*, at 6628; Yoon Lee, *Registration of space objects: ESA member states’ practice*, 22(1) *SPACE POL’Y* 42, 48 (2006) [hereinafter, “*Lee*”].

⁷¹ Oliver Ribbelink, *The Registration Policy of the Netherlands*, in *CURRENT ISSUES IN THE REGISTRATION OF SPACE ACTIVITIES, PROCEEDINGS OF THE WORKSHOP, 20/21 JANUARY 2005 IN BERLIN* 55, 55-56 (2005).

⁷² *Memorial*, I-A.

⁷³ *Facts*, ¶1.

over Dagnet under Article VIII of the OST in aspect of international responsibility.

II-A-1-a-iii. Inkaton's nonconsensual taking violated Accadia's jurisdiction and control over Dagnet.

The act of moving a space object without the consent of the State having jurisdiction and control constitutes an infringement of jurisdiction and control.⁷⁴ The jurisdiction and control remains as long as the space object is in outer space or on a celestial body, even after an object has malfunctioned or fragmented.⁷⁵ Accordingly, Inkaton's nonconsensual taking of Dagnet wreckage infringed Accadia's jurisdiction and control, thereby violating Article VIII of the OST.

II-A-1-b. Even if Accadia does not have jurisdiction and control over Dagnet, Accadia has standing.

According to the express provision of Article VIII of the OST, Sabaku has jurisdiction over Dagnet, and Accadia has standing for the Inkaton's violation of Article VIII of the OST. The obligation to respect jurisdiction under Article VIII of the OST is an *erga omnes partes* [II-A-1-b-i], and the nonconsensual taking violated Sabaku's jurisdiction [II-A-1-b-ii].

II-A-1-b-i. The obligation to respect jurisdiction is erga omnes partes.

The obligation *erga omnes partes* is obligation serving "common interest" in

⁷⁴ KIMITAKE NAKAMURA, NORM FORMATION IN SPACE LAW 189 (2024) [hereinafter, "Nakamura"].

⁷⁵ Zhuang, at 81-82.

compliance of which all States Parties have a legal interest.⁷⁶ Unlike bilateral obligations, this legal interest entitles any party to invoke responsibility to ensure the fulfillment of the obligation.⁷⁷ As [1] OST protects the common interest and [2] the obligation to protect jurisdiction under Article VIII contributes to the achievement of common interest, Article VIII of the OST is an obligation *erga omnes partes*.

As for [1], the common interest is an interest that transcends individual parties' interest,⁷⁸ confirmed by the analysis of the object and purpose of the convention stated in the preamble.⁷⁹ Under the preamble of the OST, the exploration and use of outer space is regarded as "a common interest of all mankind."⁸⁰ It includes the phrases such as "broad international cooperation",⁸¹ "the development of mutual understanding and to the strengthening of friendly relations between States and peoples."⁸² Moreover, the States parties' intention to establish a common legal order is demonstrated by the fact that the United Nations General Assembly resolution referred to this preamble,⁸³ and this treaty was affirmed to promote the purposes and principles of United Nation Charter.⁸⁴ Thus, the preamble demonstrates an intention to establish a common legal interests shared by all States Parties, transcending individuals' interests.⁸⁵ Accordingly,

⁷⁶ Questions relating to the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment, 2012 I.C.J. 422, ¶¶68-69 (July 20) [hereinafter, "*Prosecute or Extradite*"].

⁷⁷ Barcelona Traction, Light and Power Company, Limited (Belg. v. Spain), Judgment, 1970 I.C.J. 3, ¶33 (Feb. 5).

⁷⁸ Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, 1951 I.C.J. 15, at 23 (May 28).

⁷⁹ *Prosecute or Extradite*, at 422; Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gam. v. Myan.), Preliminary Objections, Judgment, 2022 I.C.J. 477, ¶¶106-07 (July 22) [hereinafter, "*Rohingya Genocide*"].

⁸⁰ OST, Preamble ¶3.

⁸¹ *Ibid.*, ¶5.

⁸² *Ibid.*, ¶6.

⁸³ *Ibid.*, ¶¶7-9.

⁸⁴ *Ibid.*, ¶10.

⁸⁵ Stephan Hobe & Niklas Hedman, *Preamble*, in COLOGNE COMMENTARY ON SPACE LAW

States Parties to the OST have a common interest in broad international cooperation of activities in outer space.

