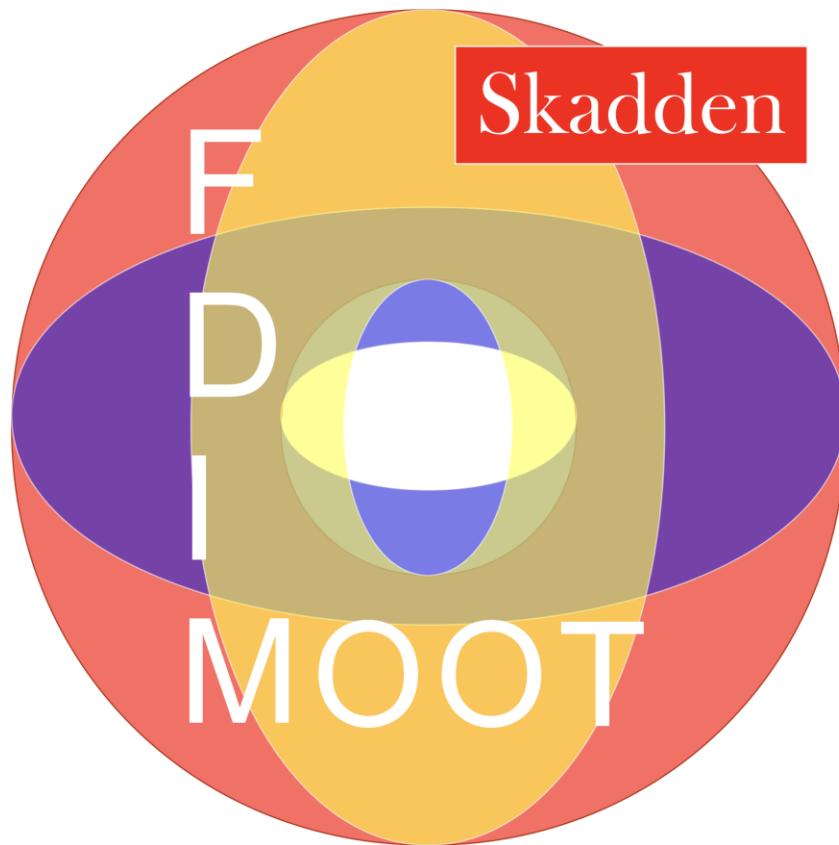


## **FDI MOOT CASE 2024**

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### **FOREIGN DIRECT INVESTMENT INTERNATIONAL ARBITRATION MOOT**

**Global Orals: 1-4 November 2024**

The 2024 case was elaborated by the Case Committee consisting of Julia Jelenska, Shay Lakhter, Yirong Sun and Jan Šlehofer (in alphabetical order), under the supervision of the FDI Moot's Review and Advisory Boards.

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**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**In the arbitration proceeding between**

Astracommex Regional Satellite Communication Inc.

*(Claimant)*

**and**

The Republic of Celestria

*(Respondent)*

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**REQUEST FOR ARBITRATION**

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**9 September 2022**

**For the Claimant:**

Ms. Astrid Stellaris  
**AstroJuris Arbitration**  
3 Saturn St., 48798 Stelaria  
Nebuland

## I. INTRODUCTION

1. Astracommex Regional Satellite Communications Inc. hereby submits a request to initiate arbitration (the “**Request**”) in a dispute with the Republic of Celestria (“**Celestria**”) in accordance with Article 36 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, which entered into force on 14 October 1966 (the “**ICSID Convention**”), Rules 1 and 2 of the 2022 ICSID Institution Rules, and Article 10 of the Agreement on Reciprocal Promotion and Protection of Investments between the Kingdom of Nebuland and the Republic of Celestria, which entered into force on 1 February 2021 (the “**BIT**”).
2. The Claimant confirms that it has obtained all necessary internal authorizations to file the Request.

## II. THE PARTIES

3. The Claimant is Astracommex Regional Communications Inc. (“**Astracommex Regional**” or the “**Claimant**”), a company organized under the laws of the Kingdom of Nebuland (“**Nebuland**”) with its principal place of business in Stelaria, Nebuland. Astracommex Regional operates as a wholly-owned subsidiary with all of its shares held by its parent company, Astracommex Global Satellite Communication Inc. (“**Astracommex Global**”), which is also organized under the laws of Nebuland.
4. Astracommex Regional is represented in the arbitration by AstroJuris Arbitration.<sup>1</sup> Correspondence in this matter should be addressed to:

20 Ms. Astrid Stellaris  
**AstroJuris Arbitration**  
3 Saturn St., 48798 Stelaria  
Nebuland  
Tel: 019679876  
25 Email: [astellaris@astrojuris.glob](mailto:astellaris@astrojuris.glob)

5. The Respondent is Celestria, an ICSID member State since 20 July 1986. To the best of the Claimant’s knowledge, the Respondent is represented in the arbitration by:

30

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<sup>1</sup> The power of attorney is intentionally omitted.

35 Dr. Janis Pletnik  
**CosmoLex**  
5 lunar bvd., 98479 Starvalis  
Celestria  
Tel: 098792764  
Email: [jpletnik@cosmos.net](mailto:jpletnik@cosmos.net)

### III. SUMMARY OF THE DISPUTE

- 40 6. The Claimant, along with its parent company, focuses on non-terrestrial communication technologies. It delivers affordable internet access globally and especially targets unserved and underserved populations in rural and remote areas. Leveraging cutting-edge telecommunications technology, Astracommex Global has pioneered the revolutionary concept of a low-Earth-orbit (“**LEO**”) satellite mega-constellation. This concept involves deploying a vast network of 5,000 satellites across various altitudes - 400, 450, 500, and 600 kilometers above Earth - to establish a high-speed, high-quality, and cost-effective non-terrestrial communication network. A standout feature of this network is the utilization of inter-satellite optical links, enhancing speed and efficiency.
- 45 7. The Claimant was attracted to Celestria primarily by its digitalization agenda. The Respondent has consistently affirmed its dedication to advancing digitalization projects in rural areas since 2010. An example is the flagship digital health project which the Respondent promoted in 2015, creating a promising market for internet service providers like the Claimant.<sup>2</sup>
- 50 8. In 2016, the Respondent inaugurated the Rural Digitalization Fund (“**RDF**”) with a substantial grant of USD 1 billion, reiterating its commitment to narrowing the gap between rural and urban areas by ensuring universal access to internet communication services across its territory. The Respondent actively encouraged foreign investors, such as the Claimant, to invest in its territory. To that end, the Respondent invited bids from both foreign and domestic internet service providers for the allocation of the RDF funds and the necessary radio frequencies.
- 55 9. On 15 February 2016, the Claimant submitted its application in the auction organized by the Respondent, presenting a LEO satellite mega-constellation (named the “**Astra System**”).<sup>3</sup> The Claimant won the bid in August of the same year.

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<sup>2</sup> Exhibit C-1, Press Release from the Rural Development Agency, 2 June 2015.

<sup>3</sup> Exhibit C-2, RDF Application, 1 February 2016.

- 60    10. The Respondent's National Frequency Agency ("NFA") and Rural Development Agency ("RDA") subsequently entered into a contract with the Claimant on 1 October 2016 (the "RDF  
65    **Agreement**"), providing the Claimant with USD 500 million and allocating the necessary Ka-band frequencies for a ten-year period.<sup>4</sup> Since then, the Claimant has been conscientiously developing and installing the Astra satellites as well as the ground stations on the territory of the Respondent, in order to deliver the promised quality of internet services.
11. However, in January 2020, following the change in the Respondent's Government, the Respondent began to slowly backtrack on its commitments, taking a multitude of measures that ultimately stripped the Claimant of its investment.
- 70    12. As a first step, the Respondent enacted the National Environmental Protection Act (the "NEPA").<sup>5</sup> The NEPA, despite stating that it would not apply retroactively, was interpreted broadly in practice in terms of what constitutes "future agency actions." This interpretation opened the door to a series of wide-ranging measures against the Claimant that caused the Claimant's eventual loss of all of its operations in relation to the territory of Celestria.
- 75    13. On 1 June 2020, the Celestrian Space Agency established radio silence zones which *de facto* reduced the communication reach of the Astra System from covering 100% of Celestria's territory to covering only 40%. Even though the Celestrian Space Agency relied on scant scientific evidence to make its decision, the Claimant cooperated in good faith and offered new plans to mitigate any potential impact on astronomy. The new plan obliged the Claimant to apply for a new Ku-band spectrum to operate. The Claimant was optimistic that the plan would be simple to execute because Article 6 of the RDF Agreement allows for the modification of support from the NFA and RDA under specific conditions.<sup>6</sup>
- 80    14. However, during the NFA's processing of the Claimant's request for the new Ku-band frequencies, the NFA requested the Claimant to submit supplementary materials to facilitate an environmental impact assessment regarding the reentry of the satellites. The Claimant refused to submit further documents and such refusal resulted in a long silence from the NFA. The application was kept pending and was finally rejected on 15 December 2020.

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<sup>4</sup> Exhibit C-3, RDF Agreement, 1 October 2016.

<sup>5</sup> Exhibit C-5, National Environmental Protection Act, 1 April 2020.

<sup>6</sup> Exhibit C-3, RDF Agreement, 1 October 2016.

15. On 1 January 2021, an unfortunate collision happened between one of the Claimant's satellites, AS100, and a cubesat owned by Valinor, a private company, and sponsored by the Respondent's Department of Defense ("DoD"). Based on the Claimant's engineers' post-collision assessment of its proprietary software, the collision was due to an electronic malfunction induced by an unusual solar radiation storm.<sup>7</sup>
- 90
16. On 5 January 2021, the DoD initiated an investigation and suspended the Claimant's operations on Celestria's territory.<sup>8</sup>
17. On 1 March 2021, the DoD abruptly ordered the Claimant to reposition of all of its 400km altitude satellites to new orbits below 350km. To add salt to the injury, the DoD also ordered a continuing suspension of the Claimant's operation on the territory of Celestria until the reposition was completed.<sup>9</sup>
- 95
18. The orbits and plans of all the 5,000 satellites in the current Astra System were deliberately and carefully engineered. While the Claimant possesses the technical capacities to reposition of the 400km satellites, such action will cost the Claimant USD 1 billion. In addition, the Claimant will need an authorization from the NFA to use the new spectrums due to the adjusted configuration. The Claimant recalls, however, that the NFA rejected its request for Ku-band frequencies on 15 December 2020. Chances of the NFA accepting another request are slim.
- 100
19. Moreover, the Claimant's 400km satellites were launched from the Kingdom of Cosmossis ("Cosmossis") before the diplomatic relationship between the Respondent and Cosmossis broke down following the climate migration crisis.<sup>10</sup> According to the Outer Space Treaty of 1967 and the Registration Convention of 1974, Cosmossis has quasi-territorial jurisdiction over the 400km satellites. The Respondent thus has no authority to enforce such an order.
- 105
20. Due to the series of the Respondent's measures, the Claimant's business activities in Celestria have ceased entirely. Although the Claimant retains ownership of its assets, including the ground stations within the Respondent's jurisdiction and the Astra satellites in outer space, it has been rendered incapable of conducting any business activities within the Respondent's
- 110

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<sup>7</sup> Exhibits C-6, Press Report on AS100 Collision, 2 January 2021; Exhibit C-7, Press Report on Solar Radiation Storm, 5 January 2021.

<sup>8</sup> Exhibit C-8, DoD Decision to Investigate AS100 Collision and Suspend Operation, 5 January 2021.

<sup>9</sup> Exhibit C-9, DoD Order to Adjust Orbits of 100 Satellites and Continue to Suspend Operation, 1 March 2021.

<sup>10</sup> Exhibit C-4, News Article from Cosmossis Gazette, 15 October 2016.

territory. The multi-agency actions amount to a comprehensive and permanent prohibition on the Claimant's provision of internet services within the Respondent's territory.

115 21. Consequently, the Respondent's measures effectively deprived the Claimant of the enjoyment and operations of its investment, and clearly represent a breach of Article VII of the BIT.

