

Request for Clarifications of the Moot Court Compromis 2020

Geography

1. Would it be possible to provide teams with a map of Gondour and Carpania indicating Airway 666, Airway 777 and the Pom-Pom Nature Reserve? [See attachment](#)
2. Can you provide us with a map showing how the countries and islands are placed? [See attachment](#)
3. Clarification for Point 10 of Compromis [See map](#)
4. Clarity on the Airway route of Airway 666 and Airway 777 for State of Carpania's Carpa Airline and the location of Pom Pom Natural Reserves on the Coast of State of Gondour with respect to the direction of the Airway Route. The team also requests a map for better understanding of the geographical location of the states' landmasses. [See map](#)
5. Route of Airway 666, as provided in paragraph 3 of the compromis, extends towards the west of Gondou City, but as per paragraph 10, the Airway 666 is joined by Airway 777 towards the east of the Gondou City. Kindly clarify the route of Airway 666 and Airway 777. [See map](#)
6. In paragraph 2 of the introduction of the Compromis, Carpania is described as an island, whereas in paragraph 3 it is mentioned that Carpania has a "territorial border". How is this possible, given that Carpania is an island and as such it cannot have territorial borders? [Islands also have territorial borders. See map](#)
7. Would you please provide us with the clarification as to the geography of the region, namely: 1) whether Gondour is an archipelagic state; 2) whether they both are adjacent to international transit straits? [See map](#)
8. What does "isolating Carpania from the rest of the world" (Section C paragraph 11) mean exactly? Does Carpania have any other mode of transport such as carriage by sea? Is there any foreign airlines operate international flight in, to and from Carpania? [See map](#)
9. Can Carpania be connected to Gondour or the rest of the world by any other means? Or is air travel basically the only access to Caprania? [See map](#)

The Dodo Birds

10. What is the proximity between Gondour's airport and the Pom-Pom nature reserve? [See map, but not relevant from a legal perspective](#)
11. How far is the dodo habitant area located from the nearest airport? [See map, but not relevant from a legal perspective](#)
12. What are the qualifications of the scientist Dr. Doolittle? [Not relevant from a legal perspective](#)
13. Is the Nature Institute of Gondour's Pom-Pom Nature a public institution of Gondour? [Not relevant from a legal perspective](#)
14. Whether the Dodo Act, 2018 has placed reliance on the existing scientific knowledge of Dodo Birds? [The legal basis of the Dodo Act \(2018\) is explained in section 7, in conjunction with section 8.](#)
15. What is the frequency of Carpa Airlines flights over the dodo habitant area? [Enough flights to cause Gondour's government to adopt the Dodo Act \(2018\)](#)
16. Does the Dodo Act have a temporal or permanent effect? [It applies at least during the period of the court case, and before that.](#)

17. Did the Kingdom of Gondour conduct noise assessment before or after passing the Dodo act?
The Kingdom of Gondour has mandated scientists to evaluate the impact of aircraft noise on Dodo Birds. They concluded that aircraft noise is likely to have adverse impacts on Dodo Birds
18. Is there documentary or practical evidence of the negative impact of aircraft noise on Dodo birds or birds in general? Please see response to question 17.
19. Are the dates of the attack as 30th July 2018 and the passing of Resolution 261/18 as 29th August 2018 intended upon? Unclear question but if we understand this correctly please proceed from a negative answer – no.
20. Has there been any communication between Gondour, Carpania and the International Civil Aviation prior to the adoption of the Dodo Act 2018 and Regulation 261/18? No