As for [2], Article VIII of the OST serves to protect the common interests. First, Articles VI and VIII are inseparable, as Article VIII functions to ensure compliance with the obligations under Article VI.⁸⁶ Therefore, any infringement of jurisdiction and control constitutes an obstruction to the fulfillment of international responsibility under Article VI and disrupts the legal order of outer space. Second, unjustified interference with the jurisdiction over technically and militarily sensitive space objects increases the likelihood of threatening international peace and security.⁸⁷ For that reason, given that the obligation under Article VIII is essential for achieving object and purpose of the OST, the obligation contributes to the accomplishment of common interest.

Accordingly, the obligation to respect the jurisdiction and control under Article VIII is an obligation *erga omnes partes*.

II-A-1-b-ii. Inkaton's nonconsensual taking violated Sabaku's jurisdiction and control over Dragnet.

Sabaku is the Registry State of Dragnet and retains jurisdiction over the Dragnet wreckage after the emergency landing.⁸⁸ Thus, the non-consensual taking of parts from

VOLUMES I 19, ¶19 (Stephan Hobe et al. eds., 2009).

⁸⁶ *Cologne Commentary I, OST, art. VI*, ¶¶50-51.

⁸⁷ *Zhuang*, at 93; Comm. on the Peaceful Uses of Outer Space, Active Debris Removal -An Essential Mechanism for Ensuring the Safety and Sustainability of Outer Space: A Report of the International Interdisciplinary Congress on Space Debris Remediation and On-Orbit Satellite Servicing, at 33, UN Doc. A/AC.105/C.1/2012/CRP.16 (Jan. 27, 2012).

⁸⁸ *Facts*, ¶1.

the Dragnet wreckage constitutes an infringement of Sabaku's jurisdiction, and Inkaton violates Article VIII of the OST.

II-A-2. Inkaton's nonconsensual taking violated Article 5(3) of the ARRA.

Under Article 5(3) of the ARRA, upon request of the launching authority,⁸⁹ an object or its component parts found beyond the territorial limits of the launching authority shall be returned to or held at the disposal of representatives of the launching authority.⁹⁰ Accadia requested Inkaton to return Dragnet's wreckage, which triggered the obligation to return component parts to Accadia.

Accadia's request for diplomatic consultations⁹¹ regarding the extraction of components serves as a clear manifestation of its intent to retain ownership of Dragnet and to demand its return. This intent is further affirmed by the fact that Accadia's law prohibits transferring the components of proprietary technology onboard Dragnet to foreign entities without authorization from Accadia's national security agency.⁹²

Thus, there is a violation of Article 5(3) of the ARRA.

II-A-3. The present taking is not justified as a salvage operation.

A salvage operation is an activity undertaken to assist a vessel or any other property in

⁸⁹ Irmgard Marboe et al., *Article 5 (Notification, Recovery and Return of Space Objects) ARRA*, in *COLOGNE COMMENTARY ON SPACE LAW VOLUMES II* 63, ¶186 (Stephan Hobe et al. eds., 2013) [hereinafter, "*Cologne Commentary II, ARRA, art. V*"].

⁹⁰ Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space art. 5(3), Apr. 22, 1968, 672 U.N.T.S. 119 [hereinafter, "ARRA"].

⁹¹ *Facts*, ¶17.

⁹² *Facts*, ¶4.

danger in navigable waters or in any other waters whatsoever.⁹³ The law of salvage is not applicable in space law. [II-A-3-a] Even if it is applicable, the present taking does not fall under a salvage operation. [II-A-3-b].

II-A-3-a. The law of salvage is not applicable in space law.

While maritime law subjects abandoned vessels—those with no hope of recovery or intent to return—to salvage operations,⁹⁴ Article VIII of the OST mandates that State Parties permanently retain jurisdiction and control over their objects.⁹⁵ This principle prohibits interference with another State’s assets,⁹⁶ including non-functional or abandoned items.⁹⁷

Consequently, the maritime doctrine of salvage is inapplicable in space law, as it fundamentally contradicts the OST’s requirement for continuous jurisdiction.

II-A-3-b. Even if the law of salvage is applicable, the present nonconsensual taking does not constitute a salvage operation.