#### **IV. JURISDICTION OF THE ARBITRAL TRIBUNAL**

##### **A. Under the ICSID Convention**

22. Article 25(1) of the ICSID Convention provides that:

120 The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State (or any constituent subdivision or agency of a Contracting State designated to the Centre by that State) and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre. When the parties have given their consent, no party may withdraw its consent unilaterally.

125 23. The Claimant satisfies the requirements of Article 25(1) of the ICSID Convention.

*[the remaining arguments on jurisdiction under the ICSID Convention are intentionally omitted]*

##### **B. Under the BIT**

24. The Claimant equally meets the requirements of the BIT for the initiation of an ICSID arbitration. The Claimant recalls that prior to the entry into force of the BIT, Celestria and Nebuland were Contracting States to a Free Trade Agreement (the "FTA") along with Cosmossis. The FTA was in force between 2003 and 2017. Following the termination of the FTA in 2017,<sup>11</sup> Celestria and Nebuland negotiated, signed and ratified the BIT.

130 25. Article 2 of the BIT does not limit its temporal application. Article 2 is drafted in broad terms and provides that "[t]his Agreement shall apply to legal disputes in relation to investments that existed at the time of entry into force as well as to investments made or acquired thereafter." Article 2 thus provides that the BIT applies to all legal disputes, as long as they relate to an investment.

*[the remaining arguments on jurisdiction under the BIT are intentionally omitted]*

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<sup>11</sup> Exhibit C-10, Free Trade Agreement between the Governments of Nebuland, Celestria and Cosmossis, 2 December 2003.

140      **V. CONSTITUTION OF THE TRIBUNAL**

26. Pursuant to Article 11(1) of the BIT, the Tribunal is to be constituted in accordance with the method provided in Article 37(2)(b) of the ICSID Convention.

27. In accordance with Rule 16 of the ICSID Arbitration Rules, the Claimant appoints Dr. Nika Havendale, a national of Gerheimburg, as its arbitrator.

145    28. Dr. Havendale's contact information is the following:

Dr. Nika Havendale  
3 Wolkenstrasse  
90432 Silberbach  
Gerheimburg  
150      Email: [nhavendale@havendale.com](mailto:nhavendale@havendale.com)

**VI. REQUEST FOR RELIEF**

29. In light of the foregoing, Astracommex Regional requests that the Tribunal:

- i. **DECLARE** that the dispute is within the competence of the Centre and the jurisdiction of the Tribunal;
- ii. **DECLARE** that Celestria has violated Article VII of the BIT;
- iii. **ORDER** Celestria to pay to the Claimant damages in an amount that will be determined later in the proceeding but in any event not inferior to USD 1,000,000,000; and
- iv. **ORDER** Celestria to bear the entire costs of the proceeding including the Claimant's representation fees.

160    30. Astracommex Regional respectfully requests the Secretary-General to register this Request for Arbitration against Celestria pursuant to Article 36(3) of the ICSID Convention.

For the Claimant,



AstroJuris Arbitration



## **CONTACT:**

Mr. Presing Attchi  
Rural Development  
Agency  
3 tree road  
98479 Starvalis  
Celestria

## **PRESS RELEASE**

### **Celestria's Digital Health Project: Bridging Islands, Building Prosperity and a Leap into the Future of Healthcare**

*Skydicker Administration Spearheads Innovative Project to Transform Celestria's Health Sector*

2 June 2015

The Skydicker administration's groundbreaking Digital Health Project has recently received fundings from the Regional Development Bank. A strong connectivity infrastructure is critical as the Skydicker administration embarks on this Project and other digitalization endeavors. To this end, the administration is dedicated to bolstering the telecommunication sector. The Rural Development Agency, playing a pivotal role in the digitalization agenda, is vigorously pursuing dependable telecommunications solutions to fulfill this ambitious vision.

Celestria is an island nation with 60% of its population living in isolated areas, and thus faces unique geographical challenges that make this Project urgent.

The Digital Health Project introduces a comprehensive digital health information system to replace the legacy system that has been causing frictions in nationwide healthcare delivery. The new system aims to securely stores and shares patient medical records via an advanced cloud computing infrastructure. The goal is to streamline information flow among Celestria's healthcare providers, ensuring timely medical interventions and access to specialized services, especially in remote areas. The system will also employ advanced encryption methods to protect patient data.

The Project not only can tackle the digital divide in healthcare but also can create economic opportunities for private sectors. By integrating medical records - with patient consent or through anonymization techniques - the project opens avenues for sharing data with pharmaceutical companies and medical device manufacturers for future research and development.



205

**To:****Rural Development Agency**

3 tree road  
210 98479 Starvalis  
Celestria

**National Frequency Agency**

3 hertz boulevard  
215 98479 Starvalis  
Celestria

15 February 2016

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**Re: Application of Astracommex Regional Satellite Communication Inc. to the Rural Digital Fund**225 **I. OVERVIEW**

Astracommex Regional Satellite Communication Inc. (“**Astracommex Regional**”) operates as a wholly-owned subsidiary, with all of its shares held by its parent company, Astracommex Global Satellite Communication Inc. (“**Astracommex Global**”). Together, Astracommex Regional and Astracommex Global are collectively known as the Astracommex Group.

230 The Astracommex Group specializes in delivering high-capacity, low-latency broadband communication services to unserved and underserved consumers and businesses in rural and remote areas globally through the deployment of low-Earth-orbit (“**LEO**”) constellation (the “**Astra System**”). The Astra System will comprise 5000 satellites at altitudes of 400, 450, 500 and 600 km. Astracommex Regional’s constellation plans to use frequencies in the Ka-band to provide 235 Fixed-Satellite Services (“**FSS**”) and Mobile-Satellite Services (“**MSS**”) to customers.

This innovative service is specifically suitable to address the distinct geographic challenges of Celestria. It focuses on delivering broadband to underserved rural areas, offering a more cost-effective alternative to terrestrial telecommunication networks. Moreover, it ensures heightened reliability and resilience against potential disruptions caused by events such as tsunamis, seabed 240 earthquakes, which could otherwise sever internet connectivity throughout Celestria.

The Astracommex Group harnesses robust innovation capabilities rooted in its expertise in space communication. With ownership of multiple patents, including those for small, cost-effective customer terminal antenna technology and an on-board autonomous collision avoidance system, the Astracommex Group is at the forefront of technological advancement.

- 245 Demonstrating its commitment, the Astracommex Group has pledged a minimum investment of USD 3 billion to bolster the Astra System. Progressing steadily, the group aims to deliver affordable and dependable customer services.

- In April 2014, the Astracommex Group got authorization from Nebuland's Bureau of Space Commerce<sup>12</sup> to launch and operate TestSat1 and TestSat2 for testing and demonstration purposes.
- 250 During test rounds, the satellites successfully communicated with Telemetry, Tracking & Command earth stations in the Astral Region, Asia, Africa, Australia, and North America, South America and Europe as well as with customer terminal units and a single gateway earth station located in Nebuland. The test has fully validated the design of the Astra System and its capability for future commercial deployment. The Astracommex Group received authorization from Nebuland to operate in Ka-band on Nebuland territory in August 2014.
- 255

The Astracommex Group maintains a forward-thinking approach. In October 2014, the Group announced a strategic agreement with the Cosmosis Space Agency to secure 30 Cosmo-9 launch vehicles further fortifying its deployment schedule (see Appendix A). Notably, each Cosmo-9 launch vehicle possesses the capacity to deploy 50 Astra satellites.

- 260 The Astracommex Group is actively developing the Astra System at its state-of-the-art, 300,000-square-foot facility in Nebuland, serving as the primary prototype and qualification facility. The project involves a dedicated team of over 700 employees, and the workforce is rapidly expanding.

## II. SYSTEM ARCHITECTURE DESCRIPTION

### 265 A. Space Segment

- *Laser Transmitters*

- Each satellite is equipped with transmitters that enable direct laser transmissions with adjacent satellites. The primary function of laser transmitters is to establish inter-satellite links. These links allow satellites to communicate directly with each other in orbit, which is crucial for minimizing network latency.<sup>13</sup> The orbit and relative position of Astra satellites is carefully engineered to ensure reliable data flow among the high-velocity satellites. Notably, the laser wavelength utilized
- 270

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<sup>12</sup> The Bureau of Space Commerce is part of the Department of Commerce in Nebuland that is responsible for the authorization of commercial space activities.

<sup>13</sup> In the vacuum of space, light, including laser transmissions, travels faster than it does through fiber-optic cables on Earth. This allows for more rapid transmission of data from one satellite to another.

by the Astra satellites is distinct from the wavelengths observable by optical telescopes, thereby mitigating the risk of interference with astronomical observations.

- *Autonomous Collision Avoidance System*

- 275 Each Astra satellite is equipped with our patented autonomous collision avoidance system to avoid collision in orbit with another satellite or other space debris. This system harnesses tracking data from both onboard sensors and data shared via the Space Surveillance Network (“SSN”). The SSN is organized by the Department of Defense of the Kingdom of Cosmossis, and is renowned for its comprehensive coverage in tracking objects in orbit around the Earth.
- 280 The collision avoidance system operates in real-time, constantly assessing the likelihood of collisions and making split-second decisions to alter the satellite’s course when necessary. Every Astra satellite is equipped with cutting-edge ion thrusters powered by krypton. These thrusters allow Astra satellites to change their orbits when the onboard computer determines that a maneuver is necessary to avoid a potential collision.
- 285 The Astracommex Group retains the capability to remotely update the software of the collision avoidance system, ensuring continuous improvement and adaptability to the new challenges in space traffic management.

## B. Ground Segment

- The Astra System plans to have around 50 to 100 gateways<sup>14</sup> on the territory of Celestria for its service provision to the Celestrian people.

## III. POST-MISSION DISPOSAL

- We believe the best option for post-mission disposal for satellites (as well as deorbiting dysfunctional satellites) is atmospheric reentry. Astra satellites, composed of various materials including aluminum alloys, are fully demisable.<sup>15</sup> This approach to atmospheric reentry with fully-demisable satellites is preferred over leaving satellites in orbit or constructing them from materials that could survive reentry, posing a risk of human casualties.

*[the rest technical details are intentionally omitted]*

Yours Sincerely,



Jeffrey Myskin

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<sup>14</sup> A gateway is a special ground station that can connects the satellite communication to the Internet (and/or public telephone networks).

<sup>15</sup> The term “fully demisable” in the context of satellites and spacecraft refers to the capability of the entire satellite or spacecraft to completely disintegrate and burn up upon re-entry into the Earth’s atmosphere.

## APPENDIX A: LAUNCH SCHEDULE

Time	Number of Satellites (cumulative)	Status	Milestone Deployment Requirement	Network Capacity (estimated)
Until 1 Feb 2016	100	deployed	N/A	N/A
1 Oct 2016 <i>(targeted RDF launch date – if winning the bid)</i>	200	Launches booked with Cosmosis	N/A	N/A
1 Oct 2017 (year 1)	500	Launches booked with Cosmosis	10% (500 satellites)	N/A
1 Oct 2018 (year 2)	1500	Launches booked with Cosmosis	30% (1500 satellites)	Network goes live and the internet service starts to be available to customers. Customers may anticipate to experience network delays.
1 Oct 2019 (year 3)	2500	TBD	50% (2500 satellites)	Service available to customers (with 50% of optimal service quality). The quality of service is anticipated to be comparable to, and in some cases, exceed that of most terrestrial networks.
1 Oct 2020 (year 4)	3500	TBD	70% (3500 satellites)	Service available to customers (with 70% of the optimal service quality)
1 Oct 2021 (year 5)	5000	TBD	100% (5000 satellites)	Service available to customers (with 100% of the optimal service quality)

\* To become operational, the Astra System requires a minimum deployment of 1500 satellites in its designated orbits. However, until the number of satellites reaches 2500, customers can expect suboptimal internet quality. The Astra System will activate inter-satellite links when the number of satellites reaches 2500 to better reduce latency.