Certification

21. In the compromis, Gondour's Regulation is entitled "Regulation 261/18 of 29 August 2018 on the registration and operation within the Kingdom of Gondour of certain types of civil jet aircraft which have been certificated as meeting the standards of volume I, Part II, Chapter 4 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993)". Is the third edition (1993) of Annex 16 to the Chicago Convention indeed the one applicable to this case since said Annex has been amended and its latest version has been published in 2017? Or should we have conclude that this is the version applicable only with respect to the Regulation? The reference to an older version of Annex 16 does not have any impact on the restrictions introduced by Regulation 261/18. The applicability of the amendments to Annex 16, volume I adopted since the publication of the third edition remain relevant and applicable to the case, in accordance with the rules that govern the applicability of ICAO's Standards and Recommended Practices. As indicated in the compromise, none of the parties has notified ICAO of any differences between their national legislation and the standards laid down in any of ICAO's Annexes to the Chicago Convention.
22. Under what Chapter was the initial certification certifying the Conquest 4 issued in terms of Annex 16, Volume I to the Convention on International Civil Aviation signed at Chicago on 7 December 1994 (hereinafter referred to as the "Chicago Convention")? In other words, what Chapter in Annex 16, Volume I to the Chicago Convention did the Conquest 4 comply with before it was recertified on 22 December 2006? Annex 16, volume I was not applicable at the time the Conquest was first certificated and it therefore did not have to demonstrate compliance against any noise certification requirements at the time.
23. The competent civil aviation authorities of Carpania have recertified the Conquest 4 aircraft in accordance with Chapter 3 of Annex 16 to the Chicago Convention in respect of the Compromis. On 22 December 2006, this recertification was issued. When, or on what date, was the application submitted to Carpania's competent civil aviation authorities for this recertification? The application for the recertification was submitted on 12 February 2006.
24. Was the application for recertification of Conquest 4 submitted to the concerned authorities by Carpa Airlines on the same date as the day of recertification specified in the Compromis, i.e. 22 December 2006? If not, when was the application for re-certification submitted? See previous clarification.
25. As mentioned in the paragraph 6 of moot compromis, about recertification of Carpania Aircraft under chapter 3 but it is nowhere mentioned in chapter 3 of annex 16 and chapter 4 of annex 16 talks about re-certification. Is it a typo mistake? Please see the definition of "recertification" in Annex 16, volume I.

26. In Section C paragraph 9, Gondour's government said "this (Annex 16 Vol.1 Part II Chap.4 are not mandatory for aircraft which type of certificate were issues before 1 January 2006) does not apply to re-certificated aircraft." Is there any domestic laws and regulations of Gondour to support this statement? **This statement reflects the view of Gondour and its interpretation of the applicability of Annex 16, volume I to recertified aircraft.**
27. Para 6 of the Moot compromise, line 7 states "On 22 December 2006, the competent civil aviation authorities of Carpania have recertificated the Conquest 4 aircraft owned by Carpa Airlines to Chapter 3 of Annex 16." However, Chapter 3 of Part II of Volume I of Annex 16 to the Chicago Convention on Environmental Protection lays no such aforementioned provision for a modified aircraft to be re-certified. **Please see the definition of "recertification" in Annex 16, volume I.**
28. In Annex 16 to the Chicago Convention on Environmental Protection, there is a distinction drawn between the term 'aircraft' and 'aeroplane'; in whole of the chapters to the annex 16 the term aeroplane has been used. Clarity on the usage of the term 'aircraft' since in the entire compromise the term 'aircraft' has been continuously used. Kindly provide us with the expressed date on when the Carpa Airline's Aircraft was issued with a type certificate under Chapter 4 of Part II of Volume I of Annex 16 to the Chicago Convention on Environmental Protection. **The distinction between aeroplane and aircraft is not relevant for the case. However, for information, the expression aeroplane refers to fixed-wing aircraft only (excluding rotorcraft). Section of Annex 16, volume I, which refer to aeroplanes apply to fixed-wing aircraft only, etc.**
29. Does Regulation 261/18 only apply to jet aircraft as indicated by its title, or does the Regulation also apply to propeller driven aircraft used by Carpania? (Compromis, Annex 2. Regulation 261/18 of 29 August 2006 on the registration and operation within the Kingdom of Gondour of certain types of civil jet aircraft) **The facts of the case clearly show that Gondour considers that the Regulation also applies to propeller aircraft such as the Conquest 4.**
30. Do the "fuel efficient electric jet" (para 5) and "electric motors" (para 8) refer to jet aircraft entirely powered by electricity or does it include jet aircraft powered by hybrid electric motors? **A hybrid aircraft is compliant with the Dodo Act 2018 if it is powered exclusively by electric motors when using Airway 666. This is the case of the Electra 230.**