A rescue constitutes a salvage operation only if the subject is in “peril”⁹⁸, defined as damage or misfortune threatening destruction absent such intervention.⁹⁹ In maritime

⁹³ International Convention on Salvage, 1989 art. 1(a), Apr. 28, 1989, 1953 U.N.T.S. 165 [hereinafter, “*Salvage Convention*”].

⁹⁴ THEOPHILUS PARSONS, A TREATISE ON THE LAW OF SHIPPING AND THE LAW AND PRACTICE OF ADMIRALTY: VOL. II 288-90 (1869) [hereinafter, “*Parsons*”].

⁹⁵ OST, art. VIII.

⁹⁶ ANDREW G. HALEY, SPACE LAW AND GOVERNMENT 151 (1963).

⁹⁷ P. Sterns & L. Tennen, *Orbital Sprawl, Space Debris and the Geostationary Ring*, 6(3) SPACE POL’Y 221, 224 (1990).

⁹⁸ *Salvage Convention*, art. 1(a).

⁹⁹ Philip Teoh, *The Law and Practice of General Average and Salvage in Carriage of Goods by Sea*, L. REV. 214, 225 (2024).

law, a vessel is deemed in peril if abandoned,¹⁰⁰ characterized by the absence of any hope for recovery and the owner's lack of intention to return.¹⁰¹

The Dragonfly crew proceeded to the forced landing site specifically to survey and inspect the Dragnet wreckage.¹⁰² This action demonstrates Sargon's clear intention to retrieve the craft. Furthermore, the crew's actual capability to conduct such an inspection confirms the existence of a hope of recovery.¹⁰³

Thus, as Dragnet was neither abandoned nor exposed to peril, the taking of the vessel cannot be justified as a salvage operation.

II-B. Inkaton is liable for nonconsensual taking of components of Dragnet.

Regarding the requirements of the LC,¹⁰⁴ in the present case, [2]and [3] are clearly fulfilled. In addition, intent encompasses fault,¹⁰⁵ the intentional taking of Transat constitutes [4] fault, and [5] the causal link exists between the damage and nonconsensual taking. Thus, Accadia argues [1] the existence of damage [II-B-1], and [6] the damage was caused by the space object launched by Inkaton [II-B-2].

II-B-1. The loss of the components of Dragnet constitutes “damage” under the LC.

Article I(a) of the LC defines loss of or damage to property as “damage”.¹⁰⁶ Accadia

¹⁰⁰ MARTIN J. NORRIS, *THE LAW OF SALVAGE* 101 (1958).

¹⁰¹ *Parsons*, at 288-90.

¹⁰² *Facts*, ¶14.

¹⁰³ *Ibid.*

¹⁰⁴ Memorial, I-C-2.

¹⁰⁵ *Dunk*, at 366; Anton de Waal Alberts, *The Degree of the Lack of Regulation of Space Debris within the Current Space Law Regime and Suggestions for a Prospective Legal Framework and Technological Interventions*, in *SPACE SECURITY AND LEGAL ASPECTS OF ACTIVE DEBRIS REMOVAL* 93, 98 (Annette Froehlich eds., 2019).

¹⁰⁶ LC, art. I.

argues that non-functional space objects such as the components of Dragnet fall within property. Article I(a) does not require that the space object be in operation. In this regard, drafters recognized the impossibility of anticipating all damage that could arise from space activities, therefore left the room for interpretation to the scope of damage.¹⁰⁷ Moreover, in light of the victim-oriented object and purpose of the LC,¹⁰⁸ “damage” should be interpreted broadly.¹⁰⁹

In the present case, since Dragnet’s component equipment and technical systems were capable of being repaired or utilized as a resource,¹¹⁰ the physical damage constitutes “loss of or damage to property” under Article I(a), regardless of its functionality. Therefore, the loss of components of Dragnet constitutes “damage” under Article I(a) of the LC.

II-B-2. The damage was caused by the space object launched by Inkaton.

