

COUR INTERNATIONALE DE JUSTICE

# COMPROMIS

DE SAISINE DE LA COUR INTERNATIONALE DE  
JUSTICE, AU SUJET DU DIFFÉREND ENTRE LA  
RÉPUBLIQUE DU CARPANIA ET LE ROYAUME  
DE GONDOUR RELATIF À L'USAGE DE LA  
FORCE CONTRE LE VOL HHP 1234

notifié conjointement à la Cour le 1<sup>er</sup> juin 2019

INTERNATIONAL COURT OF JUSTICE

# SPECIAL AGREEMENT

SEISING THE INTERNATIONAL COURT OF  
JUSTICE OF THE DISPUTE BETWEEN THE  
REPUBLIC OF CARPANIA AND THE KINGDOM  
OF GONDOUR IN THE MATTER OF THE USE OF  
FORCE AGAINST FLIGHT HHP 1234

jointly notified to the Court on 1<sup>st</sup> June 2019

**JOINT NOTIFICATION**  
**ADDRESSED TO THE REGISTRAR OF THE COURT**

The Hague, 1<sup>st</sup> March 2019.

On behalf of the Government of the Republic of Carpania and the Government of the Kingdom of Gondour, and in accordance with Article 40(1), of the Statute of the International Court of Justice, we have the honour to transmit to you a certified true copy of the Special Agreement for Submission to the International Court of Justice of the Dispute between the Republic of Carpania (Applicant) and the Kingdom of Gondour (Respondent) concerning the use of force against flight HHP 1234, signed at The Hague, The Netherlands, on 20 December 2018.

*(Signed)*

His Excellency Melin,  
Ambassador of the Republic  
of Carpania  
to the Kingdom of the Netherlands

*(Signed)*

His Excellency Knerr,  
Ambassador of the Kingdom  
of Gondour  
to the Kingdom of the Netherlands

THE 2019 LEIDEN/SARIN AIR LAW MOOT COURT COMPETITION

**COMPROMIS**

REPUBLIC OF CARPANIA v. THE KINGDOM OF GONDOUR

IN THE MATTER OF THE USE OF FORCE AGAINST FLIGHT HHP 1234

*The Republic of Carpania (“Applicant”) and the Kingdom of Gondour (“Respondent”)* (hereinafter “the Parties”);

*Considering* that differences have arisen between them concerning the downing of flight HHP 1234 and other matters;

*Recognizing* that the Parties have been unable to settle these differences by direct negotiations;

*Desiring* to submit the dispute to the International Court of Justice (“the Court”) for resolution;

Have agreed as follows:

**Article 1**

Pursuant to Article 36(1) of the Statute of the International Court of Justice (hereinafter, the “Court”), the Parties agree to submit to the Court the dispute described in Article 2 of this Special Agreement (together with Corrections and Clarifications to follow).

**Article 2**

The Parties request the Court to determine in accordance with applicable rules of international law as specified in Article 38(1) of the Statute of the Court any and all legal claims of the Republic of Carpania against the Kingdom of Gondour.

**Article 3**

Procedures shall be regulated in accordance with the applicable provisions of the Official Rules of the 2019 Leiden/Sarin Air Law Moot Court Competition.

**Article 4**

The Parties shall accept the decision of the Court as final and binding, and undertake to comply with and implement it in full and in good faith.

In witness whereof the undersigned have signed the present Special Agreement.

Done at The Hague, The Netherlands, on 20 December 2018, in triplicate in the English language.

*(Signed)* MR. Gibbs,  
Minister of Foreign Affairs  
Republic of Carpania

*(Signed)* MRS. Cordy,  
Minister of Foreign Affairs  
Kingdom of Gondour

THE 2019 LEIDEN/SARIN AIR LAW MOOT COURT COMPETITION

**COMPROMIS**

REPUBLIC OF CARPANIA V. THE KINGDOM OF GONDOUR

**A. APPLICABLE SOURCES OF INTERNATIONAL LAW**

1. The parties to this Case are the Republic of Carpania (**Carpania**) and the Kingdom of Gondour (**Gondour**). They are both parties to the following treaties, international agreements and related sources of international law:

- (1) *The Convention on International Civil Aviation*, signed at Chicago on 7 December 1944 (**Chicago Convention**), including all amendments and Annexes thereto;
- (2) *The International Air Services Transit Agreement*, signed at Chicago on 7 December 1944 (**Transit Agreement**);
- (3) *The United Nations Charter*, signed at San Francisco on 26 June 1945;
- (4) *The Convention on the Law of Treaties*, signed at Vienna on 23 May 1969 (**VCLT**);
- (5) *The Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation*, signed at Beijing on 10 September 2010 (**Beijing Convention**), and the other conventions on aviation security as mentioned in Article 9 of the attached Agreement on Air Transport and Other Matters of 1983, as variously amended;
- (6) *The International Agreement on Air Transport and Other Matters*, concluded between the Kingdom of Gondour and the Republic of Carpania, signed at Gondou City on 30 October 1983, as variously amended.