Operation of Air Services & Airspace

31. While using the airway parallel to Airway 666, does Carpa Airline operate within any of the airspace classes B,C or D at any given time during its flight between Carpania and Gondour? **Not relevant in the present case**
32. Was the Airway 666 a prohibited area? **[No]** If the answer of previous question is "yes", did Gondour send the description of this area to the other contracting states and to the International Civil Aviation Organization.
33. Was Carpa Airlines engaged solely in providing scheduled international air services? **Not relevant in the present case**
34. Apart from Carpa Airline, do any other airlines fly in and out of Carpania? If so, do they use Airway 666? **This case is between Carpania and Gondour and does not concern other airlines or airlines from other States.**
35. Was Carpania the only state that had been forced to use the route 777? **1) The State was not forced to use route 777 but its airlines do; 2) see previous answer.**
36. Are there any reasons preventing Gondour from establishing new airways closer than 500 kms from Airway 666? **No, this was Gondour's sovereign decision.**

37. Were there any flights between Carpania and Gondour through Airway 777 made by Gondour's Airlines after the Airway 666 was closed? **Route 777 is a new route, see 8(c).**
38. Para 11 Line 3 states "They also did not have the range to be able to take the alternative Airway 777 route to the rest of the world." Clarity on the actual range of Conquest 4 and whether the Conquest 4 of Carpa Airlines had been flying below 5000 ft agl. **The information provided in the case is sufficient for arguing it before the court. No further details are needed.**
39. Did Carpania's Conquest 4 use Visual Flight Rules even when there was insufficient Visual Meteorological Conditions to operate under Annex 2? **Carpa Airlines has complied with all applicable requirements for the safe operation of Visual Flight Rules flights. This means that some flights had to be cancelled because of adverse meteorological conditions.**
40. Does the Conquest 4 land in Gondour? **See Art. 2 of the Agreement on Air Transport between Gondour and Carpania – it has the right to land there, that is what is legally relevant.**
41. Does GonAir operate flights to Carpania? Do they still continue to operate flights to Carpania since the Dodo Act and Reg 261? If they do, then would that mean that Carpania is not really "completely isolated" as suggested in [11] and [13]? **Yes, and see previous answer.**
42. Under Chapter 1 of Annex 11 to the Chicago Convention, Airway means a control area or portion thereof established in the form of a corridor; Control area means a controlled airspace extending upwards from a specified limit above the earth; Controlled airspace means an airspace of defined dimensions within which air traffic control service is provided in accordance with the airspace classification. Under these ICAO definitions, Airway 666 (Compromis, para. 3) should be a control area or a portion thereof. Could you please clarify such control area's boundary and ATC airspace class pursuant to Annex 11 to the Chicago Convention? **Please use the definitions of Chapter 1 of ICAO Annex 11 for this purpose – that is what is legally relevant in, and applicable to, this case.**

The Incident

43. On what dates did the facts in paragraphs 19, 20 and 21 of the Compromis take place? **During the days following 30 July 2018 – which information is enough to argue this case.**
44. Did any armed conflict take place in the territory of Pom-Pom natural reserve when the HHP 1234 flight was hit? **No, there is no mention of this.**
45. Point 16 in D (Statement of facts) underlines that "Carpa Airline was not aware of any armed conflicts in this region"; Does it imply that there were any? **Not on the day of the incident.**
46. In paragraph 16 of the moot compromis it is mentioned that Carpa airline was not aware of any armed conflict in this region, so was there any armed conflict pre-existed before the shooting down of the Flight. Because the term not aware also means that armed conflict pre-existed and on the other side it also means that there was no armed conflict. So is there any clarification required on this point? **See previous clarification.**
47. More deliberation on Line 1 of Para 16 "Carpa Airline was not aware of any armed conflicts in this region." As to whether there had been armed conflicts going on around the State of Gondour? **See previous clarification.**
48. What was an altitude of flight HHP 1234 - 13,500 feet or 12,500 feet? **See section 12**
49. Was Regulation 261/18 in force when the flight HHP 1234 was shot down? **No, it was not.**
50. Could you please clarify the flight HHP 1234's status before it was hit by a shoulder launched missile? **It was operating under the Agreement on Air Transport between Gondour and Carpania, that is what is legally relevant. See also the applicable safety and navigation regulations.**