Under the LC, the term “space object” includes vehicle.¹¹¹ Inkaton used a vehicle dispatched from Quilla to take components of Dragnet.¹¹² Accordingly, damage was

¹⁰⁷ Delbert D. Smith & Armel Kerrest, *Article I (Definitions) LIAB*, in COLOGNE COMMENTARY ON SPACE LAW VOLUMES II 104, ¶33 (Stephan Hobe et al. eds., 2013) [hereinafter, “*Cologne Commentary II, LIAB, art. I*”]; IISL DIRECTORATE OF STUDIES, DOES INTERNATIONAL SPACE LAW EITHER PERMIT OR PROHIBIT THE TAKING OF RESOURCES IN OUTER SPACE AND ON CELESTIAL BODIES, AND HOW IS THIS RELEVANT FOR NATIONAL ACTORS? WHAT IS THE CONTEXT, AND WHAT ARE THE CONTOURS AND LIMITS OF THIS PERMISSION OR PROHIBITION?, at 4 (2016), https://www.ila-americanbranch.org/wp-content/uploads/2022/10/IISL_Space_Mining_Study.pdf [hereinafter, “*IISL Directorate of Studies*”]; Andre G. DeBuschere, *Liability for Damage Caused by Space Objects*, 3(1) J. INT’L L. PRAC. 97, 101-02 (1994).

¹⁰⁸ *Cologne Commentary II, LIAB, art. I*, ¶54.

¹⁰⁹ *Cologne Commentary II, LIAB, art. I*, ¶47; *IISL Directorate of Studies*, at 4.

¹¹⁰ Alexander William Salter, *Space Debris: A Law and Economics Analysis of the Orbital Commons*, 19 STAN. TECH. L. REV. 221, 233-34 (2016).

¹¹¹ *Cheng*, at 464.

¹¹² *Facts*, ¶12.

caused by a space object launched by Inkaton.

Therefore, Inkaton is liable for the nonconsensual taking of components of Dragnet.

II-C. Even if the foregoing claims are rejected, Inkaton’s taking of components falls under unjust enrichment.

Unjust enrichment is a general principle of law derived from national legal systems [II-C-1], and Quipu’s extraction of components constitutes unjust enrichment [II-C-2]. Therefore, Inkaton bears an obligation to provide compensation for the taking of components parts.

II-C-1. Unjust enrichment is a general principle of law.

A principle is specified as a general principle of law derived from national legal systems when the principle [1] exists as a common principle to various legal systems,¹¹³ and [2] it is transposable to the international legal system.¹¹⁴ A principle is transposable only when it is compatible with the fundamental principles of international law,¹¹⁵ and it serves a regulatory function that is equivalent to the regulatory function that it serves at

¹¹³ Int’l L. Comm’n, General Principles of Law: Texts and Titles of the Draft Conclusions Adopted by the Drafting Committee on Second Reading, Conclusion 4(a), U.N. Doc. A/CN.4/L.1018 (May 20, 2025) [hereinafter, “*Second Reading on General Principles*”].

¹¹⁴ *Second Reading on General Principles*, Conclusion 4(b).

¹¹⁵ Int’l L. Comm’n, Rep. on the Work of Its Seventy-Fourth Session, Draft Conclusions on General Principles of Law, with commentaries, Conclusion 6, ¶6, U.N. Doc. A/78/10 (2023) [hereinafter, “*First Reading on General Principles*”].

the domestic level.¹¹⁶

Regarding [1], unjust enrichment exists as a common principle across various legal systems, including civil law, Islamic law, and common law.¹¹⁷ These systems share the concept ensuring return or compensation when a person obtains benefit at the expense of another without legal basis.¹¹⁸ Regarding [2], since the equity for remedies for unjust enrichment exists even between States, its regulatory functions of domestic level and international level are equivalent.¹¹⁹ Furthermore, international courts have confirmed unjust enrichment as a general principle.¹²⁰

Therefore, satisfying two requirements, unjust enrichment is a general principle of law derived from national legal systems.

II-C-2. Inkaton's nonconsensual taking of components parts of Dragnet wreckage constitutes unjust enrichment.

Unjust enrichment requires the following conditions: [1] the enrichment of a party, [2] the corresponding detriment of the other, [3] causal relationship between enrichment and detriment, [4] the absence of justification for enrichment.¹²¹ Moreover, [5] when

¹¹⁶ Marcelo Vázquez-Bermúdez (Special Rapporteur on General Principles of Law), *Fourth report on general principles of law*, at 23, U.N. Doc. A/CN.4/785 (Feb. 18, 2025).

¹¹⁷ Codice Civile [C.c.] art. 2041 (It.); Bürgerliches Gesetzbuch [BGB] §812 (Ger.); Obligationenrecht [OR] art. 62 (Switz.); Código Civil y Comercial de la Nación [CCyC] art. 1794 (Arg.); Code des Obligations et des Contrats art. 71 (Tunis.); Federal Law No. 5 of 1935 (UAE Civil Transactions L.) art. 318 (U.A.E.); Civil Code of Japan art. 703 (Japan).