Neither State has made a reservation to any of the above treaties nor notified the International Civil Aviation Organisation (**ICAO**) of any differences between, on the one hand, the Standards laid down in the 19 Annexes to the Chicago Convention and, on the other hand, their national regulations, procedures and practices.

**B. INTRODUCTION**

2. Carpania is a tranquil island in the far reaches of the Turquoise Ocean. It is poor but beautiful. The mainstay of its economy is agriculture, but it has recently become the ‘go to’ destination for rich tourists and has built several 5 star resorts that are always full to overflowing.

3. Carpania’s nearest neighbour is Gondour, a large State stretching along the coast of the continental land mass some 100km away from the territorial border of Carpania. Gondour also includes a series of small islands that stretch out towards Carpania. When these are taken into consideration, its territorial waters and land form a large cushion standing between Carpania and the rest of the world. There is one airway established under the Regional Air Navigation Plan that connects Carpania to the wider world, Airway 666. It runs across Gondour’s airspace, crossing its coast near the Pom-Pom nature reserve and then extending inland towards its capital, Gondou City, before heading on to a waypoint above the State to its immediate west.

4. Gondour is a rich industrial country, but does not attract as much tourism as Carpania. Although it does have some tourist resorts, they are less developed than those of Carpania and have increasingly lost custom to them. As reported by national newspapers, “this has hurt Gondour national pride greatly, much to the anger of its King, Miguel III.”

5. As a rich State, Gondour has been able to equip its one airline, GonAir, with the latest fuel-efficient electric jet aircraft known as the Electra 230. The Electra 230 has a maximum take off mass (MTOM) of 56,000 kg and is certified to Chapter 4 of Part II of Volume I of Annex 16 to the Chicago Convention.

6. In contrast, as a poor State Carpania’s one airline, Carpa Airline, continues to use gas-guzzling propeller driven aircraft, known as the Conquest 4, that were first acquired in the 1950s and registered in Carpania ever since, that is, since 22 June 1956. In 2005, the aircraft owned and operated by Carpa Airline were modified to improve their performance and reduce the noise from their propeller engines. The modifications allowed the aircraft to meet the requirements laid down in Chapter 3 of Part II of Volume I of Annex 16 to the Chicago Convention on Environmental Protection. On 22 December 2006, the competent civil aviation authorities of Carpania have re-certificated the Conquest 4 aircraft owned by Carpa Airlines to Chapter 3 of Annex 16. The Conquest 4 has a maximum certificated take-off mass of 34,670 kg.

### **C. BACKGROUND**

7. On 25 March 2018, a pair of Dodo birds was allegedly found nesting in Gondour's Pom-Pom nature reserve by a scientist from its Nature Institute, Dr Doolittle, although he was not able to capture them on camera. This caused great excitement as the species had previously been thought to be extinct.

8. On 1 April 2018, Gondour's Parliament passed into force the Dodo Act 2018, one of the provisions of which was that in order to preserve the Dodo:

(1) aircraft may only fly on Airway 666 between Gondou City and the end of Gondour's territorial waters in the Turquoise Ocean if:

(a) they are powered by electric motors; and

(b) they fly on that route at a height of no less than 20,000 feet above ground level (agl); and

(2) any aircraft not meeting these requirements wishing to fly between Gondou City and the end of Gondour's territorial waters in the Turquoise Ocean must use a new route, Airway 777 as established in accordance with ICAO Annex 11 on Air Traffic Serviced, the Procedures for Air Navigation Services (PANS) on Air Traffic Management, and the applicable Regional Air Navigation Plan.

(3) Any aircraft flying below a level of 5000 feet agl, and/or using an airport on the territory of Gondour, must meet the certification requirements of Chapter 4 of Part II of Volume I of Annex 16 to the Chicago Convention.