**AGREEMENT OF 1 OCTOBER 2016 FOR THE IMPLEMENTATION OF  
THE RURAL DIGITALIZATION FUND**

310

The present Agreement for the Implementation of the Rural Digitalization Fund (hereinafter referred to as the “Agreement”) is made and entered at the location and on the date indicated below between

315 the **National Frequency Agency of Celestria**, 3 hertz bvd., 98479 Starvalis, Celestria (hereinafter “NFA”); and

the **Rural Development Agency of Celestria**, 3 tree road, 98479 Starvalis, Celestria (hereinafter “RDA”); and

**Astracommex Regional Satellite Communications Inc.**, 115 Neptune St., 48799 Stelaria, Nebuland (hereinafter “Astracommex Regional”)

320 (hereinafter together referred to as “the Parties”)

under the following terms and conditions:

- (A) On 1 January 2016, the Republic of Celestria established the Rural Digitalization Fund (hereinafter “RDF”) with the goal of digitalizing public services.
- (B) On 1 January 2016, the NFA and RDA announced an auction inviting foreign and domestic companies to submit their applications to the RDF for allocation of funds and spectrum.
- (C) On 15 February 2016, Astracommex Regional submitted its application to the RDF (hereinafter the “RDF Application”).
- (D) On 1 August 2016, the NFA and RDA announced Astracommex Regional as one of three successful applicants.

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THEREFORE, in consideration of the foregoing, the Parties agree to the following:

**Article 1      Definitions**

ORBIT

The path, relative to a specified frame of reference, described by the center of mass of a satellite or other object in space subjected primarily to natural forces, mainly the force of gravity (*per article 1.184 of the International Telecommunication Union (“ITU”) Radio Regulations*).

GEOSYNCHRONOUS SATELLITE

An earth satellite whose period of revolution is equal to the period of rotation of the Earth about its axis (*per article 1.188 of the ITU Radio Regulations*).

GEOSTATIONARY SATELLITE

A geosynchronous satellite whose circular and direct orbit lies in the plane of the Earth’s equator and which thus remains fixed

GEOSTATIONARY  
SATELLITE ORBIT

relative to the Earth; by extension, a geosynchronous satellite which remains approximately fixed relative to the Earth (*per article 1.189 of the ITU Radio Regulations*).

FIXED-SATELLITE  
SERVICE

The orbit of a geosynchronous satellite whose circular and direct orbit lies in the plane of the Earth's equator (*per article 1.190 of the ITU Radio Regulations*).

MOBILE SATELLITE-  
SERVICE

A radiocommunication service between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas (*per article 1.21 of the ITU Radio Regulations*). A radio communication service between mobile earth stations and one or more space stations, or between space stations used by this service; or between mobile earth stations by means of one or more space stations (*per article 1.25 of the ITU Radio Regulations*).

335

## **Article 2      Authorization of Ka-band Frequencies**

1. In consideration of the contents of Astracommex Regional's RDF Application, the NFA and RDA grant to Astracommex Regional, to the extent set forth below, the rights to deploy a non-geostationary ("NGSO") satellite system to provide service using certain Fixed-Satellite Service ("FSS") and Mobile-Satellite Service ("MSS") Ka-band frequencies with the conditions adopted herein.
2. Astracommex Regional is authorized to operate its NGSO FSS system in the 17.7-20 GHz bands, and to provide MSS, in addition to FSS, in the 19.7-22 GHz bands.
3. Astracommex Regional is authorized to use the above Ka-band Frequencies with the conditions adopted herein, free of charge, for ten years. The rate of usage for the subsequent period will be renegotiated in due course.

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*[Note: the conditions are purely technical and intentionally omitted. The omitted conditions only and exclusively relate to the efficient and effective sharing of spectrum and the avoidance of harmful interference of spectrum.]*

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## **Article 3      Deployment Requirements**

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1. Astracommex Regional commits to offer stand-alone broadband service at speeds consistent with the RDF Application, i.e., with at least 25 Mbps downstream and 3 Mbps upstream (25/3 Mbps) at rates reasonably comparable to those available in urban areas to all locations within an awarded area of the ten-year program.
2. The initial interim deployment milestones are set as follows. Astracommex Regional as carrier must complete:

- 360
- i. 10 percent of deployments by the end of year one;
  - ii. 30 percent of deployments by the end of year two;
  - iii. 50 percent of deployments by the end of year three;
  - iv. 70 percent of deployments by the end of year four; and
  - v. 100 percent of deployments by the end of year five.

#### **Article 4      Annual Filing Requirements**

365 Astracommex Regional must fulfill its total build-out obligations over six years of the ten-year program and meet the interim service milestones. Astracommex Regional is required to file and certify annually in the RDF portal all locations deployed to in the prior year and should be prepared to provide documentation to the compliance team to substantiate build-out.

370 **Article 5      Payment**

- 1. The RDA will begin issuing annual payments to Astracommex Regional shortly after the public notice has been released. While the payments under the RDF be disbursed over a period of 10 years, Astracommex Regional must complete the deployment by the end of the fifth year to all locations in areas eligible for support and must meet interim deployment milestones along the way.
- 2. The payment will be divided into equal installments of USD 50,000,000 over the span of 10 years.

375 **Article 6      Reassessment**

380 A reassessment in year four of the program may revise deployment obligations and modify support from the NFA and RDA in certain circumstances.

#### **Article 7      Legal Consequences of Breach of Contract**

- 385
- 1. If Astracommex Regional breaches the Agreement, specifically regarding the obligations outlined in Article 3, the NFA and RDA shall be entitled to apply sanctions against Astracommex Regional as stipulated in the present Agreement.
  - 2. Astracommex Regional agrees to pay a penalty to the NFA and RDA in the cases regulated in the present Agreement. In addition to claiming a penalty, the NFA and RDA shall be entitled to impose other sanctions against Astracommex Regional. Should Astracommex Regional breach the same regulation several times or continually, the penalty may be imposed several times.
- 390



# Cosmosis Gazette

15 October 2016

your news, today, everyday

since 1987

## Cosmosis Takes a Stand: Prime Minister Condemns Celestria's Failure to Protect Citizens from Climate Crisis

420 Today is a defining moment that could reshape regional relations.

The Prime Minister of Cosmosis, Nigel Palpatinous, delivered a stark rebuke today of Celestria's failure in handling climate change issues. He criticized the neighboring nation for its apparent 425 inability to adequately protect its population from escalating threats posed by climate change. This, he suggested, not only compromises Celestria's own stability but also poses a substantial setback to the collective global effort to address the climate crisis.

430 Since the summer of 2013, Cosmosis, the only neighboring state that is connected to Celestria by land, has emerged as a major destination for Celestrians displaced by climate change. The once tranquil border area of Cosmosis is now grappling with safety concerns and resource strains caused 435 by homeless migrants. The local government's efforts, including an injection of over 100,000 USD dollars for additional police force and humanitarian assistance, have fallen short of addressing the escalating situation. A local villager, expressing their distress, said,

*440 "Why haven't I left this village? I am poor! I am trapped here with these folks. And why should I leave? It makes absolutely no sense for Cosmosis taxpayers to pay for Celestria's failure!"*



445

The situation reached a critical point following a devastating tropical storm in the summer of 2016, leading to an unprecedented surge in refugee numbers. In a decisive move, Prime Minister Palpatinous announced Cosmosis' first-ever climate migration policy, denying asylum to Celestrian residents displaced by natural disasters and climate change effects.

This publication echoes the sentiment that the Celestrian government must reassess its priorities

and focus on proactive measures to protect its citizens against the changing climate.

As the debate on climate responsibility and regional cooperation unfolds, the Cosmosis Gazette will continue to provide comprehensive coverage, fostering dialogue and awareness on this critical issue.

450

[cosmosisgazette.com](http://cosmosisgazette.com)



455

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## NATIONAL ENVIRONMENTAL POLICY ACT OF 1 APRIL 2020

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460

*Recognizing* the specific need of the people of Celestria for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge,

465 *Desiring* to establish a national policy which will encourage productive and enjoyable harmony between human and human environment,

*Desiring* to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humankind,

470 *Acknowledging* the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new expanding technological advances,

475 *Recognizing* further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man.

### **Article I      Definitions**

*Human environment* is not limited to those which are subject to Celestria's national jurisdiction, and for greater certainty, human environment includes the outer space environment.

480 *Environmental Impact Assessment* means the process used to predict the environmental consequences (positive or negative) of a plan, policy, program or project prior to moving forward with the proposed action.

### **Article II      Scope of Application**

485 This Act mandates all governmental agencies to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare,

to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Celestrians.

490

### **Article III Environmental Impact Assessment**

*[intentionally omitted]*

### **Article IV Due Process**

495 This Act does not apply retroactively. It shall guide future actions of governmental agencies, particularly when authorizing new activities.

### **Article V Agency Decision Making**

500 Agencies must take full account of environmental impact assessments as per Article III when determining whether the planned activity may proceed. A decision to authorize the planned activity under the jurisdiction of the agency shall only be made when, taking into account mitigation or management measures, the agency has determined that it has made all reasonable efforts to ensure that the activity can be conducted in a manner consistent with the prevention of threats of severe or irreversible damage on the human environment.

505 When it comes to making decisions that involve multiple agencies, a coordinated approach to decision-making shall be employed.

In line with Principle 15 of the Rio Declaration on Environment and Development, lack of full scientific certainty shall not prevent an agency from implementing preventive measures against environmental degradation.

510

### **Article VI Forms of Agency Decision**

Each decision rendered by an agency pursuant to this Act must be documented in written form and made available to the public in a timely manner.

515 **Article VII Right to Appeal**

Affected parties to an agency's decision have the right to appeal the decision in accordance with Celestria Administrative Law.

*[the rest of the NEPA is intentionally omitted]*

520

# Cosmo News

2 January 2021

## Breaking: Unfortunate Collision, the Wandering AS100

525

On 1 January 2021, one of Astracommex's satellites, AS100 collided with a cubesat operated by Valinor.

530 The Valinor cubesat involved is said to be a component of a trial missile defense system that Valinor developed in partnership with the Department of Defense of Celestria. The payload of the Valinor cubesat includes the state-of-art Hypersonic and Ballistic Tracking Space Sensor. It is designed to identify and track hypersonic and ballistic missile threats and provide critical data to the Department of Defense's Missile Defense System and the warfighter.

535 The Celestrian Department of Defense is believed to have launched this system as a covert operation in response to diplomatic tensions with Cosmoss in 2017. According to insiders at the Department of Defense, this strategic move was intended to strengthen Celestria's readiness for any potential future conflicts arising from regional tensions. This was especially important given Cosmoss' regional dominance in aerospace, space technology, and missile capabilities.

540 Astracommex believes that the collision was not their fault. According to the company's CEO, Jeffrey Myskin, "there was no close-proximity alert from the Space Surveillance Network, nor were there any public records of a cubesat operating in the same orbit."

545 He also urged the public not to lose faith in their collision avoidance system, claiming that "the last data recorded in our system prior to the collision indicates that high energy protons from the unusual solar radiation storm affected the onboard computation. Our patent products contain no inherent flaws but were affected by the unusually extreme solar radiation. Our software engineering team has been working right after the collision to update the onboard software for all the existing and upcoming satellites to protect them from interference by extreme space weather events." Our Celestria Space Agency source confirmed observing a "unusually strong" solar flare at the time of collision.

550 The CEO also urged Valinor to coordinate with Astracommex in post-collision self-assessment and future operations. He emphasized that proactive communication from Valinor could have prevented the incident and the collision.

Valinor has so far not responded to a request for comment on the incident.

# PLANETARY NEWS



555

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## Solar Radiation Storm Four Times Earth's Size Recorded by Amateur Astronomer in Celestria

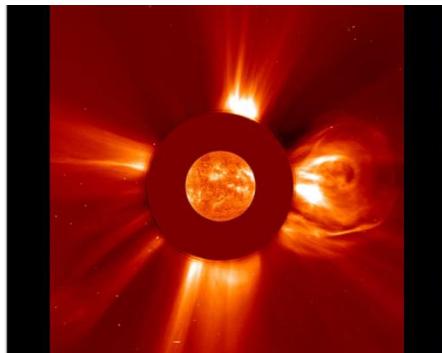
By Lucy Franks 5 Jan 2021 14:35 CET<sup>16</sup>

560 An amateur astronomer and Celestrian educational YouTuber named Rick Carrington captured a solar storm emerging away from the Sun where “four entire Earths” could fit in.