¹¹⁸ *Ibid.*

¹¹⁹ Memorial of the Principality of Liechtenstein, *Certain Property* (Liech. v. Ger.), 2005 I.C.J. Pleadings ¶20 (Mar. 28, 2002).

¹²⁰ *Sea-Land Serv., Inc. v. Iran*, Award No. 135-33-1, 6 Iran-U.S. Cl. Trib. Rep. 149, ¶60 (June 22, 1984) [hereinafter, "*Sea-Land Service*"]; *Isaiah v. Bank Mellat*, Award No. 35-219-2, 2 Iran-U.S. Cl. Trib. Rep. 232, 236 (Mar. 30, 1983).

¹²¹ *Sea-Land Service*, ¶62.

compensation is available through other remedies, the application of unjust enrichment is precluded.¹²²

In the present case, [1] Inkaton got the technical component parts as enrichment, while [2] Accadia lost proprietary system information whose importance is affirmed under domestic law.¹²³ [3] The enrichment and detriment are linked with each other by causal relationship since both arose from Inkaton's taking of component parts. [4] Since the taking of component parts does not fall under salvage,¹²⁴ it lacks legal basis.

Regarding [5], the existence of other potential remedies does not, in itself, necessarily preclude compensation based on unjust enrichment.¹²⁵ When the Court denies those remedies, compensation under unjust enrichment may still be granted.¹²⁶ In the present case, [5] is satisfied if Accadia is not liable based upon the LC.

Accordingly, the extraction of component parts by Inkaton constitutes unjust enrichment.

III. Inkaton is not entitled to compensation under international law for damage sustained by Quipu's lunar extraction facility nor costs and expenses Quipu incurred in rescuing and providing medical care for Dragnet's crew.

Accadia bears neither responsibility [III-A] nor liability [III-B] for the damage to Quipu's lunar extraction facility and the costs incurred in rescuing and treating Dragnet's crew. Therefore, Accadia contends that Inkaton is not entitled to

¹²² *Ibid.*

¹²³ *Facts*, ¶14.

¹²⁴ Memorial, II-A-3.

¹²⁵ CHARLES N. BROWER & JASON D. BRUESCHKE, *THE IRAN-UNITED STATES CLAIMS TRIBUNAL* 428 (1998).

¹²⁶ *Ibid.*, at 427.

compensation under international law.

III-A. Accadia is not responsible for the damage sustained by Quipu's facility nor costs and expenses for rescuing Dragnet's crew.

Accadia does not bear responsibility for the damage sustained by Quipu's facility [III-A-1] and the costs and expenses for rescuing Dragnet's crew [III-A-2].

III-A-1. Accadia is not responsible for the damage sustained by Quipu.

The jettisoning of Transat did not violate Article IX Sentence 1 [III-A-1-a] or Article IX Sentence 2 of the OST [III-A-1-b]. Alternatively, the wrongfulness is precluded [III-A-1-c].

III-A-1-a. Dragnet jettisoned Transat pursuant to the obligation under Article IX Sentence 1 of the OST.

Under requirements of "due regard",¹²⁷ [1] the interest of Accadia is the safety of Dragnet's crew in a forced descent and landing. Conversely, [2] the loss which Inkaton argues would be the destruction of above surface structure, 2 kilograms of extracted Helium-3, and the equipment for extracting the resource, all of which are caused by Transat's impact.¹²⁸ Since environmental pollution cannot be claimed as the loss of a State itself,¹²⁹ the damage to the lunar surface caused by Transat is not recognized in considering [2].

¹²⁷ Memorial, I-A-3.

¹²⁸ *Facts*, ¶13.

¹²⁹ Jinyuan Su, *The Environmental Dimension of Space Arms Control*, 29(1) SPACE POL'Y 55, 56 (2013).

First, [2] the loss of the other party must be foreseeable, and foreseeability is a determining factor in assessing gravity under due regard.¹³⁰ At the time Dragnet jettisoned Transat, neither its collision with Quipu's facility nor the location of the impact was foreseeable. Thus, Inkaton's alleged damage is not recognized as the damage which can be claimed in evaluating due regard. Therefore, Dragnet jettisoning complied with Article IX Sentence 1 of the OST.