9. For the same reason, that is, the protection of its birds, which it was feared would be disturbed by the noise from aircraft flying at low levels, the Parliament of Gondour adopted Regulation 261/18 of 29 August 2018, henceforth also referred to as 'Regulation 261'. This Regulation forbids operations of subsonic jet aircraft not meeting the norms of Chapter 4 of part II of Volume I of Annex 16 to and from Gondourian airports. Carpania argues that the requirements laid down in Chapter 4 of Part II of Volume I of Annex 16 to the Chicago Convention on Environmental Protection are not mandatory for aircraft which type certificate were issued before 1 January 2006. While acknowledging this fact, Gondours's Civil Aviation Authority considers that this does not apply to re-certificated aircraft.

10. Airway 777 routed aircraft in-bound from Carpania to the coast of Gondour 500 km to the north of where Airway 666 crossed its territory, and then took them back down to join Airway 666 at a point 200 km to the east of Gondou City (and *vice versa*).

11. GonAir's aircraft could meet both of the requirements set out in para 8(1) above and so kept flying without interruption. In contrast, Carpa Airline's Conquest 4 could not meet either requirement in order to fly Airway 666. They also did not have the range to be able to take the alternative Airway 777 route to the rest of the world. In addition, due to Regulation 261/18, Carpa Airline can no longer operate direct flights between Carpania and Gondour, thus completely isolating Carpania from the rest of the world.

12. Faced with this difficulty and the systematic refusal of Gondour's air traffic control to give Carpa Airline permission to use Airway 666, it continued to operate its scheduled services under Visual Flight Rules, using a routing 15 nautical miles parallel to Airway 666, flying at an altitude of 13,500 feet on eastbound flights and 12,500 feet on westbound flights. Gondour's authorities denied the permission to do so on each occasion, but did not take actions to intercept the aircraft, in order not to put the safety of passengers at risk.

13. This led to much agitation against Carpania in Gondour's press. Carpania's press responded in kind, asserting that the Dodo Act 2018 and Regulation 261 were only a ruse by Gondour to stop its aircraft from flying and thus starve Carpania's resorts of tourists. The national press also asserted that, in any event, there was no evidence of the existence of the Dodo birds and that, if they indeed exist, their health could not be prejudiced by the noise emitted by the Conquest 4 aircraft. Gondour in turn rejected this vehemently, asserting that its only motive was to protect the Dodo and that all of the provisions of the Dodo Act 2018 and of Regulation 261 were necessary for this purpose.

14. The cousin of Gondour's King Miguel III, Don Georgio, was at the time an avowed environmental crusader and happened to live on the border of the Pom-Pom nature reserve. He took up the cause of the Dodo and stated repeatedly in the press and on social media that, if Carpa Airline continued to flout the Dodo Act 2018, he "would bring them down". However, neither the King nor the Gondour's authorities did anything in response, apart from repeatedly stating that Carpa Airline could no longer operate the Conquest 4 aircraft over or within Gondour's territory.

**D. STATEMENT OF FACTS**

15. On 30 July 2018, Carpa Airline's scheduled flight HHP 1234 departed from Carpania and proceeded eastwards along Airway 666. As it passed over the Pom-Pom nature reserve it was hit by a shoulder launched missile, causing it to crash killing all 53 on board. Shortly afterwards a message appeared briefly on Don Georgio's social media account saying "I got 'em!!!" accompanied by a picture of the silhouette of a man holding an on-the-shoulder missile launcher.

16. Carpa Airline was not aware of any armed conflicts in this region.

17. The Gondour army had shoulder launched missiles in its arsenal, but all of its forces had been off that day celebrating the State's national day and so its government quickly concluded that the State of Gondour could not have been responsible for the accident.

18. Don Georgio supported his life as an environmental crusader by running a cleaning company, AlfClean Inc., which happened to have a contract from Gondour's government to look after its army's stores. As part of the access needed for that purpose AlfClean Inc. was given keys to the army's weapon store.

19. In the following days rumours began to circulate that Don Georgio had used his pass keys to open the weapon store and then 'borrow' a shoulder missile launcher and accompanying weapon systems. It was said that a whistleblower had admitted that one missile was now unaccounted for.

20. President Thomas of Carpania publicly stated: "to avenge the insult suffered by the Country, the criminal action against Carpania's nationals will be severely punished." He recalled that such an offence can be punished by death penalty under Carpania's national criminal code and that, if nothing was done by Gondour, more severe actions would be undertaken, "including military retaliation."