Solar radiation storms happen when a massive magnetic explosion, typically triggering a coronal mass ejection and a related solar flare, speeds up charged particles in the sun’s atmosphere to extremely high speeds. The key particles in these events are protons, which can reach speeds close to that of light. These high-energy protons, when they hit satellites or humans in space, can deeply penetrate the impacted objects, potentially harming electronic components or biological DNA. AS100 collision was said to be caused by the solar storm observed this week.

570 In the past few months, there’s been a rise in solar activity on the sun, the sole star of our solar system, as part of the ongoing Solar Cycle. While solar storms are a regular occurrence, their observation and recording hold great scientific value.

### Solar Storm Video



[View more on Instagram](#)



3,898 likes

Add a comment...

Carrington detected the unusual space storm on a video posted on Instagram on 1 January 2021. In the caption, the amateur astronomer stated he was not expecting to capture the event, which happened after he pointed out his telescope on 30 December 2020. In the video, it can be noticed the Sun emitted a curve-shaped plasma out of its surface.

The video has gained thousands of views and even caught the attention of Celestrian Space Agency.

Rick Carrington is reportedly well recognized for uploading videos in matters relating to astronomy, astrophotography, telescopes and cameras.

<sup>16</sup> Note: CET refers to “Celestrian Eastern Time.”



585

Office of the General Counsel

78 Armory Road, 98698 Starvalis

590 To the attention of:

**Astracommex Regional Satellite Communication Inc.**

115 Neptune Street  
48799 Stelaria  
Nebuland

595

5 January 2021

**Subject: Investigation and Operational Restrictions Following AS100 Collision**

600

Dear Mr. Myskin,

In accordance with the powers conferred by the Celestrian National Security Act, the Department of Defense of Celestria has jurisdiction over space activities involving essential security interests. The Department of Defense initiates today an investigation into the recent collision involving your satellite, AS100, part of the Astra System, and a cubesat operated by Valinor, a private Celestrian space company in partnership with Celestria's Department of Defense.

This incident raises serious concerns regarding the safety of the autonomous collision avoidance system employed in your satellites. Considering the significant presence of Department of Defense assets in low-Earth orbits - a region where many of your satellites operate or are proposed to operate - we hereby issue the following directives:

615

- i. **Investigation:** The Department of Defense will initiate an investigation to ascertain the circumstances surrounding the collision, including potential lapses in communication, and the validity of the autonomous collision avoidance system.
- ii. **Suspension of Operations:** Until the investigation is concluded, Astracommex is directed to suspend all satellite communications within the territory of Celestria due to safety concerns.

Immediate compliance with these directives is mandatory. Non-compliance will lead to further legal actions, including penalties and potential criminal charges.

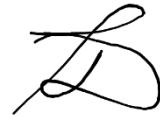
620

Astracommex may appeal this decision within 30 days of receipt of this notice. Appeals should be submitted directly to the Department of Defense.

The Department of Defense takes these measures to ensure the safety and integrity of Celestria's space operations and essential security interests. We anticipate your full cooperation in this matter.

625

Yours sincerely,

A handwritten signature in black ink, appearing to read "SD".

Sam Davis

630



635

To the attention of:

**Astracommex Regional Satellite Communication Inc.**

115 Neptune Street

640 48799 Stelaria  
Nebuland

1 March 2021

645 **Subject: Required Actions After AS100 Collision Incident**

Dear Mr. Myskin,

650 Based on the Department of Defense's investigation of the AS100 satellite collision, we have identified both software and hardware deficiencies in the collision avoidance system of the Astra satellites.

655 Regarding the software, the algorithm Astracommex used to predict relies predominantly on data collected by the Space Surveillance Network of Cosmosis. Since the cessation of Cosmosis-Celestria diplomatic relations, Celestria has shut down all of Cosmosis' terrestrial radar operations within Celestria's borders, coupled with subsequent national security regulations prohibiting sensitive data transfer to Cosmosis. These measures have significantly impacted Cosmosis' Space Surveillance Network's accuracy on Celestria related space activities.

660 Regarding the hardware, we find that the onboard sensors of Astra satellites have an error rate from 5% to 10% in detecting and avoiding objects smaller than 20 centimeters approaching from certain angles. This flaw, as our investigation suggests, cannot be rectified with software updates as previously suggested by Astracommex.

665 The heightened risks of collision in space, particularly due to the potential onset of Kessler Syndrome,<sup>17</sup> significantly compromises the safety of Celestria's space operations. The issue is especially pertinent for the Department of Defense's assets operating in 400km altitude orbits, where the risk of satellite collisions presents a national security concern.

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<sup>17</sup> Kessler Syndrome is a scenario in which the density of objects in low Earth orbits (LEO) due to space pollution is numerous enough that collisions between objects could cause a cascade in which each collision generates space debris that increases the likelihood of further collisions.

Moreover, such collisions are a primary source of space debris, i.e., space junk. According to Articles I and II of the National Environmental Protection Act, it is mandatory for governmental agencies to consider the protection of the human environment, including outer space, in their decision-making processes.

670 In light of these concerns and under the authority of the Celestria National Security Law and the National Environmental Protection Act, the Department of Defense hereby issues the following directives:

- 675
- i. **Orbital Adjustments:** All Astra satellites currently in 400km altitude orbits must be relocated to orbits below 350km. This includes repositioning 99 existing satellites (AS100 is not included) and coordinating with the Department of Defense for any future satellite launches adjacent to 400km orbits by Astracommex Regional in Celestria.
  - ii. **Suspension of Operations:** All satellite communications within Celestria's territory must be suspended by Astracommex Regional until the orbital adjustments are completed.

680 Immediate adherence to these instructions is required. Failure to comply will result in legal consequences, including penalties and possible criminal charges. Astracommex has the right to appeal this decision in accordance with Celestria Administrative Law.

Yours sincerely,



Sam Davis

685

FREE TRADE AGREEMENT BETWEEN THE GOVERNMENTS OF NEBULAND,  
690 CELESTRIA AND COSMOSIS

[...]

Article 2

695 "The present Agreement shall apply to investments made before or after its entry into force by investors of one Contracting Party, in accordance with the legal provisions of another Contracting Party and in the latter's territory. It shall not apply to differences or disputes that arose prior to its entry into force."

700 [...]

Article 15

705 The present Agreement can be terminated at any time by any Contracting Party by notifying such termination to the other Contracting Parties by courier addressed to the representatives mentioned in Article 14 (the "Notice of Termination").

The obligations arising under the Present Agreement shall cease to exist fifteen (15) days after the delivery of the Notice of Termination.

710 [...]

Article 18

The present Agreement shall enter into force on the date of its signature by all Contracting Parties.

715

Done on 2 December 2003 in 3 originals, in English.

*[signatures omitted]*

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

720

**In the arbitration proceeding between**

725

Astracommex Regional Satellite Communication Inc.

*(Claimant)*

**and**

The Republic of Celestria

730

*(Respondent)*

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**RESPONSE TO THE REQUEST FOR ARBITRATION**

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735

**11 November 2022**

740

**For the Respondent:**

745

Dr. Janis Pletnik  
**CosmoLex**  
5 lunar bvd., 98479 Starvalis  
Celestria

## I. INTRODUCTION

- 750 1. The Republic of Celestria (“**Celestria**”), the Respondent in the present proceeding, hereby submits a short response to the Claimant’s Request for Arbitration (the “**Response**”).
2. In this Response, unless otherwise stated, the Respondent adopts the abbreviations used in the Claimant’s Request for Arbitration.
3. Unless otherwise stated, the Respondent disagrees with every statement made by the Claimant  
755 in the Request for Arbitration.

## II. THE TRIBUNAL LACKS JURISDICTION *RATIONE TEMPORIS* TO ENTERTAIN THE CLAIMANT’S CLAIM

4. The Respondent considers that the Tribunal lacks jurisdiction *ratione temporis* over the dispute.
5. Article 2 of the BIT defines its scope and provides that “[t]his Agreement shall apply to legal  
760 disputes in relation to investments that existed at the time of entry into force as well as to investments made or acquired thereafter.”
6. Article 2 of the BIT is silent on whether it applies to disputes that existed prior to its entry into force. Therefore, the Tribunal should apply general international law and notably Article 28 of the Vienna Convention on the Laws of Treaties which entered into force on 27 January 1980  
765 (“**VCLT**”) and provides that:

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

- 770 7. In the case at hand, the intention of the BIT’s contracting parties was to exclude disputes that arose prior to its entry into force, as the contracting parties made clear in a binding interpretive statement that they issued on 10 October 2022.<sup>18</sup>
8. Furthermore, the dispute between the Parties arose and crystallized prior to the entry into force  
775 of the BIT for several reasons.

---

<sup>18</sup> Exhibit R-1, Declaration concerning the Agreement on reciprocal promotion and protection of investments between the Kingdom of Nebuland and Republic of Celestria, 10 October 2022.

9. First, the root of the dispute between the Parties is the denial by Astracommex Regional of Celestria's right to adopt environmental regulations as shown by the comments of its CEO on the date of the adoption of the NEPA.<sup>19</sup>
10. Second, on 15 October 2020, faced with the request by the NFA to produce additional materials  
780 concerning the atmospheric impact of Astra satellite reentries, Astracommex Regional sent a letter to the NFA contesting such request and declining to "provide additional materials."<sup>20</sup> Astracommex Regional thus disregarded a request made by an agency of Celestria.
11. Third, most of the factual matrix on which the Claimant is relying upon in the Request occurred prior to the entry into force of the BIT.
- 785 12. Accordingly, the Respondent respectfully requests the Tribunal to declare that it lacks jurisdiction over the Claimant's claims against the Respondent.

### **III. THE RESPONDENT'S MEASURES DO NOT AMOUNT TO EXPROPRIATION**

13. If the Tribunal dismisses the Respondent's jurisdictional objection, the Respondent affirms that it respected at all times its treaty obligations towards the Claimant. The Respondent  
790 undertook regulatory and administrative measures within its power for the safety and well-being of its citizens and the environment. None of the Respondent's actions constitutes expropriation under Article VII of the BIT.
14. First, the Claimant retains the ownership, operation, and control over all its satellites and continues to provide services on territories other than that of the Respondent, for instance in  
795 the Kingdom of Nebuland. As such, the Respondent opposes the Claimant's conclusion that it had suffered any deprivation of its property rights, not to mention a "significant deprivation."
15. Moreover, the Claimant's assertions as to the permanent nature of the suspension of the  
800 Claimant's satellite communications within Celestria's territory are also unfounded. The Claimant's operations are suspended only until the Claimant successfully repositions the 400km satellites, of which, as the Claimant itself submitted, the satellites are more than

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<sup>19</sup> Exhibit R-2, "The Green Party enacts the National Environmental Protection Act", the Cosmosis Post, 1 April 2020.

<sup>20</sup> Exhibit R-3, Letter from Astracommex Regional to the NFA, 15 October 2020.

capable.<sup>21</sup> It is thus by the Claimant's own choice that its operations remain suspended. The suspension cannot be deemed permanent in nature.

16. Lastly, out of abundance of caution, the Respondent notes that Celestria has made the following notification under Article 25(4) of the ICSID Convention:

805 Pursuant to Article 25(4) of the ICSID Convention, the Republic of Celestria will only consider submitting disputes over expropriation and nationalization to the jurisdiction of the International Centre for Settlement of Investment Disputes.