Second, even if [2] the damage was foreseeable, Accadia complied with due regard obligation. In balancing [1] and [2], the interest of Accadia outweighs the loss of Inkaton. In light of Article V of the OST, astronauts are regarded as "envoys of mankind in outer space".¹³¹ The protection of their lives is owed not only by one State but also by the international community as a whole.¹³² "Astronauts" encompasses all persons on board a spacecraft¹³³ and this definition is consistently maintained from the adoption of the OST.¹³⁴ Thus, the importance of the safety of Dragnet's crew, which applies to "astronauts", is high.

Regarding [3] the alternative measure, the jettisoning of Transat, was conducted in accordance with both Sargon's and Quilla's safety procedures,¹³⁵ which were necessary for emergency landing situations.¹³⁶

¹³⁰ Hanhui Zha & Jinyuan Su, *The "Due Regard" Obligation in the Deployment and Operation of Satellite Mega-Constellations*, 73 *SPACE POL'Y*, 3, 3 (2025).

¹³¹ OST, art. V.

¹³² Gabriella Catalano Sgrosso, *Legal Status, Rights and Obligations of the Crew in Space*, 26 *J. SPACE L.* 163, 166 (1998).

¹³³ The 1967 Webster's Third New International Dictionary / the 1972 Oxford English Dictionary.

¹³⁴ Steven Wood, *The Scope of International Obligations to Extend Rescue Assistance to 'Astronauts' and 'Personnel' under the Outer Space Treaty and the Return and Rescue Agreement*, in *COMMERCIAL USES OF SPACE AND SPACE TOURISM* 44, 50 (Jan Wouters et al. eds., 2017).

¹³⁵ *Facts*, ¶13.

¹³⁶ Memorial, I-C-2.

Thus, the jettisoning of Transat does not constitute a violation of Article IX Sentence 1 of the OST.

III-A-1-b. Dragnet jettisoned Transat pursuant to Article IX Sentence 2 of the OST.

Article IX Sentence 2 of the OST obliges States Parties to conduct their space activities so as to avoid harmful contamination of celestial bodies.¹³⁷ As Article I of the OST stipulates free exploration and use of outer space,¹³⁸ the primary purpose of Article IX of the OST was not to preserve outer space in its pristine condition but to govern its sustainable exploration.¹³⁹ Thus, the threshold for what amounts to contamination should be set relatively low so as to avoid the creation of an insurmountable burden.¹⁴⁰

According to the planetary protection guideline issued by COSPAR in 1969,¹⁴¹ a lunar landing falls under Category II, where the probability of contamination brought by spacecraft would compromise future investigations is only minimal; as such the planetary protection measures that recommended are lower.¹⁴²

In the present case, there was no visible celestial contamination caused by Transat's crash since no alteration of the lunar surface or influx of microorganisms onto the Moon occurred. Therefore, the jettisoning of Transat does not constitute a violation of Article IX Sentence 2 of the OST.

¹³⁷ OST, art. IX.

¹³⁸ OST, art. I.

¹³⁹ Melissa de Zwart et al., *The Principle of "Harmful Contamination" Applied to Human Missions to Mars*, 45 J. SPACE L. 276, 292 (2021).

¹⁴⁰ *Ibid.*, at 292.

¹⁴¹ *Ibid.*, at 304.

¹⁴² *Ibid.*, at 283-84.

III-A-1-c. Alternatively, the wrongfulness of the jettisoning is precluded by distress.

Under Article 24 of ARSIWA, to justify an illegal action as distress, it must fulfill the following three requirements: [1] a situation of extreme peril; [2] no other reasonable way to save lives; and [3] non-applicability of exceptions under Article 24(2) of ARSIWA.¹⁴³ The wrongfulness of jettisoning is precluded since it fulfills all these requirements.

Regarding [1], upon the forced landing of the Transat involving the jettisoning of its components, the crew of the Dragnet had already sustained physical injuries due to exposure to high-dose radiation, rendering immediate medical intervention and therapeutic treatment indispensable.¹⁴⁴ Furthermore, as the SPE was then in progress, there existed an imminent peril to human life that would have been critically intensified by further radiation exposure had the forced landing not been undertaken.