21. Gondour's authorities initially took no further action in investigating the shooting down but, following repeated requests from President Thomas of Carpania, Gondour instituted an accident investigation in accordance with Annex 13 of the Chicago Convention. That investigation was inconclusive and raised no evidence that Don Georgio was involved.

22. King Miguel III furthermore stated that even if Don Georgio was involved, he was acting on his own and it was clearly a political act done for an environmental cause: the preservation of the Dodo. He added that Carpania had brought the loss upon itself by its flagrant breach of the Dodo Act 2018 and the illegality of the flight would be a valid defence to any prosecution of Don Georgio according to the clear terms of Gondour's Criminal Code.

23. Gondour also rejected Carpania's request to extradite Don Georgio on the same basis. Gondour referred to the provisions of the Agreement on Air Transport and Other Matters of 1983, as variously amended, including the provisions on extradition.

24. All of the following consultations and negotiations between the two States then broke down irretrievably and did not yield a result. Hence, desiring to avoid conflict escalation, the parties have agreed to bring their dispute before the International Court of Justice (**the Court**) by way of this *Compromis*.

**E. RELIEF SOUGHT**

**(1) The Republic of Carpania requests the Court to rule that:**

(a) the Kingdom of Gondour is in breach of its obligations under the Chicago Convention and/or the Transit Agreement in closing Airway 666 as it has done by way of the Dodo Act 2018 and subsequent actions;

(b) Regulation 261/18 of 29 August 2018 cannot be enforced as it infringes applicable international law;

(c) the Kingdom of Gondour is responsible for shooting down the flight HHP 1234 and liable for damages arising from this breach of an obligation under international law; and

(d) the Kingdom of Gondour is furthermore in breach of its obligations under the Beijing Convention in failing to either prosecute Don Georgio for shooting down flight HHP 1234 or to extradite him to Carpania so that he can be prosecuted there.

**(2) The Kingdom of Gondour requests the Court to rule that:**

(a) its closure of Airway 666 as per the Dodo Act 2018 does not breach its obligations under the Chicago Convention and/or the Transit Agreement;

(b) Regulation 261 accords with international law and can be enforced in relation to aircraft registered in third States desiring to operate within Gondour's sovereign territory;

(c) it was not responsible for the shooting down of flight HHP 1234, and cannot be held responsible for any actions of Don Georgio even if he were to be implicated in the downing of the aircraft; and

(d) it is not in breach of its obligations under the Beijing Convention in refusing to either prosecute Don Georgio for the shooting down of flight HHP 1234 or to extradite him to Carpania so that he can be prosecuted there, on the basis that there are substantial grounds to believe that the request for extradition has been made on account of Don Georgio's political opinion.

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**Annex 1: AGREEMENT ON AIR TRANSPORT AND OTHER MATTERS BETWEEN THE REPUBLIC OF CARPANIA AND THE KINGDOM OF GONDOUR**

THE STATE OF CARPANIA, of the one part, hereafter referred to as Carpania

and

THE KINGDOM OF GONDOUR, hereafter referred to as Gondour, on the other part.

DESIRING to promote their interests in respect of air transport as a means to contribute to closer political and economic relations between the Parties;

RECOGNISING the importance of efficient air transport connectivity in promoting trade, tourism, investment and economic and social development;

WISHING to enhance air services and to promote an international aviation system based on non-discrimination and fair and equal opportunity for air carriers to compete;

ASPIRING to ensure the highest degree of safety and security in air transport and affirming their grave concern with regard to acts or threats against the security of aircraft, which jeopardise the safety of persons or property, adversely affect the operation of aircraft and undermine the confidence of the travelling public in the safety of civil aviation;

NOTING the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944 including the Annexes thereto;

AIMING to foster 'fair competition', recognising that where there is not a competitive level playing field for the designated air carriers, potential benefits may not be realised;

RECOGNISING the importance of protecting the environment, including noise abatement and reduction of aircraft emissions, in developing and implementing international aviation policy;

AFFIRMING the need for urgent actions to address climate change and for continued cooperation to reduce noise levels in the aviation sector, consistent with their international obligations on this matter, including instruments of the International Civil Aviation Organization (ICAO);

SIGNALLING the desire to explore ways to facilitate better access to capita} by the air transport industry for the further development of air transport;

THUS SEEKING to conclude an agreement on air transport, supplementary to the Convention;

HAVE AGREED AS FOLLOWS:

## **ARTICLE 1**      *Definitions*

For the purposes of this Agreement, unless otherwise stated, the term:

1. "Agreement" means this Agreement, any Annexes to it, and any amendments thereto;
2. "Parties" means, on the one hand, Carpania, and, on the other hand, Gondour;
3. "Convention" means the Convention on International Civil Aviation, opened for signature at Chicago on 7 December 1944, and includes:
  - (a) any amendment that has entered into force under Article 94(a) of the Convention and has been ratified by both Carpania and Gondour; and
  - (b) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as such Annex or amendment is at any given time effective for both Carpania and Gondour as is relevant to the issue in question;
4. "International air transport" means air transport that passes through the airspace over the territory of more than one State;
5. "Discrimination" means differentiation of any kind without objective justification.
6. "Territory": has the meaning assigned to it in Article 2 of the 1944 Chicago Convention.

## **ARTICLE 2**      *Grant of rights*

### 1. Route schedule

Each Party shall permit the air carriers of the other Party to operate on the routes specified hereunder:

- a) for air carriers of Carpania:

Any Points in Carpania - Any Intermediate Points - Any Points in Gondour – Any Points Beyond

- b) for air carriers of Gondour:

Any Points in Gondour - Any Intermediate Points - Any Points in Carpania - Any Points Beyond

### 2. Traffic rights

Each Party grants to the other Party the following rights for the conduct of international air transport by the air carriers of the other Party on a non-discriminatory basis:

- (a) the right to fly across its territory without landing;
- (b) the right to make stops in its territory for non-traffic purposes;
- (c) the right to perform scheduled and non-scheduled international air transport for passenger, combination and all-cargo services;
- (d) the rights otherwise specified in this Agreement.

## **ARTICLE 3**      *Capacity of the agreed international air services*

### 1. Frequencies and capacity

Each Party shall allow each air carrier to determine the frequency and capacity of the international air transport it offers based on commercial considerations in the marketplace.

### 2. No unilateral limits on volume of air traffic

Consistent with this right, neither Party shall unilaterally limit the volume of traffic, frequency or regularity of service, routing, origin and destination of traffic, or the aircraft type or types operated by the air carriers of the other Party, except for customs, technical, operational, air traffic management safety, environmental or health protection reasons or unless otherwise provided for in this Agreement.

## **ARTICLE 4**      *Operating authorisation*

1. On receipt of an application for an operating authorisation from an air carrier of a Party, the other Party shall grant the appropriate operating authorisations and technical permissions with minimum procedural delay, provided that:

2.

(a) for an air carrier of Carpania:

- (i) the air carrier has its principal place of business in Carpania, and holds a valid operating licence in accordance with the law of Carpania;
- (ii) effective regulatory control of the air carrier is exercised and maintained by Carpania having issued its air operator certificate; and
- (iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by Carpania, and/or its nationals;

(b) for an air carrier of Gondour:

- (i) the air carrier has its principal place of business in Gondour, and holds a valid operating licence in accordance with the law of Gondour;
- (ii) effective regulatory control of the air carrier is exercised and maintained by Gondour having issued its air operator certificate; and
- (iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by Gondour and/or its nationals;

(c) the provisions set out in Articles 7 [Aviation Safety] and 8 [Aviation Security] of this Agreement are being complied with; and

(d) the air carrier meets the conditions prescribed under the laws and regulations applied to the operation of international air transport by the Party considering the application.

3. When granting operating authorisations and technical permissions, each Party shall treat all carriers of the other Party in a non-discriminatory manner.

4. On receipt of an application for an operating authorisation from an air carrier of a Party, the other Party shall recognise any fitness and/or citizenship determination made by the first Party with respect to that air carrier as if such determination had been made by its own competent authorities, and shall not enquire further into such matters, except as provided in paragraph 2 of Article 4. For the avoidance of doubt, this paragraph does not cover recognition of determinations in relation to safety certificates or licences, or security arrangements.

**ARTICLE 5      *Refusal, revocation, suspension or limitation of authorisation***

1. Either Party may refuse, revoke, suspend, impose conditions on or limit the operating authorisations or technical permissions or otherwise refuse, suspend, impose conditions on or limit the operations of an air carrier of the other Party, where:

- (a) the designated air carrier of either Party does not comply with the nationality requirements set out in Article 3;
- (b) the air carrier has failed to comply with the domestic laws and regulations referred to in this Agreement and/or with the laws and regulations normally applied to the operation of international air transport by the Party considering the application.