#### **IV. IN ANY EVENT, THE MEASURES ARE JUSTIFIED UNDER THE APPLICABLE INTERNATIONAL LAW**

- 810 17. The regulatory actions from respectively the Celestrian Space Agency, the National Frequency Agency ("NFA"), and the Department of Defense ("DoD") are justifiable and thus do not entail the international responsibility of the Respondent.
18. The Celestrian Space Agency's action is a legitimate exercise of police power for public welfare. Optical and radio astronomy are important for the public not only for purposes of science, but also for preventing or mitigating catastrophic events like asteroid impact. As part of the UN-endorsed International Asteroid Warning Network ("IAWN"), the Celestrian Space Agency utilizes its ten major telescopes for discovering, monitoring, and physically characterizing the potentially hazardous near-Earth objects.<sup>22</sup>
- 815 19. The NFA's decision was informed by evidence of atmospheric impacts gathered by the Celestria Institute of Technology, a laboratory sponsored by the Environmental Protection Agency ("EPA").<sup>23</sup> The NFA's approach aligns with the precautionary principle enshrined in Article V of the BIT. The principle's objective is to anticipate and avoid environmental damage before it occurs, in recognition of the need to protect human health and the environment by taking precautionary measures while scientific studies are undertaken to qualify the risk or risks associated with a course of action.<sup>24</sup> The absence of evidence that mass scale satellite reentries would not negatively impact the stratosphere was sufficient to activate the principle.

---

<sup>21</sup> Request for Arbitration, para. 18.

<sup>22</sup> Exhibit R-4, Celestrian Space Agency's Study on Astra Satellites' Impact on Astronomy, 20 May 2020.

<sup>23</sup> Exhibit R-6, Study on Atmospheric Effects of Spacecraft Reentries, 1 October 2020.

<sup>24</sup> Exhibit R-5, Scientists' Call to Halt Satellite Light Pollution, 30 May 2020.

20. The DoD's measures address concerns about environmental impacts from space debris and national security, including potential collision with DoD's military assets in adjacent orbits. The DoD investigation revealed both software and hardware flaws in the Claimant's system, threatening Celestria's essential security. The Claimant asserted that the DoD decision was "outside of Celestria's jurisdiction." However, the Respondent was not claiming jurisdiction over the Claimant's satellites *per se*. Instead, it was regulating the use of outer space orbits, which are designated as global commons under Article I of the Outer Space Treaty:

830           Outer space, including the Moon and other celestial bodies shall be free for exploration and  
835           use by all States without discrimination of any kind [...] and there shall be free access to  
              all areas of celestial bodies.

## V. CONSTITUTION OF THE TRIBUNAL

21. In accordance with Rule 16 of the ICSID Arbitration Rules, the Respondent appoints Prof. Brynn Sterling, a national of Lyonnaisia, as its arbitrator.

840   22. Prof. Sterling's contact information if the following:

Prof. Brynn Sterling  
25 rue du ciel bleu  
00056 Lumière-sur-Isle  
Lyonnaisia  
Email: [bsterling@sterling.org](mailto:bsterling@sterling.org)

## VI. RELIEF SOUGHT

23. In light of the above, the Respondent respectfully requests the Tribunal to:

- i.     **DECLARE** that it has no jurisdiction to hear the Claimant's claim; and
- ii.    If the Tribunal finds that it has jurisdiction over the dispute, **DECLARE** that the Respondent's actions do not amount to expropriation under Article VII of the BIT and reject the Claimant's claims; and
- iii.   **ORDER** the Claimant to bear the entire cost of the proceedings.

24. The Respondent reserves the right to further develop its arguments.

For the Respondent,



CosmoLex Associates



**Kingdom of  
Nebuland**



**Government  
of Celestria**

*Freedom - Peace - Prosperity*

860

**10 October 2022**

**Re: Declaration concerning the Agreement on reciprocal promotion and protection of investments between the Kingdom of Nebuland and Republic of Celestria**

865

The Kingdom of Nebuland and the Republic of Celestria hereby declare that Article II of the Agreement on reciprocal promotion and protection of investments between the Kingdom of Nebuland and Republic of Celestria that entered into force on 1 February 2021 is to be interpreted as precluding the adjudication of legal disputes that arose prior to 1 February 2021.

870

For Nebuland

875

Mr. Janis Solaris

Minister of Justice

For Celestria

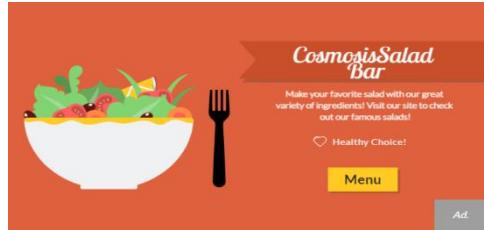
Ms. Stella Mercury

Minister of Foreign Affairs

≡ 880

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885



## The Green Party Enacts the National Environmental Protection Act

Three months after the elections, the Green Party officially initiates the implementation of its environmental agenda.

890

By [Matthew Greenblue](#)

1 April 2020 at 13:23 CET

Ad removed. [Details](#)

Crowd celebrating the victory of the Green Party on 15 January 2020

895



Listen 11 min



Share



Comment 21



Save

900

Less than three months after the elections, the Congress of Celestria adopted the National Environmental Protection Act ("NEPA") implementing the campaign promises of the Green Party. As our readers may recall, during the electoral campaign, the Green Party presented several environmentally friendly policies promises such as the "Green Wall" project aiming to fight the rising ocean levels or a full-scale transition to clean energy.

The NEPA is the cornerstone of the Green Party's projects since it grants power to government agencies to issue binding decisions on environmental concerns. The NEPA also allows said agencies to provide recommendations and opinions on environmental issues.

905 "I am very happy that Congress adopted NEPA" said earlier today, Billie Ruckelshaus, the new President of Celestria. The former civil rights activist added that "it is time for Celestria to join the developed world by ensuring a safe future to our citizens."

The NEPA was unanimously adopted by the newly elected majority and was only opposed by the members of the former ruling party.

910 Soon after the adoption of NEPA, several thousand Celestrians gathered in the main square of Starvalis to celebrate the beginning of a new era. "I finally have hope that my children will be able to continue and live in our beautiful land", said M., a local farmer who preferred to stay anonymous.

915 Not all, however, are happy with the adoption of the NEPA. Mr. Jeffrey Myskin, the CEO of a satellite company that operates in Celestria, raised concerns about the broad powers granted to the local agencies. "One needs to be careful when allocating such broad and discretionary power to bureaucrats that do not always understand the ins and outs of a business", Mr. Myskin said. "Astracommex has been providing exceptional service to the people of Celestria and I am concerned that local agencies will try to hijack our operations by painting them as environmental concerns" added the billionaire.

920



**To:**

925      **National Frequency Agency**  
 3 hertz boulevard  
 98479 Starvalis  
 Celestria

15 October 2020

930      **Re: Astracommex Regional's response on the request for atmospheric environmental impact assessment**

Dear Director,

935      I am writing to you on behalf of Astracommex Regional in response to your recent request for additional materials concerning the atmospheric impact of Astra satellite reentries. While we share your commitment to preserving our planet's atmosphere, we find the nature of your request to be outside the reasonable scope of current environmental regulatory frameworks, namely, the National Environmental Protection Act ("NEPA").

940      NEPA's Article IV exempts existing projects from retroactive application. Our current submission on 1 September 2020 is not a new application but a modification request to existing projects with the same agency (i.e., the NFA). The NFA had previously authorized the spectrum for Astra System operations in Celestria via the RDF Agreement on 1 October 2016. Modifications to this spectrum, necessitated by Celestria Space Agency's directive to minimize astronomical light interference, should not trigger a complete reevaluation under the NEPA.

945      Even if the NEPA applies, Astracommex Regional shouldn't bear the burden to provide positive evidence to prove that reentries will not negatively impact the atmosphere. The study cited in your request does not refute our argument that the alumina produced by Astra satellites would be a fraction of a percentage of all metals introduced into the atmosphere naturally by meteoroids. There is no concrete evidence linking reentering satellites to environmental harm.

950      Importantly, the design and operation of Astra satellites fully comply with both national and international guidelines for space debris mitigation and environmental impact. Our satellites are engineered to be fully demisable, ensuring that they burn up entirely upon re-entry into the Earth's atmosphere, leaving no physical debris that could contribute to environmental harm.

Due to the reasons mentioned above, we respectfully decline to provide additional materials.

Respectfully submitted,

955

  
 Jeffrey Myskin

960

THE CELESTRIA JOURNAL OF ASTROPHYSICS, 20 May 2020

© 2020. The Authors. Published by the Celestrian Astronomical Society

[http://doi.org/celestria\\_report/2020](http://doi.org/celestria_report/2020)**OPEN ACCESS**

## Impact of the Astracommex Astra Satellites on Optical and Radio Observatories in Celestria

*Celestrian Space Agency*

965

### Abstract

970

The increasing deployment of low-Earth-orbit (LEO) satellite networks, particularly the Astra System by Astracommex, is raising concerns for ground-based astronomy, especially in wide-field optical and infrared surveys. Celestrian Space Agency operates ten large observatories in the territory of Celestria. This study focuses on the impacts of LEO satellite mega-constellations – mainly the Astra System – on astronomical research. Our analysis of archival data from 1 March 2017 to 1 March 2020 reveals approximately 3500 satellite trails traced back to satellites in the Astra System. There's a noticeable upward trend in the number of compromised images correlating with Astracommex's ongoing satellite launches. Twilight observations are most affected, with the proportion of streaked images soaring from under 0.5% in 2017 to 18% by 2020. Projections indicate that, upon the Astra system reaching 5000 satellites, nearly all twilight images from the ten Celestrian observatories might be affected.

975

### 1. INTRODUCTION

980

The Celestrian Space Agency maintains a network of ten large observatories, each strategically located on the middle or small-size islands of Celestria to mitigate the effects of artificial light from the urbanized main island. These observatories are positioned across the diverse islands of Celestria to ensure comprehensive coverage across Celestria's territory.

985

*[the rest is intentionally omitted]*

### 6. ASSESSMENT OF IMPACT TO THE PUBLIC

990

Astronomical studies, pursuing a range of critical topics from stellar populations to near-Earth object tracking, rely on unobstructed views of the sky. The emergence of satellite trails not only leads to data loss or reduced signal quality but also poses significant risks to time-sensitive and high-priority research. For instance, missing a near-Earth object<sup>25</sup> due to satellite interference could mean losing vital orbital data. Similarly, failing to capture a super-Earth exoplanet's transit or the optical counterpart of a gravitational wave source could result in irretrievable scientific opportunities.

---

<sup>25</sup> Celestrian Space Agency has been an active member in the UN-endorsed International Asteroid Warning Network that discovers, monitors, and characterizes potentially hazardous near-Earth objects since 2017.

Furthermore, understanding the satellites' impact on large-scale studies (like those conducted by  
995 the Vera C. Rubin Observatory in the future) requires even more sophisticated modeling. Such research, often affected by systematic uncertainties rather than sample size limitations, includes precision cosmology measurements like gravitational weak lensing shear. The interference from these satellites could significantly impede progress in these fields, underscoring the need for comprehensive modeling to gauge their full impact.

1000

*[the rest is intentionally omitted]*

*--Disclaimer--*

The exhibit presented herein is based on the original research titled “Impact of the SpaceX Starlink Satellites on the Zwicky Transient Facility Survey Observations” by Przemek Mróz et al, published in The Astrophysical Journal Letters on 10 January 2022. The contents have been reproduced and adapted with fictional details exclusively for the purposes of the 2024 Foreign Direct Investment (FDI) Moot Court. This adaptation is not intended to represent the original work accurately and should not be used as a substitute for the original research.  
1005  
1010

## Astra Nature Astronomy<sup>26</sup>

Comment | Published: 30 May 2020

### 1015 A call for scientists to halt the spoiling of the night sky with artificial light and satellites

By Amateur Astronomy Association

1020 The availability of clear night sky viewing is quickly dwindling as a result of artificial light and the tracking of constellations by satellites. Scientists need to take a stronger stance against “big light” and “big space” in order to protect this natural resource.