Regarding [2], in the emergency of the forced landing, jettisoning the payload was necessary to reduce the vessel's weight and ensure a safe landing.¹⁴⁵ As this action was vital to preserve the lives of the Dragnet crew, no other reasonable alternative existed to avert the imminent peril.¹⁴⁶

Regarding [3], as for Article 24(2) of ARSIWA, distress is not applicable if [a]the situation of distress is due to the conduct of the State invoking it; or [b] the act in question is likely to create a comparable or greater peril.¹⁴⁷

¹⁴³ ARSIWA, art. 24.

¹⁴⁴ *Facts*, ¶12.

¹⁴⁵ SHUAI GUO ET AL., A RESEARCH IN MASS ESTIMATION OF MANNED LUNAR LANDING SPACECRAFT BASED ON DISCRETE EVENT SIMULATION, at 1 (2016), https://www.researchgate.net/publication/313885660_A_Research_in_Mass_Estimation_of_Manned_Lunar_Landing_Spacecraft_Based_on_Discrete_Event_Simulation.

¹⁴⁶ Memorial, I-C-2.

¹⁴⁷ ARSIWA, art. 24(2).

In the present case, [a]the jettisoning of the Transat resulted from Dragnet becoming uncontrollable due to an unforeseeable SPE,¹⁴⁸ the situation of distress was not attributable to any conduct by Accadia. Furthermore, [b] the jettisoning of the Transat did not create a comparable or greater peril to other human lives.

Therefore, the wrongfulness of the present jettisoning is precluded by distress.

III-A-2. Accadia is not required to reimburse the costs and expenses for the rescue and medical care to Inkaton since these acts were compulsory under Article 4 of the ARRA.

Article 4 of the ARRA requires States to ensure the safe and immediate return of spacecraft personnel to their launching authority if they land outside their intended jurisdiction due to an accident, distress, or emergency.¹⁴⁹ While Article 5(5) of the ARRA requires launching authorities to bear expenses for the return of space objects, it intentionally omits such requirements for astronauts.¹⁵⁰ Reflecting the spirit of Article V of the OST, which regards astronauts as “envoys of mankind,”¹⁵¹ assistance rendered under Article 4 of the ARRA does not create an obligation for the launching authority to reimburse rescue costs.¹⁵²

As the crew of Dragnet qualify as “astronauts,” they are the intended subjects of rescue under Article 4 of the ARRA.¹⁵³ Given that the crew had sustained physical injuries and radiation exposure at the time of landing,¹⁵⁴ immediate medical intervention

¹⁴⁸ *Facts*, ¶10.

¹⁴⁹ ARRA, art. 4.

¹⁵⁰ ARRA, art. 5.

¹⁵¹ *Cologne Commentary II, ARRA, art. V*, ¶193.

¹⁵² *Cheng*, at 285.

¹⁵³ Memorial, III-A-1-a.

¹⁵⁴ *Facts*, ¶12.

was indispensable for their “safe and prompt” return.¹⁵⁵ Thus, the rescue and medical treatment provided by Quipu constituted the fulfillment of obligations under Article 4 of the ARRA.

Therefore, Inkaton is barred from seeking reimbursement for costs associated with the rescue and medical care of the Dagnet crew.

III-B. Accadia is not liable for the damage sustained by Quipu’s facility nor costs and expenses for rescuing Dagnet’s crew.

Accadia contends that it is not liable for the damage sustained by Quipu’s facility [III-B-1], nor for the costs and expenses incurred in rescuing Dagnet’s crew [III-B-2].

III-B-1. Accadia is not liable for the damage caused to Quilla.

Under the requirements for Article I of the LC,¹⁵⁶ since [6] Accadia is not the launching State of Transat [III-B-1-a], Inkaton is not entitled to compensation under the LC. Alternatively, [4] there was no fault with the jettisoning of Transat [III-B-1-b].

III-B-1-a. Inkaton is a launching State of Transat.

Under Article I of the LC, the term “launching State” includes the State that launches a space object.¹⁵⁷ Inkaton falls under the launching State of Transat.

First, the LC contemplated only the launching of space objects from Earth to

¹⁵⁵ Velu Nair et al., *Guidelines for Medical Management of Nuclear/Radiation Emergencies*, 73(4) MED. J. ARMED FORCES INDIA 388, 389 (2017).

¹⁵⁶ Memorial, I-C-2.

