

INTERNATIONAL COURT OF JUSTICE

**SPECIAL AGREEMENT**

SEISING THE INTERNATIONAL COURT OF JUSTICE OF THE DISPUTE BETWEEN THE  
REPUBLIC OF ZEUS, THE REPUBLIC OF HERA, THE REPUBLIC OF POSEIDON, THE  
REPUBLIC OF DEMETER, THE REPUBLIC OF HEPHAESTUS, THE REPUBLIC OF  
HESTIA, THE REPUBLIC OF APOLLO, THE REPUBLIC OF ARTEMIS, THE REPUBLIC OF  
HERMES, THE REPUBLIC OF APHRODITE, THE REPUBLIC OF ARES, THE REPUBLIC  
OF ATHENA

v. THE STATE OF TERRA MARGARITA

IN THE MATTER OF INTERPRETATION AND APPLICATION OF CERTAIN PROVISIONS  
OF THE 2022 COMPREHENSIVE AIR TRANSPORT AGREEMENT BETWEEN THE  
PARTIES AND OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

*jointly notified to the Court on the thirtieth of September 2024*

-----

**COUR INTERNATIONALE DE JUSTICE**

**COMPROMIS**

ENTRE LA RÉPUBLIQUE DE ZEUS, LA RÉPUBLIQUE D'HÉRA, LA RÉPUBLIQUE DE  
POSÉIDON, LA RÉPUBLIQUE DE DÉMÉTER, LA RÉPUBLIQUE D'HÉPHAESTOS, LA  
RÉPUBLIQUE D'HESTIA, LA RÉPUBLIQUE D'APOLLON, LA RÉPUBLIQUE D'ARTÉMIS,  
LA RÉPUBLIQUE D'HERMÈS, LA RÉPUBLIQUE D'APHRODITE, LA RÉPUBLIQUE  
D'ARÈS, LA RÉPUBLIQUE D'ATHÉNA  
ET L'ÉTAT DE TERRA MARGARITA

EN MATIÈRE D'INTERPRÉTATION ET D'APPLICATION DE CERTAINES DISPOSITIONS  
DE L'ACCORD GLOBAL EN MATIÈRE DE TRANSPORT AÉRIEN DE 2022 CONVENU  
ENTRE LES PARTIES ET DE LA CONVENTION RELATIVE À L'AVIATION CIVILE  
INTERNATIONALE

*notifié conjointement à la Cour le trente septembre 2024*

## JOINT NOTIFICATION

### ADDRESSED TO THE REGISTRAR OF THE COURT

The Hague, the 11<sup>th</sup> of October 2024

On behalf of the twelve Member States of the Olympian Union, namely the Republics of Zeus, Hera, Poseidon, Demeter, Hephaestus, Hestia, Apollo, Artemis, Hermes, Aphrodite, Ares and Athena and the Government of the State of Terra Margarita, 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 said twelve States (Applicants) and the State of Terra Margarita (Respondent) concerning the interpretation and application of certain provisions of the 2022 Comprehensive Air Transport Agreement between the Parties and of the 1944 Convention on International Civil Aviation, signed at The Hague, The Netherlands, on 11 October 2024.

(signed)

His Excellency Mr Zephyros Nestor  
Ambassador of the Republic of Zeus to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Cleocharia Melanthe  
Ambassador of the Republic of Hera to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Reem Zayd  
Ambassador of Terra Margarita to the Kingdom of The Netherlands

(signed)

His Excellency Mr Kyros Damocles  
Ambassador of the Republic of Poseidon to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Andromeda Kifeos  
Ambassador of the Republic of Demeter to the Kingdom of The Netherlands

(signed)

His Excellency Mr Eryx Philemon

Ambassador of the Republic of Hephaestus to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Aristeia Lysandra

Ambassador of the Republic of Hestia to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Kallista Philonoe

Ambassador of the Republic of Apollo to the Kingdom of The Netherlands

(signed)