51. Were the 53 civilians that were killed all from Carpania? **Casualties included civilians from Carpania, including the crew. However, the nationality of the passengers is not relevant for the relief which is sought.**

The Prosecution

52. Was this case (the shooting down of Flight HHP1234) submitted to the competent authority of Gondour for purposes of prosecution after which it decided not to take any further action, or did Gondour's competent authority decide to take no further action even though the case was submitted for prosecution? **The case was not submitted to prosecution, as to which see the last sentence of section 21.**
53. Has the Kingdom of Gondour manifested any intent to initiate proceedings against Don Giorgio before Gondour's national courts regarding the Flight HHP 1234 incident? **See previous answer.**
54. What are rules regarding shooting down of a flight under Gondour's Criminal Code? **You are not asked to go into the provision of the criminal code of Gondour as the reliefs sought do not pertain to it. See also Agreement on Air Transport.**
55. What punishment does Gondour's Criminal Code prescribe for an act of shooting down a civil aircraft and does the illegality of the flight constitute a valid defense according to Gondour's Criminal Code? **See previous answer.**
56. Does the Code of Criminal Procedure of Gondour - or, in general, Gondour's domestic legislation - prohibit the extradition of nationals of Gondour to other states? **See previous answer.**
57. In reference to [21], is this an assertion by the King, or it contained in the Gondour Criminal Code? What are the contents of the Criminal Code? **See previous answer.**
58. Is there any separate extradition treaty between Carpania and Gondour? **You should base your argument on Article 9 of the attached Agreement on Air Transport.**
59. Is Carpania's extradition request mentioned in Section D, Para. 22 of the Compromis in compliance with Art. 9, Paras. 6 and 7 of the International Agreement on Air Transport and Other Matters between the Republic of Carpania and the Kingdom of Gondour? **Yes, see previous answer.**
60. Was Don Giorgio charged of committing an unlawful act in relation to the crash of flight HP1234 by the authorities of the Kingdom of Gondour? **No**

The Investigation

61. Did Gondour or Carpania conduct, or is either State conducting, any investigations other than Gondour's Annex 13 investigation? **No**
62. Did the State of Carpania participate in the investigation of the crash of flight HP1234? **There is no information on this – you may proceed on the assumption that the State of Carpania was not involved with the investigation.**
63. Was there any investigation officer available from the side of Carpania when the accident investigation was instituted by Gondour authorities? **See previous answer.**
64. Did the Kingdom of Gondour initiate investigation of any kind against Don Roberto? **Who is Don Roberto?**

Other events

65. Did Don Georgio exercise any form of public function in the Kingdom of Gondour, particularly at the time of the crash of flight HP1234 ? **This is not relevant as he was anyway acting on his own as to which see section 21.**
66. Does Don Georgio hold any office in the government or public administration of the State of Gondour, and is he considered to be a member of the Royal family under the legislation of Gondour? **See previous answer**
67. What is the exact scope of AlfClean Inc.'s obligations under the contract mentioned in paragraph 18? **This is not relevant for the reliefs sought.**
68. Did all the authorities and non-state entities in Gondour have the day off on 30 July 2018 as its armed forces did? **This is not relevant for the reliefs sought.**
69. Who looked after the Gondour army's stores on 30 July 2018? **This is not relevant for the reliefs sought.**
70. Is the weapon store (Section D paragraph 18) the sole source of the shoulder launched missile within the territory of the Kingdom of Gondour? **It is a source; it is irrelevant whether it is the only source.**
71. Is there any protection measure of the weapon store (guard, device etc.) and/or procedural requirement of taking out and use the weapon in weapon store? Is it possible that anyone who has a key is able to get access to the weapon and take it away? **As there is no information on these details you can proceed from the facts as stated.**
72. Was the contract about looking after the army's stores (Compromis, para. 18) concluded before the King's cousin's statement that he "would bring them down"? (Compromis, para. 14) **You can proceed from the assumption that it was concluded before the King's statement.**
73. When exactly the social media post mentioned in Paragraph 14 was published (date)? **No precise dates are needed; anyway in the period before 30 July 2018.**
74. Can King Miguel III's statement, as provided in Section D, Para. 21 of the Compromis stating that "the illegality of the flight would be a valid defence to any prosecution of Don Roberto according to the clear terms of Gondour's Criminal Code" be taken as a matter of fact? **This is the King's statement, head of State of Gondour, which should be interpreted as such.**