1025 Light pollution, produced both at Earth’s surface and from low-Earth-orbit (LEO) satellites, is rapidly increasing. Artificial light at night (ALAN) is an anthropogenic pollutant, as defined since 1979 by the United Nations: “[a]ir pollution means the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment, and ‘air pollutants’ shall be construed accordingly,” where “energy is understood to include heat, light, noise and radioactivity introduced and released into the atmosphere through human activities.”<sup>27</sup>

*[intentionally omitted]*

1035 Reading the recent reports on light pollution by LEO satellites including the recent one by Celestrian Space Agency,<sup>28</sup> we are very pessimistic about the path being followed by an important part of the scientific community (and other actors) that works on and has responsibilities for these areas of research. This situation echoes historical patterns seen in various fields, from tobacco smoke to climate change, diesel emissions, asbestos, and opioids. In these instances, whenever scientific literature begins addressing a health or environmental issue, those responsible often deploy a “machine of doubt” to delay, or even halt, the implementation of necessary countermeasures and regulations.

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<sup>26</sup> Astronomy Association is a peer-reviewed scientific journal published by the Astra Nature Publishing Group. It focuses on all aspects of astronomy, astrophysics, and planetary science. As a part of the prestigious “Astra Nature” family of journals, it is known for its high impact and rigorous peer-review process, aiming to publish the most significant and cutting-edge research in these fields.

<sup>27</sup> 1979 Convention on Long-Range Transboundary Air Pollution (United Nations, 1996).

<sup>28</sup> Celestrian Space Agency, *Impact of the Astracommex Astra Satellites on Optical and Radio Observatories in Celestria*, THE CELESTRIA JOURNAL OF ASTROPHYSICS, 20 May 2020.

This strategy is alarmingly consistent: polluters deny evidence, fund contrary research, and procrastinate on pollution limits, leading to millions of deaths and an over-polluted world. Now, as we face the challenges posed by “big space,” one must question if their tactics will differ from those of “big oil,” “big tobacco,” or “big pharma.” The current approach to the problem of LEO  
1045 satellites — trying to mitigate their impact by dimming their brightness, adjusting telescope operations, or avoiding their paths — is insufficient and does not address the full scope of the issue. If unchecked, the proliferation of satellites will drastically change our night skies, with hundreds or thousands visible at any given moment, obscuring the view that has been a human heritage for millennia.

We thus call on all relevant actors to rebuild international cooperation and agreement in order to avoid escalation. It’s particularly crucial for governments to not be swayed or hindered by the so-called “machine of doubt.” They possess a potent instrument through Principle 15 of the Rio Declaration:  
1050

*In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.*  
1055

[the rest is intentionally omitted]

1060 ---Disclaimer---

*The exhibit presented herein is based on the original comment titled “A call for scientists to halt the spoiling of the night sky with artificial light and satellites” by Fabio Falchi et al, published in Nature Astronomy on 20 March 2023. The contents have been reproduced and adapted with fictional details exclusively for the purposes of the 2024 Foreign Direct Investment (FDI) Moot  
1065 Court. This adaptation is not intended to represent the original work accurately and should not be used as a substitute for the original research.*

1070 **Metals from spacecraft reentry in stratospheric aerosol particles**

*Geoscience Research Lab from Celestria Institute of Technology; Published 1 October 2020*

When used rockets, retired satellites and other space debris fall back to Earth, they often burn up, creating metal vapors. These vapors then turn into tiny particles in the stratosphere. Previous  
1075 studies mostly looked at the risk of space debris hitting the ground, not what happens to these vaporized metals. Now, we've found that these metal vapors can be clearly measured in stratospheric sulfuric acid particles. We detected over 20 different elements from reentry, matching the types of metals used in spacecraft. The amounts of lithium, aluminum, copper, and lead from these reentries are even more than what comes from cosmic dust. Roughly 10% of certain larger  
1080 sulfuric acid particles in the stratosphere have these metals from spacecraft. As more satellites will be launched in the coming years, up to half of these stratospheric particles might contain reentry metals. However, it's still unclear what effect this increased metallic presence will have on the stratosphere's aerosols.

*[intentionally omitted]*

1085 The discovery of metals from spacecraft reentry in stratospheric sulfuric acid particles opens up the possibility of several potential impacts, although definitive consequences are yet to be determined. One significant concern is the effect these metals, particularly aluminum and other novel elements, might have on the formation of ice or nitric acid trihydrate (NAT) in the atmosphere. Given that polar stratospheric clouds form around a small fraction of particles, the  
1090 introduction of new types of ice nuclei from spacecraft metals could have a substantial impact. Similarities have been noted between these metals and meteoric inclusions in sulfuric acid, which are known to act as ice nuclei. Furthermore, metal cations in these particles could lead to efflorescence, a process where water is released from the particles, potentially affecting atmospheric chemistry and physics.

1095 A reexamination of older mass spectra, in light of these findings, revealed the presence of particles from spacecraft reentry in ice residuals of high-altitude cirrus clouds as far back as 2002. However, the frequency of these particles in the clouds was not significantly different from that of meteoric elements. This suggests that while spacecraft reentry particles are indeed making their way into various atmospheric layers, their impact, particularly in comparison to natural meteoric elements,  
1100 is still an area requiring further investigation.

*[intentionally omitted]*

The space sector is currently experiencing significant expansion. The plan to deploy tens of thousands of small satellites into low Earth orbits will result in a greater number of these satellites eventually reentering the Earth's atmosphere. Presently, about 10% of particles in the stratosphere

1105 have an increased concentration of aluminum. With the anticipated rise in satellite reentries, it is expected that in the next few decades, a similar proportion of stratospheric sulfuric acid particles will contain aluminum and other metals from these reentries, potentially reaching levels close to the current 50% of stratospheric particles that contain metals from meteors.

1110                     ---*Disclaimer*---

*The exhibit presented herein is based on the original research titled “Metals from spacecraft reentry in stratospheric aerosol particles” by Daniel Murphy et al, published in PNAS on 7 September 2023. The contents have been reproduced and adapted with fictional details exclusively for the purposes of the 2024 Foreign Direct Investment (FDI) Moot Court. This adaptation is not intended to represent the original work accurately and should not be used as a substitute for the original research.*

1115

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

1120

**In the arbitration proceeding between**

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Astracommex Regional Satellite Communication Inc.

*(Claimant)*

**and**

The Republic of Celestria

1130

*(Respondent)*

**ICSID Case No. ARB/22/99**

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**PROCEDURAL ORDER NO. 1**

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*Members of the Tribunal*

Mr. Jackson Cole, President of the Tribunal  
Dr. Nika Havendale, Arbitrator  
Prof. Brynn Sterling, Arbitrator

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*Secretary of the Tribunal*

Mr. Dapo Olasibi

**27 May 2023**

1150

## **Order**

Pursuant to ICSID Arbitration Rules 27 and 29, this Procedural Order sets out the Procedural Rules that govern this arbitration. The Procedural Timetable is attached in **Annex A**.

1155 1. **Applicable Arbitration Rules**

*Convention Article 44; Arbitration Rule 1*

1.1 These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of 1 July 2022, and the Official Rules of the Foreign Direct Investment International Arbitration Moot (“**FDI Rules**”). In case of inconsistency between the two, the latter shall prevail to the extent to the inconsistency.

1160 2. **Constitution of the Tribunal and Tribunal Members’ Declarations**

*Arbitration Rule 21*

2.1 The Tribunal was constituted on 24 April 2023 in accordance with the ICSID Convention and the ICSID Arbitration Rules. The parties confirmed that the Tribunal was properly constituted and that no party has any objection to the appointment of any Member of the Tribunal.

2.2 The Members of the Tribunal timely submitted their signed declarations in accordance with ICSID Arbitration Rule 19(3)(b). Copies of these declarations were distributed to the parties by the ICSID Secretariat.

1165 2.3 The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case and that they will use best efforts to meet all time limits for orders, decisions and the Award, in accordance with ICSID Arbitration Rule 12(1).

1170 3. **Presence and Quorum**

*Arbitration Rule 33*

3.1 The participation of a majority of the members of the Tribunal by any appropriate means of communications is required at the first session, case management conferences, hearings and deliberations, except as otherwise provided in the Arbitration Rules or unless the parties agree otherwise.

- 1180    4. **Rulings of the Tribunal**  
*Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35*
- 4.1 Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 4.2 The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.
- 1185    4.3 When the matter is urgent, the President may decide procedural matters without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.
5. **Representation of the Parties**  
*Arbitration Rule 2*
- 5.1 Each party shall be represented by its counsel (below) and may designate additional agents, 1190    counsel, or advocates by notifying the Tribunal and the Tribunal Secretary promptly of such designation.
- | <i>For the Claimant</i>   | <i>For the Respondent</i>  |
|---|--|
| Ms. Astrid Stellaris<br>AstroJuris Arbitration<br>3 Saturn St., 48798 Stelaria<br>Nebuland<br>Tel: 019679876<br>Email: astellaris@astrojuris.glob | Dr. Janis Pletnik<br>CosmoLex<br>5 lunar bvd.<br>98479 Starvalis Celestria<br>Tel: 098792764<br>Email: jpletnik@cosmos.net |
6. **Apportionment of Costs and Advance Payments to ICSID – Division of Advances**  
*Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50*
- 1195    6.1 The parties shall cover the direct costs of the proceedings in equal parts, without prejudice to the final decision of the Tribunal as to the allocation of costs.
7. **Place of Proceeding and Hearings**  
*Convention Articles 62 and 63; Arbitration Rule 32*
- 7.1 Berlin, Germany, shall be the place of the proceeding.
- 1200    7.2 The Tribunal may hold in-person hearings at any other place that it considers appropriate.
- 7.3 The Tribunal members may deliberate at any place and by any appropriate means they consider convenient.

8. Procedural Language(s), Translation and Interpretation

*Arbitration Rule 7*

- 1205     8.1 English is the procedural language of the arbitration.
- 8.2 Documents filed in any other language must be accompanied by a translation into English.
- 8.3 It is sufficient to translate only the relevant part of a supporting document, unless the Tribunal orders a party to provide a fuller or a complete translation.

9. Production of Documents

1210     *Convention Article 43(a); Arbitration Rules 5 and 36-40*

- 9.1 On the date determined in Annex A, each Party may serve a request for production of documents on the requested Party. The request shall be made in the form of the Schedule attached in Annex B, in both Word and PDF format, and shall not be copied to the Tribunal or the Tribunal Secretary.
- 1215     9.2 On the date determined in Annex A, the requested Party shall, using the schedule provided in Annex B, provide the requesting Party with reasoned objections for its refusal to produce responsive documents.
- 9.3 On the date determined in Annex A, the requested Party shall produce the requested documents to which it has not filed any objection.
- 1220     9.4 On the date determined in Annex A, the requesting Party shall reply to the requested Party's objections in that same schedule, and if disagreements cannot be resolved, shall submit the schedule to the Tribunal, with a copy to the requested Party (in both Word and PDF formats).
- 9.5 The Tribunal will make its best efforts to rule on the objections in a timely manner.
- 1225     9.6 Neither Party shall be permitted to submit additional requests to produce documents, save under exceptional circumstances at the discretion of the Tribunal upon a reasoned written request followed by observations from the requested Party.

10. Submission of Documents

*Convention Article 44; Arbitration Rule 5; FDI Rule 6.1*

- 1230     10.1 The Memorial and Counter-Memorial shall be accompanied by the documentary evidence relied upon by the parties, including exhibits and legal authorities.

10.2 The Memorial and Counter-Memorial must be contained in a single file and submitted in  
PDF format.

1235 10.3 Equipment or software failure is not considered as an excuse for improper formatting or  
late submission of the Memorial and Counter-Memorial.

10.4 The Parties may not revise, substitute, delete, or in any other manner alter the Memorial  
and Counter-Memorial once submitted.

10.5 The Memorial and Counter-Memorial shall comply with FDI Rules 6.2 through 6.7.

1240 11. Hearings

*Arbitration Rule 32, FDI Rule 7*

11.1 The main hearing may be held in-person or by any other means of communication as  
determined by the Tribunal.

11.2 The main hearing shall take place in Berlin on 1-4 November 2024.

11.3 The main hearing will address the following issues:

- 1245 i. Whether the Tribunal has jurisdiction *ratione temporis* under the BIT to hear  
the Claimant's claim; and  
ii. Whether the Respondent breached Article VII of the BIT.