His Excellency Mr Thales Milisios

Ambassador of the Republic of Artemis to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Dione Myrrha

Ambassador of the Republic of Hermes to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Chloris Phaidra

Ambassador of the Republic of Aphrodite to the Kingdom of The Netherlands

(signed)

His Excellency Mr Xanthos Leandros

Ambassador of the Republic of Ares to the Kingdom of The Netherlands

(signed)

Her Excellency Mrs Thaleia Eudoxia

Ambassador of the Republic of Athena to the Kingdom of The Netherlands

THE 2025 LEIDEN-SARIN INTERNATIONAL AIR LAW MOOT COURT  
COMPETITION  
COMPROMIS

REPUBLIC OF ZEUS  
REPUBLIC OF HERA  
REPUBLIC OF POSEIDON  
REPUBLIC OF DEMETER  
REPUBLIC OF HEPHAESTUS  
REPUBLIC OF HESTIA  
REPUBLIC OF APOLLO  
REPUBLIC OF ARTEMIS  
REPUBLIC OF HERMES  
REPUBLIC OF APHRODITE  
REPUBLIC OF ARES  
REPUBLIC OF ATHENA

*(applicants)*

v.

STATE OF TERRA MARGARITA

*(respondent)*

IN THE MATTER OF INTERPRETATION AND APPLICATION OF CERTAIN  
PROVISIONS OF THE 2022 COMPREHENSIVE AIR TRANSPORT AGREEMENT  
BETWEEN THE PARTIES AND OF THE CONVENTION ON INTERNATIONAL  
CIVIL AVIATION

## **A. APPLICABLE SOURCES OF INTERNATIONAL LAW**

1. The parties to this case are the Republic of Zeus, the Republic of Hera, the Republic of Poseidon, the Republic of Demeter, the Republic of Hephaestus, the Republic of Hestia, the Republic of Apollo, the Republic of Artemis, the Republic of Hermes, the Republic of Aphrodite, the Republic of Ares, the Republic of Athena, which are Member States of the Olympian Union (applicants) and the State of Terra Margarita (respondent). All States are parties to the following Conventions:

(i) *The Convention on International Civil Aviation*, signed at Chicago on 7 December 1944 (Chicago Convention), including all Protocols of amendment to the Convention. None of the States has notified any difference between its own legislation and the corresponding Standards and Recommended Practices of ICAO (SARPs) included in Annex 16, Volume IV to the Chicago Convention [Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)] and have supported the relevant ICAO Assembly Resolutions;

(ii) *The United Nations Charter*, signed at San Francisco on 26 June 1945 (U.N. Charter);

(iii) *The Convention on the Law of Treaties*, signed at Vienna on 23 May 1969 (Vienna Convention); and

(iv) *The Paris Agreement to the United Nations Framework Convention on Climate Change*, signed at Paris on 12 December 2015 (Paris Agreement).

Air services between the twelve Member States of the Olympian Union (OU) and the State of Terra Margarita are governed by a Comprehensive Air Transport Agreement (CATA) signed on 20 January 2022 and attached as Appendix 1 to the Application. The CATA entered into force on 20 August 2022.

Also, the twelve Member States of the OU and the State of Terra Margarita have voluntarily participated in the ICAO CORSIA since its inception.

## **B. BACKGROUND**

2. The OU is a regional integration organisation comprised of twelve neighbouring Member States located around Mount Pantheon on the continent of Dodekathion, namely the Republic of Zeus, the Republic of Hera, the Republic of Poseidon, the Republic of Demeter, the Republic of Hephaestus, the Republic of Hestia, the Republic of Apollo, the Republic of Artemis, the Republic of Hermes, the Republic of Aphrodite, the Republic of Ares and the Republic of Athena. The OU was founded in 1995, emerging from the desire of the twelve States, whose histories go back thousands of years, to enhance economic, political and cultural cooperation, promoting shared prosperity in their region and beyond.