Applicable Laws

75. The State of Carpania and the Kingdom of Gondour made an amendment to the Agreement on Air Transport and Other Matters by exchange of diplomatic notes on 14th of July 2018. How did this amendment exactly change the previous version of the Agreement on Air Transport and Other Matters. **Please proceed from the Agreement on Air Transport as laid down in Annex 1, which is the applicable legal instrument.**
76. Pursuant to the provisions of the Agreement on Air Transport and Other Matters, did either state submit a written request for consultations with the other party with regards to practices prohibited by this agreement. **See section 23.**
77. What exactly has been amended in the International Agreement on Air Transport and Other Matters and when did the amendment enter into force? (Compromis, Annex 1: Agreement on Air Transport and Other matters Between the Republic of Carpania and the Kingdom of Gondour Article 13) **Please proceed from the Agreement on Air Transport as laid down in Annex 1, which is the applicable legal instrument.**
78. When was the International Agreement on Air Transport and Other Matters between the Republic of Carpania and the Kingdom of Gondour signed? (Two different dates appear in

section A, Para. 6 of the Compromis and in the Agreement itself) **On 30 October 1983 – the dates mentioned in section 6 are unrelated to this agreement.**

79. What amendment was made on 14 July 2018 to the Agreement on Air Transport and Other Matters of 1983? **Please proceed from the Agreement on Air Transport as laid down in Annex 1, which is the applicable legal instrument.**
80. Are Carpania and Gondour parties to the Convention for the Unification of Certain Rules for International Carriage by Air (The Montreal Convention)? **This is not relevant for the reliefs sought in this case.**
81. Are The Republic of Carpania and The Kingdom of Gondour parties to the the Convention on Offences and Certain Other Acts Committed on Board Aircraft, the Convention for the Suppression of Unlawful Seizure of Aircraft, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, the Convention on the marking of plastic explosives for purpose of detection and the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation? These international agreements are not mentioned in lit A of the Compromis but are mentioned in Article 8 of Agreement on Air Transport and other matters between The Republic of Carpania and The Kingdom of Gondour (Annex 1 to the Compromis). **Please proceed from the applicability of the Beijing Convention (2010) as mentioned in Section A, applicable sources.**
82. Regarding Article 8(2) of the Agreement (Annex 1 to the moot problem) - are all the conventions mentioned indiscriminately apply to both Carpania and Gondour and do they come under applicable international law? **Please proceed from the applicability of the Beijing Convention (2010) as mentioned in Section A, applicable sources, leaving the above conventions outside of the scope of your line of arguments.**
83. What approach towards international law do Carpania and Gondour follow - Monist or Dualist? **Please proceed from the assumption that the two States have correctly implemented the applicable conventions in their national legislations, whether following the monist or dualist procedure.**
84. Are the two countries monist or dualist countries? **Please proceed from the assumption that the two States have correctly implemented the applicable conventions in their national legislations, whether following the monist or dualist procedure.**

Other

85. In its first prayer, does Carpania not wish to argue that Gondour violated the 'Agreement on Air Transport and Other Matters between the Republic of Carpania and the Kingdom of Gondour' on account of the closure of Airway 666 by way of the Dodo Act and subsequent actions? **You are free to add this agreement in your line of arguments.**
86. In article 4(4) of Annex 1 of moot compromis "Notwithstanding paragraph 3, with respect to paragraph 1(c)" there is no paragraph 1(c) in the following article. **Cross references and numbers of articles have been adapted.**
87. Annex 1: Article 4, para 4 – must be "wrt para 1(b)?" Article 5, para 2 – what attachment? Article 6, para's 3 and 6 – shouldn't reference be to Art. 12? (many such other references) **Cross references and numbers of articles have been adapted.**
88. Did the ICAO Council play any role in the case? **No, it did not, as there is no information on this.**