

INTERNATIONAL COURT OF JUSTICE

APPLICATION

INSTITUTING PROCEEDINGS

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**CASE CONCERNING HIGH-ALTITUDE SURVEILLANCE, CYBER INTERFERENCE, AND
AIRCRAFT INTERCEPTION**

(ETOSHA v. NAMOLA)

COUR INTERNATIONALE DE JUSTICE

REQUÊTE INTRODUCTIVE D'INSTANCE

Enregistrée au Greffe de la Cour le 1 octobre 2025

**AFFAIRE CONCERNANT LA SURVEILLANCE À HAUTE ALTITUDE, LES CYBER-
INGÉRENCES ET L'INTERCEPTION D'AERONEF**

(ETOSHA c. NAMOLA)

**THE 2026 LEIDEN-SARIN INTERNATIONAL AIR LAW MOOT COURT
COMPETITION**

COMPROMIS

ETOSHA (Applicant)

v.

NAMOLA (Respondent)

**CASE CONCERNING HIGH-ALTITUDE SURVEILLANCE, CYBER
INTERFERENCE, AND AIRCRAFT INTERCEPTION**

I. APPLICABLE SOURCES OF INTERNATIONAL LAW

1. For the purposes of this Case, the Republic of Etosha (Etosha) and the State of Namola (Namola) are parties to the following international Conventions:
 - i. The *Convention on International Civil Aviation*, signed in Chicago on 7 December 1944, including all amendments to the Convention (Chicago Convention 1944);
 - ii. The *United Nations Charter*, signed in San Francisco on 26 June 1945 (UN Charter 1945);
 - iii. The *Convention on the Law of Treaties*, signed in Vienna on 23 May 1969 (Vienna Convention 1969);
 - iv. The *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*, signed in Montreal on 23 September 1971 (Montreal Convention 1971);
 - v. The *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation*, signed in Beijing on 10 September 2010 (Beijing Convention 2010);
 - vi. The *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on matters specific to aircraft equipment*, signed in Cape Town on 16 November 2001 (Cape Town Convention 2001, and the Aircraft Protocol 2001, together referred to as Cape Town Convention);
 - vii. The *Constitution and Convention of the International Telecommunication Union*, signed in Geneva on 22 December 1992 (ITU Constitution and Convention 1992); and
 - viii. The *Radio Regulations of the International Telecommunication Union*, 2024 Edition (ITU Radio Regulations 2024).

Neither Party has submitted reservations to the above treaties and all Parties are considered fully bound by the treaty provisions.

II. STATEMENT OF FACTS

2. Etosha and Namola are neighbouring States in Southern Africa with a history of close economic ties, but increasing political mistrust. Both maintain modern air transport systems and are parties to major international aviation treaties. They have remained compliant regarding their legal obligations and have maintained limited diplomatic relations.
3. In October 2018, Etosha and Namola entered into a bilateral air services agreement. This bilateral agreement aimed at fostering safety in international air transport by establishing and supporting the operation of scheduled air services among their respective territories.

The air service agreement allows limited scheduled flights, but does not address Higher Airspace Operations (HAO) or Unmanned Aircraft Systems (UAS).

4. The Republic of Kivula is a third State, within the same region, with extensive international aviation activities. Kivula is also a party to the Cape Town Convention. All aircraft operated by its flagship carrier, Air Global, are registered in Kivula. Air Global operates transcontinental services that traverse Etosha's airspace, including flights connecting the African and Asian continents.