3. The OU draws inspiration from the European Union (EU). It operates through a Council of Member States, a Parliament and a Commission, where decisions and legislation, in the form of Regulations and Directives with the legal effect of their European equivalents, are made collaboratively. While maintaining a distinct identity, the OU works closely with third countries to balance regional interests with global cooperation.

4. Aviation is critical to the OU and its Member States as a vital connector across its region. With the Member States spread across mountainous terrains and extensive coastlines, efficient air travel is essential for fostering economic integration, tourism and cultural exchange. Additionally, a well-developed aviation infrastructure supports the OU's strategic goals of global connectivity, making it easier for its Member States to engage with international markets and partners, thus driving economic growth and regional stability.

5. The State of Terra Margarita is a coastal State situated along the south shores of the Mare Calidum on the continent of Solaris. Mare Calidum is an inland sea known for its rich maritime history and strategic importance. Terra Margarita's geography is marked by a diverse landscape, including fertile coastal plains, rolling hills and inland forests, which provide an agricultural base and natural resources. The country's coastline features bustling port cities that are crucial regional trade and tourism hubs.

6. Politically, Terra Margarita has a complex history shaped by its strategic location along key maritime routes. After a prolonged struggle for independence, Terra Margarita emerged as a republic in the mid-20th century. Since then, it has developed a stable political system characterised by regular elections, a vibrant civil society and a commitment to democratic governance.

7. Six of the OU's Member States had strong commercial relations with Terra Margarita before the OU was established; these relations were facilitated by the conclusion of six bilateral air services agreements, which provided varied degrees of liberalisation.

Upon the creation of the OU, its twelve Member States mandated the OU Commission to enter into negotiations with the Department of Transport of Terra Margarita, which resulted in adopting the CATA of 20 January 2022, a mixed agreement, signed, of the one part, by the OU and each of its Member States, and, of the other part, by Terra Margarita. The CATA was approved by the Parliaments of the twelve Member States of the OU and Terra Margarita, and came into force on 20 August 2022, replacing the six bilateral air services agreements. This agreement received much attention at its conclusion, characterised by the relevant Ministers as “a global benchmark for forward-looking aviation agreements” and “a testimony to our shared commitment to economically, socially and environmentally sustainable aviation”. The Parties modelled their Agreement on similar terms to the latest comprehensive air transport agreements between the European Union and its 27 Member States, of the one part, and key partners, of the other part.

8. Concerning environmental sustainability, the OU Member States voluntarily joined the International Civil Aviation Organization’s (ICAO) CORSIA since its inception for international flights and the OU has also set up its own cap-and-trade system for greenhouse gas emissions for domestic flights (OU Emissions Trading Scheme), which precedes the establishment of CORSIA and closely follows the EU’s Emissions Trading system. To accommodate both schemes, the OU, in 2023, amended the original Directive establishing the domestic Emissions Trading Scheme, namely “Directive 2003/87 of the Olympian Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Union” , by “Directive 2023/958 of the Olympian Parliament and of the Council of 10 May 2023 amending Directive 2003/87/OU as regards aviation’s contribution to the Union’s economy-wide emission reduction target and the appropriate implementation of a global market-based measure”. This Directive has been implemented by all 12 Member States. The consolidated version of the Directive (as amended) is attached as Appendix 2 to the Application.

9. The OU has also enacted a Regulation on the uptake and supply of sustainable aviation fuels (SAF), namely Regulation 2023/2405 of the Olympian Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelOU Aviation), attached as Appendix 3 to the Application. Furthermore, the Olympian Union has enacted “Regulation 2019/712 of the Olympian Parliament and of the Council of 17 April 2019 on safeguarding competition in air transport” (Regulation (OU) 2019/712), attached as Appendix 4 to the Application.

