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Responses to Requests for Clarification – Moot Court Application 2022

1. Could you please provide us with Atlantis' and Midgard's domestic regulations regarding the nationality of entities and individuals?

All relevant information has been provided.

2. Could you please clarify shareholders' rights of Atlantis Airlines, particularly non-voting shareholders, according to Shareholders Agreement as well as the domestic law of Atlantis?

Please see the response to Q11 below.

3. Was there any other relationship between Ms. Lemuria (serving as the non-executive director) and Golden Air? And where will Ms. Lemuria reside after the transaction, performing her duties as CEO?

Please see the response to Q31. Ms Lemuria is expected to divide her time between Atlantis and Dorado as required.

4. Would you like to provide us with more details regarding the process of consultation?

All relevant information has been provided.

5. 5. Could you please further illustrate the situation of air services between Midgard and Atlantis during the suspension of selling tickets of Atlantis Airlines, including but not limited to Atlantis Airlines' financial condition, impacts on other airlines if any?

Please see the response to Q13. Air services were able to continue to operate during the suspension of ticket sales, however the restrictions did negatively impact Atlantis Airlines financially as they carried fewer passengers than they would have otherwise.

6. Could you please confirm what happened between Midgard and Dorado 200 years ago?

This information is included for background only and is unlikely to be relevant to the proceedings.

7. Could you please furtherly confirm the difference between 'Safety' and 'Security' in articles 12&13 of Appendix 3?

Please refer to the ASA. 'Safety' and 'Security' are not defined terms.

8. As is mentioned in the background, Ms. Lemuria has been previously sat on the board of Golden Air as a non-executive director. Would any conflicts of interest happen between her and Atlantis according to this?

All relevant information has been provided.

9. Could you please confirm whether there is a difference between a ticket license and an operating license? Do 'no ticket sales' mean no airline can fly? Or does the right to cancel operations mean completely impossible to fly?

As per the ASA, operational authorization (covered by Article 3) is distinct from the right to sell transportation (covered by Article 6), i.e. restrictions on ticket sales does not mean is it impossible to fly.

10. On page 7 of the case, paragraph 9, what is the meaning of 'Ms. Lemuria is resident in Dorado', is that mean permanent residence in Dorado?

All relevant information has been provided.

11. On Class A and Class B shares of Atlantis Airlines : What are the entitlements arising from the ownerships of Class A and Class B shares of Atlantis Airlines other than voting rights, in that whether Class A and Class B shareholders are entitled to the same dividend rights and same claims on the assets of Atlantis Airlines?

All Class A and Class B shareholders are entitled to receive dividends and have claims on the assets of Atlantis Airlines in the event of its winding up.

12. On Atlantis Airlines' operations: Does the joint planning agreed between Atlantis Airlines and Golden Air under the Cooperation Agreement cover the entirety of Atlantis Airlines' fleet and Atlantis Airlines' flight route network or only a subset thereof concerning Atlantis Airlines' operations between Atlantis, Midgard and Dorado only and not the other states to which Atlantis Airlines is also operating?

The agreement covers the entirety of Atlantis Airlines' operations.

13. On sales of tickets by Atlantis Airlines: After 1 August 2020, does Atlantis Airlines have any other means, such as by using a travel agent based in Midgard or elsewhere or by using a different website hosted on servers located outside Midgard, to sell tickets on its Undersea City-Middleville route to the same customers who otherwise would have bought tickets from Atlantis Airlines' Middleville office or from the www.atlantisairlines.mi website?

The Middleville office and www.atlantisairlines.mi website are Atlantis Airlines' only official direct sales channels located in Midgard. However other indirect sales channels (e.g. travel agents) remain available and Atlantis Airlines is still able to issue tickets through websites and offices located in other countries.

14. On domestic laws of Atlantis and Midgard: What are the respective domestic laws or regulations in Atlantis and Midgard in relation to foreign ownership and control of airlines as well as anti-competitive practice or conduct of airlines?

All relevant information has been provided.

15. On Articles 4(1)(a)(I) and 4(1)(a)(II) of the Air Services Agreement: Can it be clarified whether the meaning of Article 4(1)(a) "such airline is not able to prove upon request that either ..." should be construed as:
- a. A designated airline, upon request, is only required to prove her compliance with either Article 4(1)(a)(I) or 4(1)(a)(II); or
 - b. A designated airline can be required to prove her compliance with both Articles 4(1)(a)(I) and 4(1)(a)(II) at a different time such that practically the airline must comply with both Articles 4(1)(a)(I) and 4(1)(a)(II)?

The first interpretation is correct, i.e. "a designated airline, upon request, is only required to prove their compliance with either Article 4(1)(a)(I) or 4(1)(a)(II)".

16. Are Midgard and Atlantis party to the Guadalajara Supplementary Convention to Warsaw Convention of 1961 and the Montreal Convention of 1999?