2. Where a Party has grounds to argue that an air carrier of the other Party is in any of the situations laid down in paragraph 1 that Party may request consultations with the other Party pursuant to Article 13 of this Agreement.

3. Failure to reach a satisfactory agreement within an agreed time period from the starting date of such consultations, or failure to take the agreed corrective action, shall constitute grounds for the Party that

requested the consultations to take action to refuse, revoke, suspend, impose conditions on or limit the operating authorisation or technical permissions of an air carrier of the other Party to ensure compliance with the provisions of this Article.

4. Notwithstanding paragraph 3, with respect to paragraph 1 (b), a Party may take immediate or urgent action when required by an emergency, or to prevent further non-compliance. For the avoidance of doubt, further non-compliance requires that the question of non-compliance has already been raised between the competent authorities of the Parties.

**ARTICLE 6        *Compliance with laws and regulations***

1. While entering, within, or leaving the territory of one Party, the laws and regulations relating to the admission to, operating within, or departure from its territory of aircraft shall be complied with by the air carriers of the other Party.

2. While entering, within, or leaving the territory of one Party, its laws and regulations relating to the admission to, operating within, or departure from its territory of passengers, crew, baggage, cargo and/or mail on aircraft, including regulations relating to entry, clearance, immigration, passports, customs and quarantine, or in the case of mail, postal regulations, shall be complied with by, or on behalf of, such passengers, crew, baggage, cargo and/or mail of the air carriers of the other Party, including regulations pertaining to noise reduction as specified in this Agreement and the attachment thereto.

**ARTICLE 7        *Fair competition***

1. The Parties agree that their air carriers shall enjoy fair and equal opportunities to compete in the provision of air transport services.

2. The Parties shall prohibit, and where they exist, eliminate, within their respective jurisdictions and using their respective internal procedures and processes, any forms of discrimination or unfair practices which would adversely affect the fair and equal opportunity of the air carriers of the other Party to compete in providing air transport services.

3. If a Party, that is, "the acting Party", considers that its carriers' fair and equal opportunities to compete are adversely affected by discrimination or unfair practices prohibited under paragraph 2, it may proceed to submit a written request for consultations to the other Party, accompanied by a written report with its observations and material evidence, following the procedure of Article 13 of this Agreement.

4. If the acting Party and the other Party fail to reach agreement on the matter within sixty (60) days from the commencement of the consultations, the acting Party may take measures against the air carriers which have engaged in the contested conduct or which have benefitted from the discrimination or unfair practices in question. The acting Party shall notify the other Party, in writing, of the measures to be taken at least fifteen (15) days before the implementation of any such measure.

5. The measures taken pursuant to the preceding paragraph shall be appropriate, proportionate and restricted in their scope and duration to what is strictly necessary, with a view to mitigating the injury to the carriers of the acting Party and removing the undue advantage gained by the carriers against which they are directed.

6. Any actions and measures taken pursuant to paragraph 5 shall be without prejudice to the right of either Party to refer those to the dispute settlement procedure laid down in Article 13.

**ARTICLE 8**      *Aviation safety*

1. The Parties reaffirm the importance of close cooperation in the field of aviation safety.
2. Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Party and still in force shall be recognised as valid by the other Party and its aeronautical authorities for the purpose of operating air services, provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, as a minimum, the relevant international Standards and Recommended Practices and procedures for air navigation services established under the Convention.
3. Each Party may request consultations and negotiations at any time concerning the safety standards and requirements maintained and administered by the other Party in accordance with the procedure drawn up in Article 13 of this Agreement.
4. Failure by the other Party to take appropriate corrective action within a reasonable period of time shall constitute grounds for the requesting Party to refuse, revoke, suspend, impose conditions on or limit the operating authorisations or technical permissions or to otherwise refuse, revoke, suspend, impose conditions on or limit the operations of an air carrier which is under the safety oversight of the other Party.
5. Each Party shall have the right to take immediate action including the right to revoke, suspend or limit the operating authorisations or technical permissions or to otherwise suspend or limit the operations of an air carrier of the other Party, if it concludes that it is necessary in view of an immediate threat to aviation safety. The Party taking such measures shall promptly inform the other Party, providing reasons for its action.
6. Any action by a Party in accordance with preceding paragraphs of this Article shall be necessary and proportionate to addressing a safety finding and shall be discontinued once the basis for the taking of that action ceases to exist.