10. Terra Margarita has no (market-based) system for controlling greenhouse gas (GHG) emissions from domestic aviation. However, it has voluntarily joined the ICAO CORSIA since its inception under the Air Navigation (Carbon Offsetting and

Reduction Scheme for International Aviation) Order 2021, attached as Appendix 5 to the Application. Having said that, Terra Margarita runs its own Sustainable Aviation Fuels mandate (SAF mandate), which provides that, as of 2025, 2% of the jet fuel supplied in Terra Margarita must be SAF with the annual target to increase yearly to reach the target of 10% SAF by 2030 and 22% SAF by 2040.



### **C. STATEMENT OF FACTS**

11. In January 2023, several air carriers from the OU Member States complained to the Olympian Commission, the executive branch of the OU, that Terra Margarita airports, owned and controlled by Terra Margarita, discriminated against OU air carriers by charging them significantly higher prices for sustainable aviation fuel (evidence suggests 20% to 30% higher prices) than charged to domestic air carriers.

12. To offset this competitive disadvantage, OU air carriers argued that they had to purchase conventional aviation fuel at Terra Margarita airports, which resulted in higher emissions and, thus, increased obligations under the OU's Emissions Trading Scheme and the ICAO CORSIA. As per the OU air carriers, the discriminatory treatment they suffer at Terra Margarita airports violates the CATA and redressive measures are necessary.

13. Following an Article 22(3) CATA request by the OU, made in February 2023, the Joint Committee convened a meeting to address this issue. The OU argued that the discriminatory treatment of the OU air carriers at Terra Margarita airports violated the following provisions:

(i) Article 7(1) and (2) CATA – Fair Competition;

(ii) Article 16 CATA – Environment.

14. The OU further argued that this discriminatory treatment necessitated redressive measures under Regulation (EU) 2019/712 on safeguarding competition in air transport.

15. The representatives of Terra Margarita argued that to incentivise (i) its air carriers to transition to sustainable fuels and (ii) its fuel producers to develop sustainable aviation fuels, it adopted a scheme whereby flying solely on sustainable fuels would entail a 50% discount on the market rate of such fuels, developed and purchased in Terra Margarita.

16. The quantities of SAF currently produced in Terra Margarita were insufficient to meet market demand, so only Terra Margarita air carriers were eligible to participate in the scheme.

17. Terra Margarita representatives further argued that this measure was necessary to fulfil the country's environmental obligations under Article 16 CATA and ICAO CORSIA .

18. The consultations within the Joint Committee were fruitless, and, in April 2023, the OU notified Terra Margarita of its wish to invoke the dispute settlement mechanism under the Agreement, as per Article 23(2) CATA.

19. In the spirit of cooperation, the Joint Committee discussed the issue again, but the stalemate continued. In June 2023, the OU, having lost faith in the consultations, requested that the dispute be referred to a person or body for decision, as per Article 23(3) CATA. However, Terra Margarita refused to consent to such a request, arguing that the consultations within the Joint Committee shall be continued.

20. In July 2023, the OU adopted a measure in application of Regulation (OU) 2019/712, enabling OU airports, public and private alike, to increase the prices of conventional and sustainable aviation fuel sold to Terra Margarita air carriers. This increase led to Terra Margarita air carriers paying significantly higher fuel prices than their OU counterparts (estimated at 20% to 30% more) – no other third-country carriers were included in this measure.

21. Due to this increase, Terra Margarita, echoing the complaints of its air carriers, argued that the price increases violate the following provisions:

- (i) Article 7(1) and (2) CATA and Article 7 (8-13) CATA;
- (ii) Article 10 (2) and (3) CATA – User Charges;
- (iii) Article 15 Chicago Convention – Airport and similar charges;
- (iv) Article 6 Regulation (OU) 2019/712 – Suspension.