These Conventions are unlikely to be relevant to the proceedings.

17. When did Atlantis' banning its citizens from overseas travel end? (This affects whether air tickets sales could have happened at all when the sales were suspended)

Atlantis' ban on overseas travel ended on 1 June 2020. Also, even during the ban Atlantis' citizens could travel in exceptional circumstances.

18. Are there any domestic laws for control and ownership in Atlantis or Midgard?

All relevant information has been provided.

19. Does Lemuria happen to hold dual nationality in Atlantis and Midgard?

No.

20. Is Golden Air's investment in Atlantis Airlines based on a condition of commercial cooperation?

Yes, please refer to paragraph 11 of the Background.

21. Could you please provide the following details regarding Ms. Lemuria's nationality?

All relevant information has been provided.

22. How long had Ms. Lemuria been working as the non-executive director on the board of Golden Air and why did she resign?

Ms Lemuria had sat on the board of Golden Air as non-executive director for five years. She stepped down to focus on other work commitments.

23. Did Atlantis notify Midgard before revoking Odin Airways' permission to operate to Atlantis on 1 September 2020? If so, what was the time and method of such notification?

Atlantis did not give Midgard any advance notification of this action.

24. Under Article 2(3) of the Cooperation Agreement (Appendix 2), Atlantis Airlines' board meetings shall be split between Undersea City and Goldtown, Dorado. Could you please provide the following details regarding the meetings?

All relevant information has been provided.

25. Was Midgard and Atlantis' consultation failure on 3-31 June 2020 caused by the following one or more factors?

All relevant information has been provided.

26. Is there a legal difference between Dorado, Atlantis and Midgard regarding Ms. Lemuria's rights of residence or citizenship?

All relevant information has been provided.

27. Are the ticket sales of Atlantis Airlines only available at the Middleville office and Atlantis Airlines's website, or are there any other possibilities for selling tickets between Midgard and Atlantis where the airline operation is held?

Please see the response to Q13.

28. Are there any other airlines operating between Atlantis and Midgard besides Atlantis Airlines and Odin Airways? If yes, what is the structure (private/public) of these company/companies?"

No, there are no other airlines.

29. Was the Civil Aviation Authority of Midgard (CAAM) authorised by the Ministry of Transport and Communications of Midgard to perform any functions presently exercised by the Ministry of Transport and Communications? In other words, can the

CAAM be considered as an Aeronautical Authority of Midgard within the meaning of Article 1 (a) of the Air Services Agreement between Atlantis and Midgard?

Yes.

30. Did Atlantis suspend Midgard's right to sell tickets through its Atlantis office and Atlantis website in response to Midgard's actions of suspending such right of Atlantis?

No.

31. Is Ms. Lemuria connected to Golden Airways in any capacity right now (for example, she might have relatives in its board of directors)?

Ms Lemuria no longer has a formal connection with Golden Air.

32. Are Atlantis Airlines' books and records kept in its Atlantis office?

Yes.

33. Is Dorado a signatory of the Convention on International Civil Aviation (signed at Chicago on 7 December 1944), including its amendments?

Yes.

34. Aside from the aforementioned applicable treaties in the case (i.e. the Chicago Convention, UN Charter, and the Law of Treaties), are rules and regulations established by the General Agreement on Tariffs and Trade (GATT) and/or the World Trade Organization (WTO) applicable as well?

These rules are unlikely to be relevant to the proceedings.

35. How long has Ms. Lemuria, as an Atlantis national, resided and lived in Dorado?

Ms Lemuria has resided in Dorado for 6 years.

36. Are there certain regulations and/or limitations regarding the percentage of foreign-owned shares in a company in the domestic laws of Atlantis?

All relevant information has been provided.

37. Regarding Paragraph 12 of the Moot Case, could you mention on how the stances of Dorado in obtaining the solid gold eagle? Is it traded, lent, or maybe forcefully transferred?

This information is included for background only and is unlikely to be relevant to the proceedings.

38. “Midgard revoked Atlantis Airlines’ operational authorization” / “Atlantis revoked Odin Airways’ permission” Moot proposition Pg. 8 - Can there be more clarity given on ‘revoking operational authorization’ as in are the freedom to fly over and land in each other's countries taken away?

As per Article 3 of the ASA, operational authorization relates to the right to operate Agreed Services, as defined.

39. What is the maximum percentage of foreign airline ownership as permitted by Atlantic national law? Is it 49%? What is the maximum percentage allowed by Midgard’s national law?

All relevant information has been provided.

40. Is a co-operation agreement the same thing as a draft cooperation agreement?

All relevant information has been provided.

41. Are the parties members of the EU?

No.

42. Is a co-operation agreement a commercial/cooperative marketing agreement under Art. 4. 2 of the ASA?

Article 4(2) of the ASA does not define “commercial and/or co-operative marketing arrangements”, but rather provides examples of such arrangements.

