



THE IASLA SPACE LAW MOOT COURT COMPETITION

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

BETWEEN

PRINCIPALITY OF LACERTA
(APPLICANT)

AND

REPUBLIC OF ERIDANUS
(RESPONDENT)

JOINTLY NOTIFIED TO THE COURT ON 2 MAY 2010

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

ENTRE

PRINCIPAUTÉ DE LACERTA
(DEMANDEUR)

ET

RÉPUBLIQUE D'ERIDANUS
(DÉFENDEUR)

NOTIFIÉ CONJOINTEMENT À LA COUR LE 2 MAI 2010

Case concerning the Spacecraft Collision in Outer Space on 26 September 2007

Lacerta v. Eridanus

STATEMENT OF AGREED FACTS

1. The Principality of Lacerta is a technologically advanced country with one of the largest economies in the world. It is an archipelago straddling the major shipping lanes in the world, making it a major maritime and aviation transport hub and a thriving centre of international finance and commerce. Sirius, the capital of Lacerta, has a population of seventeen million (17,000,000), one of the most populous cities in the world. The currency unit of Lacerta is the pricyon, which is freely floated against the other currencies of the world.
2. The Lacerta AeroSpace Administration (“**LASA**”) is entirely government owned and controlled. The LASA operates the *Altair VII* range of expendable liquid-fuelled launch vehicles, which are some of the most powerful and reliable launch vehicles in the world; they have been popular for the launch of government satellites as well as domestic and foreign commercial satellites.
3. The Republic of Eridanus is a continental state that is one of the world’s most populous states. It has a centralised and state-directed economy that has embarked on free market reforms and liberalisation in recent years. In recent years, Eridanus has invested heavily in space technology, both in the development of launch vehicles and satellite applications, though most of this development has been the efforts of the private sector.
4. Lacerta and Eridanus have a long history of friendship and cooperation and are members of the same military alliance, along with six other nearby states. They are each other’s largest trading partners, though tensions have been increasing of late as a result of various trading disputes and disagreements as to the value of the cygni (Eridanus’s currency), which is pegged to the euro.
5. The LASA and its wholly-owned launch services marketing entity, Altair Commercial Launch Services, Inc. (“**ACLS**”), have been remarkably successful with approximately thirty (30) commercial launches conducted every year for the past four (4) years, in addition to the launches of governmental satellites. The TeleLacerta Corporation (“**TLC**”) has been using ACLS’s services to launch a constellation of thirty (30) Low Earth Orbit satellites to provide mobile telephony, broadband internet and television broadcasting throughout the archipelago and neighbouring countries. TLC was a government-owned corporation with a monopoly on telephony services in Lacerta, but it was privatised in 1994 by sale of its shares in three (3) tranches on the open market after deregulation and liberalisation of the telecommunications sector in Lacerta. While most of the shareholders of TLC were owned by Lacertan nationals, the all-scrip mergers between TLC and two telecommunications companies in Eridanus in 2005 have led to majority ownership of TLC by private Eridani nationals as well as the sovereign investment fund of Eridanus, which is the largest shareholder of TLC with 16.5% of its issued capital.
6. Galactic Endeavours Limited (“**GEL**”) was a company incorporated in Eridanus. Although it is listed on the Securities Exchange of Eridanus, its shareholders are all private interests in Eridanus

due to restrictions placed on foreign ownership of any interest in aviation, space and aerospace firms in Eridanus under its *Foreign Investment (Sensitive Industries) Ordinance 2001*.