III. STATEMENT OF FACTS

5. In December 2024, Namola launched its SolarSky High-Altitude Platform Stations (HAPS) programme, deploying solar-powered HAPS capable of loitering for weeks at altitudes above Flight Level (FL) 600. Each HAPS weighs approximately from 2,560 to 2,920 kg and was designed for meteorological research, broadband communications and disaster monitoring.
6. Namola provided a general notice to the International Civil Aviation Organization (ICAO), but did not seek prior overflight authorisation from Etosha. Etosha's air defence radars recorded repeated loitering of Namola HAPS over sensitive military installations and satellite uplink stations.
7. Etosha lodged formal diplomatic protests, alleging violation of its sovereignty under Article 1 of the Chicago Convention 1944 and unauthorised surveillance. Namola replied that:
 - i. The HAPS were engaged in peaceful environmental and telecommunications activities;
 - ii. The stratospheric altitude (above FL600) placed the operations outside ordinary navigable airspace, reducing the need for consent; and
 - iii. HAPS are not 'aircraft' under the Chicago Convention 1944 and are, thus, not subject to traditional overflight rules.
8. A leaked internal Namola regulatory note described HAPS as "dual-use" systems with potential "regional security reconnaissance" applications. Namola claims that this draft language was never adopted.
9. International legal opinion is divided on whether altitudes above FL600 fall under sovereign airspace or "near space" subject to freedom of use. An ICAO legal officer has informally stated that the Chicago Convention 1944 rules apply up to the Kármán line (100 km), while a subcommittee report of the Committee on the Peaceful Uses of Outer Space (COPUOS) argued for recognising the upper stratosphere as non-sovereign.
10. In January 2025, Etosha's civil aviation systems suffered:
 - i. Denial-of-service attacks on Air Traffic Management (ATM) servers;
 - ii. Notices to Airmen (NOTAM) system infiltration producing conflicting warnings;

- iii. Manipulation of Global Navigation Satellite System (GNSS) augmentation signals; and
 - iv. Interception and redirection of air–ground communications.
- 11. Etosha traced these intrusions to Internet Protocol (IP) addresses and satellite relays linked to Namola. Analysts suggested that Namola’s HAPS acted as airborne nodes for these operations.
- 12. Namola denied involvement and refused a joint investigation, calling the allegations “politically motivated”.
- 13. An independent cybersecurity non-governmental organisation later published a report attributing the attacks to “Shadow Vortex”, a non-State group allegedly sponsored by another regional power. The report also suggested some spoofed signals originated from compromised Etoshan ground systems, raising the possibility of false-flag activity.
- 14. On 1 April 2025, Etosha adopted Emergency Regulation 02/25 authorising:
 - i. Surface-to-air interceptors against unauthorised high-altitude objects;
 - ii. GNSS jamming, data link spoofing, and signal redirection; and
 - iii. Directed-energy measures in exceptional cases.
- 15. On 15 May 2025, Etosha detected anomalous transmissions from a Namola HAPS near its border. The station was transmitting anomalous signals that interfered with ATM data and spoofed a NOTAM affecting Air Global flight 2410 en route across Etosha’s Flight Information Region (FIR).
- 16. The HAPS used radio frequencies allocated for satellite services under the ITU Radio Regulations 2024.
- 17. Believing the signals endangered civil aviation, Etosha launched a missile interceptor combined with jamming and GNSS spoofing. The interceptor malfunctioned due to electronic interference, missed the HAPS, and only narrowly missed Air Global flight 2410 crossing Etosha’s FIR. The jamming operation brought down an AmaniScout UAS being operated in the border area by Wild Sentinel Limited. That vehicle remains in the custody of the Etoshan Civil Guard.
- 18. Later that evening, Etosha’s air defences re-acquired the Namola HAPS at FL620 and authorised a second intercept. A long-range missile struck the platform station, causing it to break apart mid-air. Debris landed in Etosha’s Northern Plains, an uninhabited desert area, where security forces recovered key components. Namola demanded the return of the recovered key components, but Etosha retained them for “national security and evidentiary purposes”. The Parties dispute whether the procedures under Annex 13 of the Chicago Convention are applicable.
- 19. Internal Etoshan defence communications revealed that non-kinetic options were available, but a missile was chosen “to send a stronger political message”. Namola alleges this shows disproportionality.