¹⁵⁷ LC, art. I.

space at the time of drafting.¹⁵⁸ This view is supported by the States' response to the UNCOPUOS's question regarding the concept of "launching" of small satellites operating in outer space. Germany and the Czech Republic answered that launching from Earth to outer space is the "launch".¹⁵⁹ Australia further stated that the deployment of a space object to another orbit, in outer space would be a change of orbits, which does not constitute a launch.¹⁶⁰

Additionally, although the registration of the space object is done by the launching State,¹⁶¹ the registered State does not necessarily constitute the launching State. In Sweden's practice, Sweden did not fall under the launching State of BSB-1A, after registering it with a new name.¹⁶²

In the present case, Transat is the space object refurbished from Observer-1¹⁶³ and remains identical to Observer-1. The fact that Transat was loaded onto Dragnet and released from EOS-1¹⁶⁴ does not constitute a "launch" under the LC. Additionally, the fact that Sabaku was able to register Transat does not imply that Sabaku qualifies as the launching State of Transat.

Therefore, Inkaton remains the launching State for Transat, which does not satisfy requirement [6] under Article I of the LC.

¹⁵⁸ *Nakamura*, at 172.

¹⁵⁹ Comm. on the Peaceful Uses of Outer Space, Responses to the questionnaire on the application of international law to small-satellite activities, at 9, U.N. Doc. A/AC.105/C.2/2018/CRP.10 (Apr. 6, 2018) [hereinafter, "COPUOS 2018"]; Comm. on the Peaceful Uses of Outer Space, Questionnaire on the application of international law to small satellite activities, at 5, U.N. Doc. A/AC.105/C.2/2019/CRP.8 (Mar. 29, 2019).

¹⁶⁰ COPUOS 2018, at 9.

¹⁶¹ Convention on Registration of Objects Launched into Outer Space art. II, Jan. 14, 1975, 1023 U.N.T.S. 15.

¹⁶² *Lee*, at 47.

¹⁶³ *Facts*, ¶9.

¹⁶⁴ *Ibid.*

III-B-1-b. Alternatively, there was no fault regarding jettisoning of Transat.

Accadia did not act [4] with fault, is not liable under the LC. The existence of “fault” in the LC is evaluated by the existence of “reasonable government” behavior.¹⁶⁵ The availability of alternative measures and foreseeability is given specific consideration.¹⁶⁶

In the present case, it was impossible to take any measures other than jettisoning Transat.¹⁶⁷ Further, at the time of the emergency landing, the Sun was at a solar minimum, and AI and quantum systems did not predict a high probability of a major SPE.¹⁶⁸ From the fact that the S5 SPE had never occurred since 1976 when the observation started,¹⁶⁹ such an SPE was unforeseeable for Accadia.

Accordingly, since Accadia’s jettison of Transat constitutes the conduct of a reasonable government, it was conducted without fault. Therefore, Accadia is not liable for the damage sustained by Quipu’s facility.

III-B-2. Accadia is not liable for the costs and expenses for rescuing Dragnet’s crew.

Regarding the requirements for Article III of the LC, the costs and expenses for rescuing Dragnet’s crew do not constitute damage [2] caused by a space object launched by Accadia [6] to a space object launched by Inkaton. Therefore, Accadia bears no

¹⁶⁵ *Marboe 2012*, at 135-39; PETER STUBBE, STATE ACCOUNTABILITY FOR SPACE DEBRIS 381-82 (2018).

¹⁶⁶ *Ibid.*

¹⁶⁷ Memorial, I-C-2.

¹⁶⁸ *Facts*, ¶10.

¹⁶⁹ M. Laurenza et al., *A Short-Term ESPERTA-Based Forecast Tool for Moderate-to-Extreme Solar Proton Events*, 857(2) *ASTROPHYSICAL J.* 107, 113 (2018).

liability for the costs and expenses for rescuing Dragnet's crew.

SUBMISSIONS TO THE COURT

For the foregoing reasons, the Government of Accadia, Respondent, respectfully requests the Court to adjudge and declare that:

- I. ACCADIA is not responsible nor liable under international law for Sargon's removal of Observer-1 from orbit.

- II. INKATON is liable and responsible under international law for compensation for Quipu's non-consensual taking of component parts from the Dragnet wreckage.

- III. INKATON is not entitled to compensation under international law for damage sustained by Quipu's lunar extraction facility nor costs and expenses Quipu incurred in rescuing and providing medical care for Dragnet's crew.