7. GEL had built and successfully flight-tested a spacecraft called the *AlphaGEL* that was capable of reaching an altitude of one hundred and fifty (150) kilometres carrying eight (8) passengers and a crew of two (2). Since its maiden commercial flight on 16 February 2006, *GEL-Alpha* has flown an average of one (1) flight in every four (4) weeks, with each flight carrying eight (8) passengers who paid fifty thousand cygni (€50,000.00) each for a seventy-five (75) minute flight into outer space.
8. Meanwhile, GEL had also built the *BetaGEL*, a spacecraft designed to carry twelve (12) passengers, two (2) crew members and a flight attendant that was to carry passengers between New York and Tokyo in fifty-five (55) minutes. Both the *AlphaGEL* and the *BetaGEL* were launched into space from the back of supersonic carrier aeroplanes and then glided after their return into the Earth's atmosphere and landed in a similar way to aircraft. From 14 August 2007, numerous test flights of the *BetaGEL* were being conducted by GEL in Eridanus for the purposes of obtaining a certificate of fitness for passenger flights. These test flights involved the *BetaGEL* both attached and detached from its carrier aircraft, with orbital test flights of the *BetaGEL* scheduled to take place from early 2009.
9. On 13 June 2007, TLC and ACLS issued a joint press release, announcing that the next launch in the series of launches by ACLS for TLC, namely the satellite *TLC-15* atop an *Altair VII*, would take place on 26 September 2007. In anticipation of the availability of the transponders on *TLC-15*, TLC signed commercial agreements with Galaxy Satellite Television Television Ltd ("**Galaxy**"), Star Radio Corporation ("**Star Radio**") and Business Information Radio Services Corporation ("**BIRS**") to increase significantly the number of television channels as well as launching two (2) satellite digital radio broadcasting stations in Lacerta.
10. Galaxy, Star Radio and BIRS are all companies registered in Lacerta. BIRS is wholly owned by Galaxy, while both Galaxy and Star Radio are listed on the Sirius Stock Exchange, with all of their shareholders being private interests in Lacerta.
11. Also on 13 June 2007, after another successful commercial flight of the *AlphaGEL*, GEL announced on its website that the next five (5) launches of *AlphaGEL* would take place on 11 July 2007, 22 August 2007, 26 September 2007, 25 October 2007 and 29 November 2007, before a two (2) month break during the holiday season.
12. Three days after this announcement, GEL arranged with AirServices Eridanus for the clearance of airspace in anticipation of its launches. As part of this process, the Assistant Administrator of AirServices Eridanus wrote to the equivalent governmental authorities in all neighbouring spacefaring countries, including the Deputy Director of the Civil Aerospace Safety Agency ("**CASA**") of Lacerta, requesting coordination and consultations in the event of possible clashes in the schedule of space launches. She never received a response from the CASA.
13. In August and September 2007, Galaxy, Star Radio and BIRS all launched large-scale advertising campaigns on radio, television and print media, heralding the launch of the new television channels and radio stations on 1 October 2007. It is estimated that the three companies had spent a combined four million pricyon (P4,000,000.00) in these marketing efforts. Further, Galaxy has signed programming contracts worth seventy-six million pricyon (P76,000,000.00) for the first six (6) months from the launch of the new television channels.