**ARTICLE 9**      *Aviation security*

1. The Parties underline their commitment to achieve the highest levels of aviation security standards and may, as appropriate, engage in further dialogue and cooperation in this field.
2. The Parties reaffirm their obligations to each other to provide for the security of civil aviation against acts of unlawful interference, and in particular their obligations under the Convention, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24 February 1988 and the Convention on the marking of plastic explosives for purpose of detection signed at Montreal on 1 March 1991, and the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, signed at Beijing on 10 September 2010, insofar as the Parties are parties to these conventions, as well as all other conventions and protocols relating to civil aviation security which the Parties have ratified.
3. The Parties shall provide upon request all necessary assistance to each other to address threats to the security of civil aviation, including the prevention of acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, of their passengers and crew, airports and air navigation facilities.
4. The Parties shall act in conformity with the international aviation security Standards and Recommended Practices established by the ICAO. They shall require that operators of aircraft of their registries, operators of

aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory, act, at least, in conformity with such aviation security provisions.

5. Each Party agrees that the security provisions required by the other Party relating to the admission to, operating within, or departure from its territory of aircraft must be observed.

6. With full regard and mutual respect for each other's sovereignty, a Party may adopt security measures for entry into its territory, as well as emergency measures, in order to meet a specific security threat, which should be communicated to the other Party without delay. Each Party shall give positive consideration to any request from the other Party for reasonable special security measures, and the first Party shall take into account the security measures already applied by the other Party and any views that the other Party may offer as well as the possible adverse effects on air transport between the Parties. Except where not reasonably possible in case of emergency, each Party will inform the other Party in advance of any special security measures it intends to introduce which could have a significant financial or operational impact on the air transport services provided under this Agreement.

7. Each Party recognises, however, that nothing in this Article limits the ability of a Party to refuse entry into its territory of any flight that it deems to present a threat to its security.

8. When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of aircraft, passengers, crew, airports or air navigation facilities occurs, the Parties shall assist each other by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat.

9. When a Party has reasonable grounds to believe that the other Party has departed from the provisions of this Article, that Party may request immediate consultations with the other Party. Failure to reach a satisfactory agreement within thirty (30) days or a longer period as may have been agreed shall constitute grounds for the Party that requested the consultations to take action to refuse, revoke, suspend, impose conditions on or limit the operating authorisation and technical permissions of an air carrier of the other Party to ensure compliance with the provisions of this Article.

10. Any action taken in accordance with this Article shall be necessary and proportionate to addressing a security threat and shall be discontinued upon compliance by the other Party with the provisions of this Article or when such action is no longer necessary.

#### **ARTICLE 10      *Prosecution and extradition***

1. If the offender of an offence stipulated in any of the security conventions mentioned in Article 8, is found on the territory of one of the Parties, such party shall establish its jurisdiction in accordance with the provisions of that convention, including but not limited to the the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, signed at Beijing on 10 September 2010.

2. Each Contracting Party agrees to extradite to the other, persons found in its territory who have been charged with, or convicted of, any of the offenses covered by the aviation security conventions mentioned in this Agreement.

3. Persons shall be delivered up according to the provisions of this Agreement for any of the offenses listed in Article 1 of the the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, signed at Beijing on 10 September 2010, and other aviation security conventions as in force between the Parties, provided these offenses are punishable by the laws of both Contracting Parties by a term of imprisonment exceeding one year.

4. Extradition shall also be granted for attempts to commit, or conspiracy to commit or being a party to any of such offenses.
5. Extradition shall not be granted in any of the following circumstances:
  - (a) When the person whose surrender is sought is being proceeded against, or has been tried and discharged or punished in the territory of the requested State for the offense for which his extradition is requested.
  - (b) When the prosecution for the offense has become barred by lapse of time according to the laws of the requesting State.
  - (c) When the offense in respect of which extradition is requested is of a political character, or the person whose extradition is requested proves that the extradition request has been made for the purpose of trying or punishing him for an offense of the above-mentioned character.
  - (d) If any question arises as to whether a case comes within the provisions of this subparagraph, the authorities of the Government on which the requisition is made shall decide.
6. The request for extradition shall be made through the diplomatic channel.
7. The request shall be accompanied by a description of the person sought, a statement of the facts of the case, and the text of the laws of the requesting State describing the offense and prescribing the punishment for the offense.
8. Extradition shall be granted only if the evidence be found sufficient, according to the laws of the place where the person sought shall be found, either to justify his committal for trial if the offense of which he is accused had been committed in its territory or to prove that he is the identical person convicted by the courts of the requesting State.