20. Flight recorder data indicates the spoofed NOTAM affecting Air Global 2410 entered its systems within Etosha's FIR, but the transmission originated in international waters via a maritime satellite uplink.
21. The AmaniScout is a new generation heavy lift rotor-powered UAS, with multiple applications, type certified by the Namolan Civil Aviation Agency to transport goods in excess of 500 kgs. Wild Sentinel Limited, incorporated in Namola, had been using the vehicle for wildlife photography, anti-poaching and remote animal rescue missions under contract with the Namolan Government. The UAS is financed by an international bank through its local branch in Namola. The bank's interest is registered in the International Registry. The ongoing detention of the AmaniScout in Etosha is an event of default under the financing arrangements. Further, with its AmaniScout out of service, Wild Sentinel has ceased operations. It cannot no longer pay the instalments and does not contest the bank's rights to possession of the vehicle. Despite several attempted applications over the last six months, the bank has so far been unable to obtain a hearing date from the Etosha court for an order that the vehicle be delivered to it and exported from Etosha. It has turned to Namola for diplomatic help.
22. Etosha's designation of the Court of Common Pleas as the competent forum has raised questions about the availability of 'speedy relief' under the Cape Town Convention. Namola suggests that the absence of a hearing to date reflects obstruction or politically motivated interference, rendering the promised relief illusory.
23. Etosha argues that it has not failed in its obligation to afford speedy relief under the Cape Town Convention. It suggests that the bank has not complied with local court procedures, which are a prerequisite for any court hearing, citing failures, for example, to produce and file at court notarised certified translations of the underlying financing documents. Further, it contends that a UAS, like the AmaniScout, is not and was never intended to be, an "aircraft object" for the purposes of the Cape Town Convention.
24. Namola issued a formal protest by issuing a note verbale addressed to the Ministry of Foreign Affairs of Etosha under standard diplomatic procedure, alleging:
 - i. Unlawful use of force under Article 3 *bis* of the Chicago Convention 1944;
 - ii. Wrongful destruction of its HAPS;
 - iii. Failure to ensure the safety of international civil aviation; and
 - iv. Breach by Etosha of its Cape Town Convention treaty obligations.
25. Etosha maintained that:
 - i. Namola violated its sovereignty under the Chicago Convention and international customary law;
 - ii. Counter-HAPS measures were lawful and necessary to protect civil aviation;
 - iii. Namola bears international responsibility for all resulting loss and damages; and
 - iv. Etosha has not breached any obligations under the Cape Town Convention.

26. Following failed diplomatic negotiations, Etosha filed an ICJ application on 1 October 2025. Namola submitted a counterclaim for unlawful use of force, property destruction and a declaration that Etosha has breached its obligations to afford speedy relief for possession and export to a Namolan national holding an international interest of an aircraft object under the Cape Town Convention.
27. ICJ jurisdiction is accepted, but Namola claims partial *lis pendens* due to the claim commenced by the bank in its court in relation to the right of possession and export of the AmaniScout.

IV. JURISDICTION OF THE COURT

Both Parties have accepted the jurisdiction of the International Court of Justice (ICJ) under Article 36(2) of the ICJ Statute, and jointly submit this dispute for binding resolution.

V. RELIEF SOUGHT

Etosha (Applicant) requests the Court to adjudge and declare that:

1. Namola violated the sovereignty of Etosha under Article 1 of the Chicago Convention 1944 and customary international law;
2. Namola is responsible for cyber interference and unauthorised HAO;
3. The counter-HAPS interception was a lawful self-protective measure; and
4. Namola bears international responsibility and must provide compensation for any losses, including any claims of Wild Sentinel Limited and its lender in relation to the AmaniScout.

Namola (Respondent) requests the Court to adjudge and declare that:

1. Etosha's interception of the HAPS violated Article 3 *bis* of the Chicago Convention 1944 and customary international law by unlawfully using force against civil aviation;
2. Etosha is responsible for the destruction of the HAPS, the grounding and detention of the AmaniScout and the resulting harm to third-party interests;
3. Etosha must provide full reparation, including return of the AmaniScout and compensation to Namola and third-party financiers pursuant to international law and the Cape Town Convention; and
4. Etosha's Emergency Regulation 02/25 and counter-HAPS measures were unlawful and disproportionate under international law.

