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# **LAWASIA** International Moot

## FURTHER CLARIFICATIONS TO THE MOOT PROBLEM

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Organiser of the LAWASIA International Moot Competition

# FURTHER CLARIFICATIONS

## CORRECTIONS

1. The exact location of the wreck of Coeur de l'Ocean is 12 nautical miles from Rolga's baseline but beyond a 10 n.m limit.
2. Any Reference to "1992 Agreement" between Heritage Inc. and Rolga should be read "1995 Agreement".
3. "Art 10" in Para 13 of the Moot problem should be read "Art. 9".

## CLARIFICATIONS

4. The present government of Astoria has not made any claims to or rights in the cargo of the Coeur de l'Ocean. It has also not yet submitted any objection to the activities of either Benevolent Heritage or Aquatic View based on the "Protection of Wrecks" Agreement.
5. Coeur de l'Ocean was used for military purposes prior to its sinking.
6. The remains of the vessel has not been designated as "cemetery".
7. Rolga and Astoria are "Monist" States and of common law tradition.
8. Rolgan Laws are in pari materia with Malaysian law on all issues covered (except on being a "Monist" State)
9. Astorian Laws are in pari materia with English laws on all issues covered.
10. The remains of Coeur de l'Ocean is located near some of the Rolga Islands listed on the 1972 World Natural and Cultural Heritage Convention.
11. Despite the close proximity, none of salvage operations take place on or in the vicinity of Rolga islands except that Heritage Inc. personnel have been sighted in the islands during off-duty for recreational activities.
12. Rolga has ratified the 1972 World Natural and Cultural Heritage Convention in 1995.
13. The 2000 law was influenced by the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage as Rolga participated during its negotiation process and voted in favour of its adoption in Paris on 2<sup>nd</sup> November 2001.

14. There is no official information as to the delay in Rolga's ratification of the 2001 Convention.
15. Rolgan Historic Monument Executive Agency is under Rolga's Ministry of Heritage was established pursuant to the 2000 law.
16. The Agency is understaffed but funded by the Ministry. Currently it (Agency) has 1 marine archaeologist in office and 1 is currently overseas for training sponsored by UNESCO. No further official information on funds but it is lacking.
17. No official information on why the Agency was "unable at this time" to deal with complaints regarding the activities of the Aquatic view.
18. The estimated value of each of the twenty one items listed are as follows:

No	Item/Articles/Objects	Quantity	Appraised Value of each item (in US Dollar)
1	Gold Ingots and Bullions	360	USD 50,000
2	Gold Bars	100	USD 150,000
3	Silver Ingots	700	USD 20,000
4	Silver coins with Astorian marks	50,000	USD 10,000
5	Copper planks	200	USD 5000
6	Indigo	200 chests	Not yet determined
7	Tobacco	10 tons	Not yet determined
8	Bronze cannon with Astorian marks	2	Not yet determined
9	Silver container	1	USD 10,000
10	Bronze forks	4	USD 2,000
11	Silver pendant	1	USD 15,000
12	Comb	2 pieces	Not yet determined
13	Olives and pickles	3 jars	Not yet determined
14	Unknown Liquid	1 bottle	Not yet determined
15	Ornaments	5 pieces	USD 5,000
16	Elephant tusks	50	USD 2,000
17	Cannon balls	12	Not yet determined
18	Chinese porcelains	20,000 pieces	Those in mint condition (10,000 pieces) were appraised at USD 5,000 each. The remaining at USD 1000 each.
19	Swords bearing some Arabic words	57 pieces	USD 20,000.
20	Silver daggers with precious stones	2 pieces	USD 3.5mil.
21	Spices	70 bottles	Not yet determined.

19. Parties fully complied with their obligations under the art. 3 of the partnering Agreement.
20. The “joint marketing plan” contemplated by the Agreement was never finalised. No reason was given.
21. Heritage Inc. was incorporated under Rolgan law.
22. Mr Bernard Bodd is a national of Astoria.
23. Heritage Inc. submitted “project plan” within 100 days of the signing and it was approved by Rolga. The Plan is not attached to the moot problem.
24. The seat of the Arbitration is in Ho Chi Minh City and it was mutually decided by the Parties.
25. Rolga did not consult Astoria before it signed the Partnering Agreement Memorandum with Benevolent Heritage Inc.
26. Rolga did not formally inform Astoria about the existing commercial exploitation prior to entering the Bilateral Agreement with Astoria.
27. States with verifiable link to the contents of cargo and other remains have not been determined.
28. Procedures under articles 9, 10, 11 and 12 of the UNESCO Convention on UCH have not been complied with. The Convention came into force on 2<sup>nd</sup> January 2009 against those States which ratified the Convention.
29. Rolga is not an archipelago.
30. It has not been established whether the activities of Heritage Inc. and the commercial exploitation resulted in damage to the eco-system in the area.
31. It was indeed confirmed that the wreck was indeed Coeur de l’Ocean, the project plan was submitted and was approved by Rolga.
32. All State Parties are members of the United Nations and signatories to the UN Charter.
33. Rolgan laws are in conformity with the Berne Convention.
34. Artefacts were destroyed due to poor handling by Heritage Inc. personnel.
35. Profit was generated from auction and was distributed among the Parties. This is not contested.
36. No Artefacts have so far been offered, lent or sold to Astoria.
37. No involvement of Astoria concerning Couer de l’Ocean today.

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38. The earlier Rolgan Law which has been repealed in 2000 does not contain any special provisions dealing with historic wrecks.
  39. The word "Minister" in para 8 refers to Minister of Rolga Cultural Heritage.
  40. Mooting instruction: it is up to the participants to use judgment to argue on jurisdiction if necessary and if so, question of jurisdiction may be combined with arguments going into the merits.
  41. Aquatic View is not representative of the Government.
  42. Other requests for clarifications which are not dealt with this Clarifications List because (a) Facts are sufficiently and correctly stated, or, (b) Facts are sufficiently stated to allow arguments for both sides, and (c) either it is immaterial for the purpose of the present moot or to limit the range of legal arguments that may be presented.

Thursday, 7<sup>th</sup> May 2009