**ARTICLE 11**     *Environment*

3. The Parties support the need to protect the environment by promoting the sustainable development of aviation.
4. On the routes to and from their respective Territories the services by the designated airlines concerned shall be operated with aircraft which conform to the SARPs of Annex 16 to the Chicago Convention.
5. The Parties recognise the need to take appropriate measures to prevent or otherwise address the environmental impacts of air transport provided that such measures are fully consistent with their rights and obligations under international law.

**ARTICLE 11**     *Implementation*

1. Nothing in this Agreement shall be construed as intended to confirm rights or to impose obligations which can be directly invoked by nationals of one Party before the courts or tribunals of the other Party.
2. The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement.
3. In exercising their rights under this Agreement, the Parties shall take measures which are appropriate and proportionate to their objective.
4. Each Party shall be responsible for the proper enforcement of this Agreement.

**ARTICLE 13      *Solution of disagreements and Dispute resolution***

1. Where either Party has concerns about possible infringement of this Agreement, it may request consultations and negotiations with the other Party.
2. Any dispute relating to the application or interpretation of this Agreement, may be referred by the Parties to the dispute settlement mechanism provided for in this Article.
3. If a Party has taken action to refuse, revoke, suspend, impose conditions on or limit the operating authorisation or technical permissions of an air carrier of the other Party, the dispute may be immediately referred to the International Court of Justice for decision.

**ARTICLE 14      *Entry into force***

This Agreement shall enter into force one (1) month after the date of the later note in an exchange of diplomatic notes between the Parties.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Agreement.

Done at Gondou City, on 30 October in the year 1983,

For the State of Carpania

For the Kingdom of Gondour

**Last amendment by exchange of diplomatic notes: 14 July 2018**

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**Annex 2. 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)**

The Government of the Kingdom of Gondour,

Having regard to the provisions of its Civil Aviation Act,  
CONSIDERING THAT:

- 1) one of the principal objectives of the Kingdom of Gondour's transport policy is sustainable protection of the environment;
- 2) the growth in air transport activities at Gondour's airports is increasingly subject to environmental constraints whereas the operation of less noisy aircraft at these airports can contribute to a better use of available airport capacity;
- 3) noise can adversely affect human well-being and wildlife, most notably protected species;
- 4) older types of aircraft have a noise performance which is worse than that of modern types of aircraft originally certificated to meet the standards of Volume I, Part II, Chapter 4 of Annex 16 to the Convention on International Civil Aviation,
- 5) it is necessary to minimise possible distortions of competition by establishing equivalent requirements applicable to aircraft registered in third countries;
- 6) since Gondour has no competence over third-country registers, that objective can be achieved only by restricting the operation of non-complying aircraft registered as from 1 September 2018 in third countries.

HAS ADOPTED THE PRESENT REGULATION:

Article 1            *Objective*

The objective of this Regulation is to lay down rules to prevent deteriorations in the overall noise impact in the Kingdom of Gondour by aircraft not meeting the standards of this Regulation while at the same time limiting other environmental damage.

Article 2            *Application*

This Regulation applies to the operation of civil aircraft registered in the Kingdom of Gondour, and in third States, under the conditions specified below.

Article 3            *Non-complying aircraft*

1. Aircraft not meeting the norms of Volume I, Part II, Chapter 4 of Annex 16 shall not be registered in the national register of Gondour as from 1 September 2018.
2. Paragraph 1 shall not affect aircraft which were already on the register of Gondour on 1 January 2006 and have been registered in Gondour ever since.
3. Aircraft not meeting the norms of Volume I, Part II, Chapter 4 of Annex 16 registered in a third country:
  - a) shall not be allowed to operate at airports in the territory of Gondour, unless
  - b) such aircraft were certified in accordance with Volume I, Part II, Chapter 3 of Annex 16 prior to 1 January 2006.
4. Recertificated civil jet aircraft are excluded from the benefit of Article 3(3), b) above.

Article 4            *Entry into force*

1. This Regulation shall enter into force on the day of its publication on 30 August 2018 in the *National Gazette of the Kingdom of Gondour*.
2. This Regulation shall be binding in its entirety and directly applicable in the territory of Gondour as from 1 September 2018

Done at Gondou City, 29 August 2018

Eva Micheli, Minister of Transport of the Kingdom of Gondour