END OF COMPROMIS

ANNEX I: BILATERAL AIR SERVICES AGREEMENT BETWEEN ETOSHA AND NAMOLA

Preamble

The Government of Etosha and the Government of Namola (hereinafter referred to as “the Parties”):

- Reaffirming their commitments under the Convention on International Civil Aviation, signed at Chicago on 7 December 1944 (the “Chicago Convention”);
- Recognising the importance of safe and orderly development of international air transport;
- Desiring to establish and operate scheduled air services between and beyond their respective territories;
- Acknowledging the need to respect each other’s sovereignty over airspace in accordance with Article 1 of the Chicago Convention;

Have agreed as follows:

Article 1 – Definitions

1. For the purposes of this Agreement:
 - a. “Designated airline” means any airline which has been designated and authorised under Article 3 of this Agreement.
 - b. “Territory,” “air service,” “international air service,” and “airline” have the meanings assigned in Article 2 of the Chicago Convention.

Article 2 – Scope

1. This Agreement does not regulate the operation of unmanned aircraft systems, high-altitude platforms (HAPS) or suborbital flights, which remain subject to separate authorisation by the Parties.

Article 3 – Grant of Rights

1. Each Party grants to the other Party the following rights for the conduct of international air services by the designated airlines of the other Party:
 - a. To fly across its territory without landing;
 - b. To make stops in its territory for non-traffic purposes;

c. To land in its territory for the purpose of taking on and discharging international traffic of passengers, cargo, and mail.

2. No rights are granted under this Agreement to operate domestic cabotage services within the territory of the other Party.

Article 4 – Designation and Authorisation

1. Each Party shall have the right to designate in writing to the other Party one or more airlines for the operation of agreed services.
2. Upon receipt of such designation, the other Party shall grant the appropriate operating authorisations and permissions, subject to that airline meeting applicable safety and security standards.

Article 5 – Revocation and Suspension

1. Each Party shall have the right to revoke or suspend the operating authorisations of an airline designated by the other Party, or impose conditions, in any of the following cases:
 - a. Failure of the airline to comply with the laws and regulations of the revoking Party;
 - b. Failure to maintain the standards set forth under the Chicago Convention;
 - c. For reasons of national security or public order, upon written notice.
2. Except in cases of emergency, such revocation or suspension shall only be exercised after consultations with the other Party.

Article 6 – Security and Airspace Protection

1. Each Party reaffirms its sovereignty over the airspace above its territory and retains the right to take necessary measures to protect national security and public safety.
2. The Parties shall exchange information on new aerial technologies, including unmanned systems or high-altitude platforms, which could affect the safety of civil aviation.

Article 7 – Consultations and Amendments

1. Either Party may at any time request consultations regarding the interpretation or application of this Agreement.
2. Amendments shall enter into force following confirmation through an exchange of diplomatic notes.

Article 8 – Entry into Force and Termination

1. This Agreement shall enter into force on the date of signature.
2. Either Party may terminate this Agreement by giving six months' written notice to the other Party.

Signed at Linyati, Etosha, on 10 October 2018, in two originals in the English language.

ANNEX II: EMERGENCY REGULATION 02/25 OF ETOSHA

Issued by the Ministry of Transport and Civil Aviation

Date of Entry into Force: 1 April 2025

Subject: Temporary Measures for the Protection of Civil Aviation and National Security

Preamble:

Recognising recent threats to the safety of civil aviation and national security, including unauthorised high-altitude platforms (HAPS), cyber interference with air traffic management (ATM) systems, and electronic signal spoofing, the Government of Etosha adopts the following emergency regulation:

Article 1 – Scope

1. This Regulation applies to all unmanned aerial systems, HAPS, or aerial platforms operating in Etosha's territorial airspace without explicit prior authorisation.
2. The Regulation supplements Etosha's obligations under the Chicago Convention and the Montreal Convention.

Article 2 – Prohibited Activities

1. Unauthorised overflight by HAPS or other unmanned aerial vehicles is prohibited.
2. Transmission of electronic signals that interfere with ATM, NOTAM, or air-ground communications is prohibited.

Article 3 – Authorised Countermeasures

The Ministry of Defence, in coordination with the Civil Aviation Authority, is authorised to:

1. Deploy surface-to-air interceptors to disable unauthorised platforms;
2. Utilise electronic jamming, GNSS spoofing, and signal redirection to neutralise threats;
3. Employ directed-energy measures in exceptional cases where necessary to protect civil aviation;
4. Ensure notification to ICAO in the event of interception measures that affect civil aircraft.