14. On 5 September 2007, staff at ACLS and LASA sought to clear airspace for the *Altair VII* launch on 26 September 2010. The CASA had arranged for the clearance of airspace in Lacerta for the anticipated launch window but did not coordinate with other governments.
15. On 26 September 2007, GEL launched the *AlphaGEL* with seven (7) passenger and two (2) crew members from its carrier aircraft. The eighth passenger that was meant to be on the flight did not board the flight as a result of having a chest infection and was determined by GEL's doctors to be physically unfit for the flight. Ten (10) minutes after separation from the carrier aircraft, the *AlphaGEL* reached an altitude of ninety (90) kilometres above mean sea level and continued to climb towards the target altitude of one hundred and four kilometres (104 km).
16. At that time, ACLS launched the *Altair VII* carrying the *TLC-15* satellite. The launch was successful and the third stage of the *Altair VII* launch vehicle was about to reach its orbital insertion position about ten (10) minutes after launch. The flight controllers at LASA and ACLS was unaware that the *AlphaGEL* was about to enter the position that the *Altair VII* was to reach at one hundred and eighteen kilometres (118 km) above mean sea level.
17. The flight controllers at GEL noticed on radar that an object was heading towards the *AlphaGEL*. One the data was quickly analysed they concluded that there was a launch of an *Altair VII* and that the trajectories of both the *Altair VII* and the *AlphaGEL* would result in a collision. The flight controllers at GEL immediately radioed the crew of the *AlphaGEL* and asked them to fire up their engines and make a course deviation. The *AlphaGEL* did not confirm receipt of the transmission and, in breach of usual procedures, the flight controllers did not seek confirmation.
18. On 26 September 2007 at 07:09 GMT, the *AlphaGEL* and the third stage of the *Altair VII* crashed into each other at one hundred and eight kilometres (108 km) above mean sea level. Both the *Altair VII* and the *AlphaGEL* disintegrated with the loss of all passengers and crew onboard the *AlphaGEL*.
19. The flight controllers at ACLS and LASA lost control of the satellite *TLC-15* and part of the orbital insertion engine, which re-entered the atmosphere over the high seas. At an altitude of fifty-six kilometres (56 km), the debris collided with the *BetaGEL* and its carrier aircraft that was engaged in a test flight over the ocean. Both the *BetaGEL* and the carrier aircraft sustained heavy damage and crashed into the water within the territorial waters of Lacerta. Before both aircraft and spacecraft sank, the crew of the carrier aircraft and the *BetaGEL* were able to escape in a life raft and were picked up by the Lacertan Navy and returned to Eridanus through Switzerland.
20. The *BetaGEL* and its carrier aircraft were carrying a heavy load of fuel and the crash resulting in an oil spill that caused substantial environmental damage in an environmentally sensitive coastal ecosystem. Lacerta incurred significant costs in emergency clean-up operations in the area.
21. The larger pieces of the *AlphaGEL* eventually re-entered the atmosphere two (2) weeks later and fell into the high seas. The smallest pieces and particles have been difficult to track, due to their size and proximity to the Earth. None of the debris or the bodies of the victims was recovered.
22. Both Lacerta and Eridanus blamed each other for the collision. In investigations conducted by the countries separately, Lacerta pointed to the earlier request for coordination and consultation ignored by Eridanus, while Eridanus focused on the ignored instructions by the *AlphaGEL* crew that, if followed, would have avoided the collision. Neither Lacerta nor Eridanus was willing to submit to an independent investigation as to the cause(s) of the collisions.

23. Eridanus had sought the recovery and return of the wreckage of the *BetaGEL* and its carrier aircraft, but Lacerta had refused to undertake the recovery operation and has refused Eridanus permission to enter its territorial waters to recover the wreckage.
24. With the loss of both the *AlphaGEL* and *BetaGEL*, GEL was not able to obtain sufficient financial resources or a financier to rescue its business and rebuild the spacecraft, resulting in its winding up in insolvency on 19 May 2008. Before its liquidation:
- (i) GEL brought legal proceedings in Lacerta against ACLS for the financial loss it suffered;
 - (ii) ACLS and TLC counterclaimed for their losses; and
 - (iii) families of the victims of the collision have sued GEL for compensation,
- but these proceedings were not concluded at the time when GEL was wound up.
25. After mediation efforts by the High Representative of the European Union, Lacerta and Eridanus agreed to refer their dispute to the International Court of Justice.
26. Lacerta contends that:
- (i) Eridanus is liable for the loss of the *TLC-15* satellite;
 - (ii) Eridanus is liable for the economic and financial loss suffered by various companies resulting from the loss of the *TLC-15* satellite;
 - (iii) Eridanus is liable for the environmental damage caused by *BetaGEL* and its carrier aircraft crashing into the territorial waters of Lacerta; and
 - (iv) Lacerta is under no international obligation to recover and/or return *BetaGEL* and its carrier aircraft to Eridanus.
27. Eridanus contends that:
- (i) Lacerta is liable for the loss of the *AlphaGEL* along with its passengers and crew, including compensation to the families of the victims;
 - (ii) Lacerta is liable for the loss of the *BetaGEL* and its carrier aircraft; and
 - (iii) Lacerta is under an international obligation to recover and return *BetaGEL* and its carrier aircraft to Eridanus.
28. In addition to the specific claims advanced by Lacerta and Eridanus, each State specifically denies the claims asserted by the other State.
29. Lacerta and Eridanus are founding members of the United Nations and the International Telecommunication Union. Both Lacerta and Eridanus number among the original signatories of each of the Outer Space Treaty, the Rescue Agreement, the Liability Convention, the Registration Convention and the Vienna Convention on the Law of Treaties.