1250 11.4 As agreed between the Parties and the Tribunal, the evidence that may be relied on in the  
proceeding will be limited to (a) facts and assertions contained in the Request for  
Arbitration and the Response to it, the "Statement of Uncontested Facts" as will be agreed  
to between the parties, and appended to a Procedural Order (with no admission being made  
by either of the Parties as to correctness of the inferences from facts asserted by the other  
Party in its respective submission); (b) publicly available information (subject to the  
exception in paragraph 11.5); and (c) responses to the questions presented by the Parties'  
1255 counsel in accordance with the procedure described below:

- i. By 1 June 2024 factual questions that require clarification shall be posted in  
accordance with the procedure described at  
<https://fdimoot.org/teams/clareqs.php>;

- 1260
- ii. The Parties shall then confer and seek to agree as soon as practicable on the responses to those questions. The Parties' agreed responses shall be appended to the case file at <https://fdimoot.org/problem.pdf>; and
  - iii. By 15 August 2024 another set of factual questions may be posted in accordance with the same procedure referenced above. The responses to those questions shall be appended as described above.

1265 11.5 As agreed between the Parties and the Tribunal, the scientific evidence that may be relied on in the proceeding will be limited to those contained in paragraphs 11.4 (a) and (c).

On behalf of the Tribunal,

1270 

Mr. Jackson Cole  
President of the Tribunal  
27 May 2023

## **Annex A – Procedural Timetable**

1275

*[intentionally omitted]*

## **Annex B – Redfern schedule**

	<b>A.</b> <b>Documents or Category of Documents Requested</b>	<b>B.</b> <b>Relevance and Materiality</b>	<b>C.</b> <b>Objections to the Request</b>	<b>D.</b> <b>Reply to the Objections</b>	<b>E.</b> <b>Decision</b>
1.					

1280

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

1285

**In the arbitration proceeding between**

Astracommex Regional Satellite Communication Inc.

*(Claimant)*

**and**

The Republic of Celestria

*(Respondent)*

1290

**ICSID Case No. ARB/22/99**

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1295

**PROCEDURAL ORDER NO. 2**

*(Document Production)*

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1300

***Members of the Tribunal***

Mr. Jackson Cole, President of the Tribunal

Dr. Nika Havendale, Arbitrator

Prof. Brynn Sterling, Arbitrator

1305

***Secretary of the Tribunal***

Mr. Dapo Olasibi

**1 June 2024**

1310

## I. INTRODUCTION

- 1315 1. This Procedural Order No. 2 (“**PO2**”) comprises the Tribunal’s decision on the Astracommex Regional’s and Celestria’s (together the “**Parties**”) requests to produce documents as set out in their respective Redfern schedules. The Tribunal’s decision on Astracommex Regional’s requests is set out in annex A to this PO2 and the Tribunal’s decision on Celestria’s requests is set out in annex B to this PO2.

## II. PROCEDURAL BACKGROUND

- 1320 2. *[Intentionally omitted]*

## III. APPLICABLE PRINCIPLES

- 1325 3. In accordance with paragraph 10 of Procedural Order No. 1 (“**PO1**”) and without prejudice to Article 43(a) of the ICSID Convention, the Tribunal has been guided by ICSID Arbitration Rule 37 in evaluating the Parties’ requests (including their objections and replies).
4. The Tribunal has carefully considered each of the requests, objections and replies made by the Parties as set out in their respective schedules. The Tribunal’s decision on each individual request is set out in the last column of the Parties’ Redfern schedules.

## IV. THE TRIBUNAL’S GENERAL OBSERVATIONS

- 1330 5. For the avoidance of doubt, the term “document” has the meaning of a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means.
6. Where ordered to do so, the Parties are required to produce documents that are within their possession, custody or control.
7. Any document the production of which is ordered by the Tribunal shall be communicated within the time limit set out in the Procedural Timetable, directly to the requesting Party without copying the Tribunal.
- 1335 8. Documents produced voluntarily as well as those produced pursuant to this PO2, shall only form part of the record if and when they are submitted as exhibits to the main pleadings. Otherwise, they shall not be taken into account by the Tribunal.

9. The Parties must undertake reasonable searches in relation to the requests that have been  
1340 granted or voluntarily complied with. Any search that has already been undertaken by a Party does not need to be carried out again, provided that such search was reasonable.

10. The Tribunal directs that where a party wishes to assert privilege, legal impediment or confidentiality over a responsive document that it has been ordered to produce (or as otherwise directed by the Tribunal), it should record that document in a privilege and confidentiality log to be provided to the other side. The Parties must produce any privilege and confidentiality logs at the latest on the 15 June 2024.  
1345

## V. DECISION

11. In light of the above, after having carefully considered the assertions made by the Parties and taking into account the applicable principles, the Tribunal unanimously:

1350 i. **DECIDES** on the Parties' requests as set out in the Redfern schedules that are attached to this PO2 as annexes A and annex B, subject to the Parties applying the agreed and reasonable search terms and date ranges as ordered above. These annexes form an integral part of the PO2.

1355 ii. **ORDERS** each Party to produce the documents pertaining to each of the requests that have been fully or partially granted by 15 June 2024 at the latest. Each Party that wishes to assert that any of the documents to be disclosed or part thereof is privileged, subject to legal impediment or confidential, to file a privilege and confidentiality log in accordance with the general guidelines above.

1360 On behalf of the Tribunal,



1365 Mr. Jackson Cole  
President of the Tribunal  
1 June 2024

## Annex A Astracommex Regional's Redfern schedule

	<b>A.</b> <b>Documents or Category of Documents Requested</b>	<b>B.</b> <b>Relevance and Materiality</b>	<b>C.</b> <b>Objections to the Request</b>	<b>D.</b> <b>Reply to the Objections</b>	<b>E.</b> <b>Decision</b>
1.	[Intentionally omitted]	[Intentionally omitted]	[Intentionally omitted]	[Intentionally omitted]	[Intentionally omitted]
...	[Intentionally omitted]	[Intentionally omitted]	[Intentionally omitted]	[Intentionally omitted]	[Intentionally omitted]
23.	Any and all documents and communications between Celestria and Valinor between December 2020 and June 2021 regarding the collision between Astracommex's AS100 and Valinor's satellite, including, without being limited to, emails or other communications, minutes of meetings, reports, presentations and/or decisions of authorities.	<p>Astracommex submits that Astracommex was not liable for the collision. Celestria used the incident to initiate an investigation against Astracommex and to suspend the operation of satellites.</p> <p>This move was discriminatory because no investigation and suspension of operations was issued for Valinor.</p> <p>The requested documents are relevant to assess whether the behavior of the Department of Defense was non-discriminatory and justified.</p>	<p>Celestria objects to the request for the following reasons:</p> <ul style="list-style-type: none"> <li><b>Complying with the request is likely to entail data protection issues.</b> As Valinor is in a long-term partnership with Celestria's military, the search will likely entail data protection issues. Celestria should not have to incur such a risk.</li> <li><b>The request is unreasonable burdensome.</b> The request should be dismissed because of the overwhelming likelihood that requested documents will be privileged or confidential. Celestria should not be required to incur the costs and efforts to look for and log such documents.</li> </ul>	<p>Astracommex maintains the request and respectfully applies to the Tribunal to order the production of responsive documents.</p> <ul style="list-style-type: none"> <li><b>Celestria failed to specify and substantiate the alleged "data protection issues."</b> Celestria did not even attempt to conduct a reasonable search and only speculates that such search would "<i>likely entail</i>" unspecified "data protection issues." This objection is therefore too unspecific for Astracommex to respond to.</li> <li><b>The request is reasonable in its scope and is not burdensome.</b> Celestria again only "<i>expects</i>" the search to be burdensome, without providing any reason. Moreover, the request is not more burdensome than any other document production request.</li> </ul>	The Request relates to matters potentially relevant to this arbitration and is granted, unless said documents are privileged or confidential under PO2.

## Annex B Celestria's Redfern Schedule



1375

2 June 2024

To the attention of:

Mr. Jackson Cole, President of the Tribunal

Dr. Nika Havendale, Arbitrator

1380 Prof. Brynn Sterling, Arbitrator

### **REQUEST FOR SECURITY FOR COSTS**

Dear Members of the Tribunal,

1385 We write on behalf of the Respondent in relation to the Claimant's continuing bad faith conduct in this proceeding.

#### **1. Late payment of the initial advance payment requested by ICSID**

1390 The Respondent recalls that in accordance with ICSID Administrative and Financial Regulation 15(1)(a), ICSID sends an initial advance payment request to a claimant upon the registration of the proceeding "to defray the estimated costs of the proceeding through the first session of the [...] Tribunal."

1395 On 25 September 2022, ICSID sent such a request to the Claimant requesting the payment of USD 150,000 by 25 October 2022. However, Astracommex did not make a payment by that date. After having notified Astracommex's default and providing it with an extra 15 days to make the payment, the Secretary-General of ICSID suspended the proceeding for lack of payment on 16 November 2022.<sup>29</sup> The Claimants finally paid the requested amount only on 15 February 2023, *i.e.*, with a delay of 3 months.

#### **2. The Claimant's failure to disclose its Third-Party Funder**

1400 The Respondent recently discovered through the publication of the annual reports of two companies that Astracommex's parent company issued a capital call to finance the present

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<sup>29</sup> Exhibit R-7, Letter from the Secretary-General to the Parties, 16 November 2022.

proceeding.<sup>30</sup> These two companies must therefore be considered as Third-Party Funders (“TPF”). Consequently, the Claimant had a duty to disclose their existence pursuant to ICSID Arbitration Rule 14 but deliberately chose to violate this provision.

### **3. The Claimant’s conduct warrants the order of security for costs**

1405        The Claimant’s late payment of the advance on costs and its reliance on TPF to finance this proceeding demonstrates that the Claimant is impecunious. The Claimant’s impecuniosity is further supported by the admission of its own quantum expert, Mr. Damus.<sup>31</sup>

The Claimants’ conduct combined with its impecuniosity will prevent Celestria from recovering any adverse costs if those are ordered by the Tribunal.

1410        Therefore, in accordance with ICSID Arbitration Rule 53(1), the Respondent requests the Tribunal to order the Claimant to post a security for costs in an amount not smaller than USD 2 million.

1415



CosmoLex Associates

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<sup>30</sup> Exhibit R-8 and R-9, Capital Call Notices, 13 July 2022.

<sup>31</sup> Exhibit R-10, Appendix 3.1 of the Expert Report of Mr. Damus.

16 November 2022

1420 By email

Astracommex Regional Satellites  
 Communications Inc.  
 c/o Ms. Astrid Stellaris  
 AstroJuris Arbitration  
 3 Saturn St.  
 48798 Stelaria  
 Nebuland

Republic of Celestria  
 c/o Dr. Janis Pletnik  
 CosmoLex  
 5 lunar bvd.  
 98479 Starvalis  
 Celestria

**Re: Astracommex Communications Inc. v. Celestria**  
 (ICSID Case No. ARB/22/99)

1425

Dear Madam and Sir,

1430 I write in reference to our letter of 25 October 2022, informing the parties of my intention to suspend the proceeding for non-payment pursuant to ICSID Administrative and Financial Regulation 16(2)(b).

The outstanding payment of the Claimant has not been received by the Centre to date. Therefore, pursuant to ICSID Administrative and Financial Regulation 16(2)(b), I have decided to suspend the proceeding as of today's date.

1435

Please note that upon payment of the outstanding amount by either party, the proceedings will resume. Pursuant to ICSID Administrative and Financial Regulation 16(2)(c) "if [the] proceeding is suspended for non-payment for more than 90 consecutive days, the Secretary-General may discontinue the proceeding, after giving notice to the parties and to the [...] Tribunal [...] if constituted."

Yours sincerely,

[signed]

1445

Sir Awe Some  
 Secretary-General

1450 cc: Members of the Tribunal

**Annex F**

1455

13 July 2022

To: Marcial Ventures Ltd

**ACTION REQUIRED**

**Capital Call Notice**

1460 This Notice is being delivered pursuant to the Bylaws of Astracommex Global Satellite Communication Inc. (the “Bylaws”). Capitalized terms used but not defined in this notice shall have the meanings ascribed to such terms in the Bylaws.