Article 4 – Safety and Reporting

1. All incidents involving the use of countermeasures shall be immediately reported to the Etosha Civil Aviation Authority and to ICAO under Annex 13 procedures.

2. Investigations shall be conducted in compliance with international accident investigation standards.

Article 5 – Duration and Review

1. This Regulation remains in force for six months unless extended by the Council of Ministers.
2. The Regulation is subject to review in light of international obligations and security assessments.

Signed in Linyati, Etosha on 1st April 2025.

Minister of Transport and Civil Aviation

ANNEX III: ETOSHA'S INSTRUMENTS OF ACCESSION DEPOSITED WITH UNIDROIT IN RELATION TO THE CAPE TOWN CONVENTION & AIRCRAFT PROTOCOL

INSTRUMENT OF ACCESSION TO THE CAPE TOWN CONVENTION

BY THE REPUBLIC OF ETOSHA

WHEREAS the Convention on International Interests in Mobile Equipment (hereinafter referred to as “the Convention”) was concluded in Cape Town on 16 November 2001;

AND WHEREAS Article 47(3) of the Convention specifies that any State which does not sign the Convention may accede to it at any time;

NOW THEREFORE, THE REPUBLIC OF ETOSHA having considered the Convention, hereby ACCEDES to it, undertakes faithfully to abide by its provisions in accordance with and subject to the following DECLARATIONS hereby made:

- Pursuant to Article 39(1)(a) of the Convention, all categories of non-consensual rights or interests, which under Etoshan law have and will in the future have priority over an interest in an object equivalent to that of the holder of a registered international interest shall to that extent have priority over a registered international interest, whether in or outside insolvency proceedings.
- Pursuant to Article 39(1)(b) of the Convention, nothing in the Convention shall affect its right to arrest or detain an object under Etoshan law for payment of amounts owed to it or to any State entity, Organisation or provider directly relating to the services provided by it in respect of that object or another object.
- Pursuant to Article 50, the Convention shall not, subject to Article 50(2) thereof, apply to a transaction which is an internal transaction in relation to itself with regard to all types of object.
- Pursuant to Article 53, the Court of Common Pleas is the relevant court for the purposes of Article 1 and Chapter XII of the Convention.
- Pursuant to Article 54.2 of the Convention, all remedies available to the creditor under the Convention which are not expressed under the relevant provision thereof to require application to the court must be exercised only with leave of the court.

IN WITNESS THEREOF, I have signed this Instrument of Accession and affixed hereunto the Seal of The Republic of Etosha

[Signature by Head of State]

INSTRUMENT OF ACCESSION TO THE PROTOCOL TO THE CONVENTION ON
INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO
AIRCRAFT EQUIPMENT

BY THE REPUBLIC OF ETOSHA

WHEREAS the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (hereinafter referred to as “the Aircraft Protocol”) was concluded in Cape Town on 16 November 2001;

AND WHEREAS Article XXVI(3) of the Aircraft Protocol specifies that any State which does not sign the Aircraft Protocol may accede to it at any time;

NOW THEREFORE, THE REPUBLIC OF ETOSHA having considered the Aircraft Protocol, hereby ACCEDES to it, undertakes faithfully to abide by its provisions in accordance with and subject to the following DECLARATIONS hereby made:

THE REPUBLIC OF ETOSHA declares that:

- it will apply Article VIII
- it will apply Article X in its entirety, and that the number of working days to be used for the purposes of the time-limit (“speedy”) laid down in Article X(2) for the remedies specified in Articles 13(1)(a), (b) and (c) of the Convention shall not exceed ten (10) calendar days and for the remedies specified in Articles 13(1)(d) and (e) of the Convention as well as sale and application of proceeds, not more than thirty (30) working days.
- it will apply Article XI, Alternative A in its entirety to all types of insolvency proceeding and that the waiting period for the purposes of Article XI(3) shall be sixty (60) calendar days
- it will apply Article XIII.

IN WITNESS THEREOF, I have signed this Instrument of Accession and affixed hereunto the Seal of The Republic of Etosha

[Signature by Head of State]