43. Are Midgard and Atlantis parties to the AESAN multilateral agreement?

No.

44. Is the Civil Aviation Authority of Midgard (CAAM) an ‘Aeronautical Authority’ under Article 1(a) of the Air Services Agreement?

Yes.

45. What was the extent of suspension by Midgard of Atlantis Airlines’ right to sell tickets in terms of the routes on which the sale of tickets was suspended, i.e., whether the suspension applied only to tickets on the route(s) connecting the two capitals (or Specified Routes under Article 1(b) of the Air Services Agreement), or across the entire network of Atlantis Airlines?

Please refer to Q13 response. The suspension applied to all tickets sold through the specified sales channels.

46. Pursuant to paragraph 15 of the case, was there a complete embargo on the sale of Atlantis Airlines' tickets in Midgard or were other means still available for the people of Midgard to buy tickets with the airline?

Please refer to Q13 response.

47. Are there any national laws, regulations or procedures of either Contracting Party governing 'substantial ownership', 'effective control' or any other area of relevance to the case?

All relevant information has been provided.

48. For the purpose of Article 5 of the Co-operation Agreement between Atlantis Airlines and Golden Air, what is the composition of the board of directors of Golden Air in terms of the nationality of the members therein?

All of Golden Air's current directors are Dorado citizens.

49. What is an example of essential "immediate action" stated in Art. 4 paragraph 2?

This term is not defined in the ASA.

50. Does the shares owned by the designated airlines can only be owned by designated states, its nationals or both, or some of it can also be owned by a third country (a non-contracting state)? In relation to this, what is the specification of "owning a majority of shares", is it majority of Class A shares or the majority of the whole shares (both Class A and B) owned by the airlines?

All relevant information has been provided.

51. Does the ASA Agreement specify that each party should inform each other before making any changes regarding their airline?

Please refer to Article 3 of the ASA.

52. Does the nationalities' composition of the board of directors affect the control of the airline specifically, does it need to be purely controlled by Atlantis nationals and does it affect the fairness of competition?

All relevant information has been provided.

53. What is the effect of the CEO residing in a different country with the nationality and does the place where the board of meetings take place affect the principal place of business?

All relevant information has been provided.

54. What factual consequences did the suspension of Atlantis Airlines' right to sell tickets from its Middleville office and through its www.atlantisairlines.mi website have for the possible purchasers of Atlantis Airlines' tickets?

Please refer to Q13 response.

55. Did Midgard citizens have other opportunities to purchase Atlantis Airlines' tickets when Atlantis Airlines' right to sell tickets from its Middleville office and through its www.atlantisairlines.mi website was suspended?

Please refer to Q13 response.

56. Midgard revoked Atlantis Airlines' operational authorization citing Article 4(1) of the ASA. Does it mean that Midgard cites subparagraph "a" of Article 4(1) or the whole paragraph 1 of Article 4?

All relevant information has been provided.

57. Which country is Ms Lemuria's principal place of economic and social interests?

All relevant information has been provided.

58. Could you offer us a map relating to the airline routine between Atlantis and Midgard?

The flights between Atlantis and Midgard operate through the airspace of these countries only i.e. they do not need to pass through the airspace of any other country.

59. Could you provide us with more details about Ms Lemuria? How did Ms Lemuria acquire Atlantis' nationality? Did there exist any change of her nationality in the past years?

Ms Lemuria has been a national of Atlantis since birth and this has not changed.

60. How does the Board of Directors render a final decision in the case of the exact same number votes for both sides (6-6)?

All relevant information has been provided in Appendix 1.

61. May you explain are there any restrictions in terms of nationality on successors nominated by Ms Lemuria pursuant to Article 3(5), Appendix 1?

All relevant information has been provided in Appendix 1.

62. Does Golden Air hold the appropriate "operating authorization" to which reference is made in the Air Services Agreement (ASA) between Atlantis and Midgard?

Please refer to paragraph 3 of the Background. Atlantis Airlines and Odin Airways are the Designated Airlines as defined in the ASA.

63. Does the term “operating authorization”, under Article 4 (1) ASA also include commercial activities (i.e the right of each Designated Airline to sell tickets) as per Article 6 ASA?

Please refer to the response to Q9.

64. What is the meaning of the term "and/or" in Claim 1(b)(i) of the Application considering also that in Article 4(1)(a)(I) ASA only the word “or” is used, and, moreover, shall this inconsistency be taken as a fact of the case, or is it a typographic mistake? [Same applies for Claim 2(b)(ii)(1) which uses “and/or” compared to Article 4(1)(a)(II)(i) ASA whereby only the word “and” is used.]

Please refer to the response to Q15.

65. It seems that in Article 1(a) ASA the "Aeronautical Authority” for the State of Atlantis is missing; please provide the missing information.

Please refer to the response to Q29.

- End of requests -