22. At Terra Margarita's insistence, the fuel price increase at OU airports was discussed at the August 2023 meeting of the Joint Committee, as per Article 22(3) CATA. Terra Margarita argued that the OU measures are retaliatory and disproportionate. The OU counter-argued that they are necessary to offset the anticompetitive treatment reserved for OU air carriers at Terra Margarita airports.

23. In its August 2023 meeting, the Joint Committee failed to resolve the issue, and in October 2023, as per Article 23(2) CATA, the OU notified Terra Margarita of its intention to have recourse to the dispute settlement mechanism under the CATA.

24. The issue was discussed again within the Joint Committee and Terra Margarita rejected for a second time the OU's request, made in December 2023, to refer the dispute to a person or body for decision, as per Article 23(3) CATA.

25. Before the OU submitted the dispute to arbitration as per Article 23(3) CATA, Terra Margarita, in January 2024, initiated proceedings against the twelve members of the OU before the ICAO Council under Article 84 Chicago Convention – Settlement of Disputes.

26. Terra Margarita argued before the ICAO Council that the OU measures violate the following provisions:

- (i) Article 16 CATA – Environment;
- (ii) Article 7 CATA – Fair Competition;
- (iii) Article 10 CATA – User Charges;
- (iv) Article 15 Chicago Convention - Airport and similar charges; and
- (v) the ICAO Assembly Resolution A41-22 and the ICAO CORSIA SARPs.

27. On 10 September 2024, the ICAO Council decided that it could not determine the matters (i), (ii) and (iii). Still, it found in favour of Terra Margarita in matters (iv) and (v) on the basis that the behaviour of the twelve Member States of the OU violated the principle of non-discrimination concerning airport charges, enshrined in Article 15 Chicago Convention and frustrated the sound application of CORSIA respectively.

28. Following the decision of the ICAO Council, the twelve OU Member States and Terra Margarita agreed to refer the dispute to the Permanent Court of International Justice on 30 September 2024.

## **D. RELIEF SOUGHT**

30. The twelve members of the OU request the Court to rule that:

- (a) the ICAO Council did not have jurisdiction to hear the dispute because the parties should have arbitrated the dispute as per Article 23(3) CATA;
- (b) Terra Margarita has violated the environmental provisions of the CATA (Article 16) by refusing to work together with the OU;
- (c) Terra Margarita has violated the fair competition clause in Article 7 CATA by
  - (i) granting illegal aid to its carriers; and
  - (ii) discriminating against the OU air carriers.

31. Terra Margarita requests the Court to rule that:

- (a) the OU Member States violated Article 15 Chicago Convention;
- (b) the OU Member States violated the Standards and Recommended Practices in Annex 16, Volume IV to the Chicago Convention (ICAO CORSIA SARPs); and
- (c) the OU Member States violated the ICAO Assembly Resolution A41-22.

## **E. LIST OF APPENDICES (SEPARATE ATTACHMENTS)**

### **APPENDIX 1**

Agreement on Air Transport Between the State of Terra Margarita, of the one part,  
and the Olympian Union and its Member States, of the other part

### **APPENDIX 2**

Directive 2003/87 of the Olympian Parliament and of the Council of 13 October 2003  
establishing a scheme for greenhouse gas emission allowance trading within the  
Union as amended by Directive 2023/958 of the Olympian Parliament and of the  
Council of 10 May 2023 amending Directive 2003/87/OU as regards aviation's  
contribution to the Union's economy-wide emission reduction target and the  
appropriate implementation of a global market-based measure.

### **APPENDIX 3**

Regulation 2023/2405 of the Olympian Parliament and of the Council of 18 October  
2023 on ensuring a level playing field for sustainable air transport (ReFuelOU  
Aviation).

### **APPENDIX 4**

Regulation 2019/712 of the Olympian Parliament and of the Council of 17 April 2019  
on safeguarding competition in air transport.

### **APPENDIX 5**

Air Navigation (Carbon Offsetting and Reduction Scheme for International Aviation)  
Order 2021.