We are writing to notify you that in accordance with Article VIII of the Bylaws, the Company hereby requests a Capital Contribution in the amount of USD 5,000,000. Based on your Ownership  
1465 Percentage of 12,5%, the total amount owed by you is USD 625,000.

Payment must be received on or prior to 28 July 2022.

Sincerely,

[signed]

1470 Mr. Jeffrey Myskin

**Annex F**

1475

13 July 2022

To: Platoniq Investments

**ACTION REQUIRED**

**Capital Call Notice**

1480 This Notice is being delivered pursuant to the Bylaws of Astracommex Global Satellite Communication Inc. (the “Bylaws”). Capitalized terms used but not defined in this notice shall have the meanings ascribed to such terms in the Bylaws.

We are writing to notify you that in accordance with Article VIII of the Bylaws, the Company hereby requests a Capital Contribution in the amount of USD 5,000,000. Based on your Ownership  
1485 Percentage of 12,5%, the total amount owed by you is USD 625,000.

Payment must be received on or prior to 28 July 2022.

Sincerely,

[signed]

1490 Mr. Jeffrey Myskin

**Mr. Damus**

1495 Appendix 3.1 – Astracommex Regional's Profit and Loss Statements

	<b>Oct 2016 - Oct 2017</b>	<b>Nov 2017 - Oct 2018</b>	<b>Nov 2018 - Oct 2019</b>	<b>Nov 2019 - Oct 2020</b>	<b>Nov 2020 - Oct 2021</b>	<b>Nov 2021 - Oct 2022</b>	<b>Nov 2022 - Oct 2023</b>	<b>Total</b>
<b>Income</b>								
RDF	\$ 50,000,000	\$ -	\$ 50,000,000	\$ 50,000,000	\$ 50,000,000	\$ -	\$ -	\$ 200,000,000
Internet Service Fee	-	-		500,000	800,000	-	-	1,300,000
<b>Total Income</b>	<b>\$ 50,000,000</b>	<b>\$ -</b>	<b>\$ 50,000,000</b>	<b>\$ 50,500,000</b>	<b>\$ 50,800,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 201,300,000</b>
<b>Expenses</b>								
Launches	\$ 100,000,000	\$ 100,000,000	\$ 400,000,000	\$ 400,000,000	\$ -	\$ -	\$ -	\$ 1,000,000,000
Ground Construction	\$ 32,000,000							32,000,000
Management fees	63,000	58,000	69,365	5,964	56,561	56,484	165,418	474,792
Office expenses	10,000	10,000	10,000	10,000	10,000	10,000	10,000	70,000
Legal expenses	20,000	20,000	20,000	500,000	1,000,000	9,000,000	\$ -	10,560,000
<b>Total Expenses</b>	<b>\$ 132,093,000</b>	<b>\$ 100,088,000</b>	<b>\$ 400,099,365</b>	<b>\$ 400,515,964</b>	<b>\$ 1,066,561</b>	<b>\$ 9,066,484</b>	<b>\$ 175,418</b>	<b>\$ 1,043,104,792</b>
<b>Balance</b>	<b>\$ (82,093,000)</b>	<b>\$ (100,088,000)</b>	<b>\$ (350,099,365)</b>	<b>\$ (350,015,964)</b>	<b>\$ 49,733,439</b>	<b>\$ (9,066,484)</b>	<b>\$ (175,418)</b>	<b>\$ (841,804,792)</b>
1500								



ASTROJURIS ARBITRATION

1505

9 June 2024

To the attention of:

1510 Mr. Jackson Cole, President of the Tribunal  
Dr. Nika Havendale, Arbitrator  
Prof. Brynn Sterling, Arbitrator

### **Response to the Request for Security for Costs**

1515 Dear Members of the Tribunal,

The Claimant hereby submits its brief observations on the Respondent's request for security for costs. The Claimant reserves the right to further present its position in due course.

#### **1. The Respondent's action caused severe financial difficulties to the Claimant**

1520 The Claimant does not dispute that it was late in making the payment requested by the Centre on 25 September 2022. The late payment, however, is a direct consequence of the Respondent's actions described in the Request for Arbitration.

Contrary to the Respondent's assertions, the Claimant acted in good faith and despite the Respondent's actions, was able to pay the requested amounts.

1525 In such circumstances, a mere 3-month suspension cannot be the basis of a request for security for costs.

#### **2. The Claimant did not fail to disclose a Third-Party Funder**

ICSID Arbitration Rule 14 requires the disclosure of "the name and address of any non-party from which the party, directly or indirectly, has received funds for the pursuit or defense of

the proceeding a donation or grant, or in return for remuneration dependent on the outcome of the  
1530 proceeding.”

Marcial Ventures Ltd and Platonial Investments do not constitute third party funders under the definition of ICSID Arbitration Rule 14 since they have held equity in Astracommex’s parent company for several years now and the money was contributed to Astracommex further to a capital call as provided for by the bylaws of its parent company.<sup>32</sup>

1535 Astracommex was thus under no obligation to disclose the names of Marcial Ventures Ltd and Platonial Investments to the Tribunal.

In addition, if such disclosure obligation existed (*quod non*), the financing of a party by a TPF is not sufficient to demonstrate “exceptional circumstances” which are required for a Tribunal to order security for costs.

1540 Considering the foregoing, the Claimant requests the Tribunal to deny the Respondent’s request for security for costs.

### **3. The Claimant will be able and are willing to pay adverse costs**

Despite the Respondent’s actions that caused financial hardship for the Claimant, the Claimant will be able to honor a hypothetical cost award. First, the Claimant has assets in the form 1545 of the satellites which are sufficient to cover an adverse cost award. Second, the Claimant is a 100% owned subsidy of Astracommex Global Communications Inc., which is solvent, and thus the Claimant’s financial situation should be of no concern to the Respondent since it can enforce any cost award against the assets of the former in accordance with Nebuland’s domestic law.<sup>33</sup>

1550 In addition, the Claimant hereby confirms that it will honor any cost award rendered against it.

Considering the foregoing, the Claimant requests the Tribunal to deny the Respondent’s request for security for costs.



AstroJuris Arbitration

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<sup>32</sup> Exhibit C-10, Bylaws of Astracommex Global Satellite Communication Inc.

<sup>33</sup> Exhibit C-11, Nebuland’s Code of Civil Procedure

**BYLAWS  
OF  
Astracommex Global Satellite Communication Inc.**

1560 **Article I**

The name of the corporation is Astracommex Global Satellite Communication Inc.

[...]

**Article VIII**

If at any time, and from time to time, the Manager in good faith believes that the Company, 1565 or any of its affiliates, is, or at any time within the following ninety (120) days will be, in the position of having payment obligations in excess of cash or equivalent resources with which to fund such obligations, attempt to cause the Company, to borrow such funds, the Manager shall make such situation, and in particular the amount (the "cash need amount") 1570 of the excess of obligations over resources so determined, known to the Members who shall each then be obligated to contribute to the Company, within fifteen (15) days following receipt of notice from the Manager, funds in an amount equal to such Member's Residual Percentage multiplied by the cash need amount.

[...]

**Article XII**

1575 After paying taxes in accordance with the law, the remaining earnings of the Company shall be available for dividend distribution to the Members. The Manager shall recommend a dividend distribution plan to the Board of Directors within the first three (3) months following the end of each fiscal year of the Company for the Board's consideration and approval or modification. In his or her recommendation, the General Manager shall 1580 consider that the Company has sufficient funds on hand to pay the dividends and meet its approved capital expenditure budget and working capital requirement for the current budget year. The Company shall not distribute dividends unless the losses of the previous fiscal year(s) have been fully made up. The remaining undistributed dividend from previous 1585 years may be distributed together with that of the current year and the Board of Directors may authorize the payment of dividends from undistributed dividends from previous years at any time.

1590 **TITLE II ENFORCEMENT**

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**Article 67** An affiliate means any company that controls, is controlled by, or is under common control with another company.

1595 **Article 68** If a party to a proceeding before a court of general jurisdiction fails to satisfy a pecuniary obligation ordered by such court, any interested party may request the competent court to seize the assets of said party or of its affiliates.

**Article 69** An award of an arbitral tribunal rendered pursuant the Convention on the Settlement of Investment Disputes between States and Nationals of Other States shall create a right arising under a treaty of Celestria. The pecuniary obligations imposed by such an award shall be enforced as if the award were a final judgment of a court of general jurisdiction.

1600

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

1605

**In the arbitration proceeding between**

Astracommex Regional Satellite Communication Inc.

*(Claimant)*

**and**

The Republic of Celestria

*(Respondent)*

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**ICSID Case No. ARB/22/99**

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**NOTICE OF NON-COMPLIANCE WITH  
DOCUMENT PRODUCTION**

1620

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**20 June 2024**

1625

**For the Claimant:**

1630

Ms. Astrid Stellaris  
**AstroJuris Arbitration**  
3 Saturn St., 48798 Stelaria  
Nebuland

## I. OVERVIEW

- 1635 1. On 1 June 2024 the Tribunal issued PO2 ordering Parties to produce documents identified in Annex A and Annex B respectively.
2. On 15 June 2024 at 8:36 pm, Celestria sent an e-mail to Astracommex Regional Satellite Communication Inc. (“**Astracommex**”), attaching the Privilege and Confidentiality Log, as well as the list of produced documents. Due to the size of the files, Celestria also attached a link to an external storage website, where the documents were available to download. Based on notification from the system, counsel for Astracommex logged in to the website at 8.53 pm and downloaded all documents.
- 1640 3. At 11:57 pm of the same day, Astracommex sent an e-mail to Celestria, also attaching the Privilege and Confidentiality Log, as well as the list of produced documents. Celestria downloaded these the following morning from an external storage website.
- 1645 4. Upon review, counsel for Astracommex noticed that Celestria did not produce an AS100 collision incident report dated 17 February 2021 under Request No. 23. Counsel for Astracommex therefore immediately notified Celestria, expecting this to be a clerical or technical error.
- 1650 5. Celestria responded by e-mail dated 16 June 2024. It stated that “after conducting reasonable search, these were the documents responsive to Request No. 23 in possession of Celestria.”
6. Astracommex considers that this statement is false and is a purposeful tactic employed by Celestria to obstruct Astracommex’s due process rights to argue its case. Astracommex became aware of the existence of the AS100 collision incident report when an anonymous source mailed a redacted first page of the report to Astracommex’s offices on 13 February 2024. The heavily redacted version shows that the document is responsive under the Request No. 23.<sup>34</sup> Based on the seal and stamp attached to the document, it is clear that this document was prepared by Valinor in cooperation with Celestria’s Department of Defense (“**DoD**”) and is thus in possession of Celestria.
- 1655

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<sup>34</sup> Exhibit C-12.

- 1660 7. Based on the available unredacted information, the governmental cubesat involved in the collision was not part of the declared missile detection network. Instead, it was a prototype cubesat being developed as part of an advanced anti-satellite weapon system, in collaboration with the Celestrian DoD. The document also suggested that the AS100 was mistakenly identified as its target. Consequently, this document appears to implicate Valinor as the cause of the collision, significantly jeopardizing Celestria's position in this arbitration. Given the contentious nature of anti-satellite weapons under international law, Celestria has a vested interest in concealing this document and refraining from its disclosure.
- 1665 8. Astracommex requests the Tribunal to draw an adverse inference from the fact that Celestria breached its obligation under the PO2 and did not produce responsive documents. Alternatively,
- 1670 Astracommex requests that the Tribunal orders Celestria to re-perform the search in relation to Request No. 23 of Annex A to the PO2 and produce all responsive documents, including the unredacted version of the incident report.

## II. REQUEST TO THE TRIBUNAL

9. Based on the above-mentioned, Astracommex respectfully requests the Tribunal to:

- 1675 i. **DRAW** adverse inference, assuming that unproduced document(s) would be detrimental to Celestria's case, from the fact that the Celestria failed to produce such document(s) as required by the Tribunal in PO2 under Request No. 23; or alternatively
- ii. **ORDER** Celestria to repeat the search and produce any document(s) further responsive to Request No. 23, as ordered by the Tribunal in PO2, by 1 July 2024 at the latest.

1680

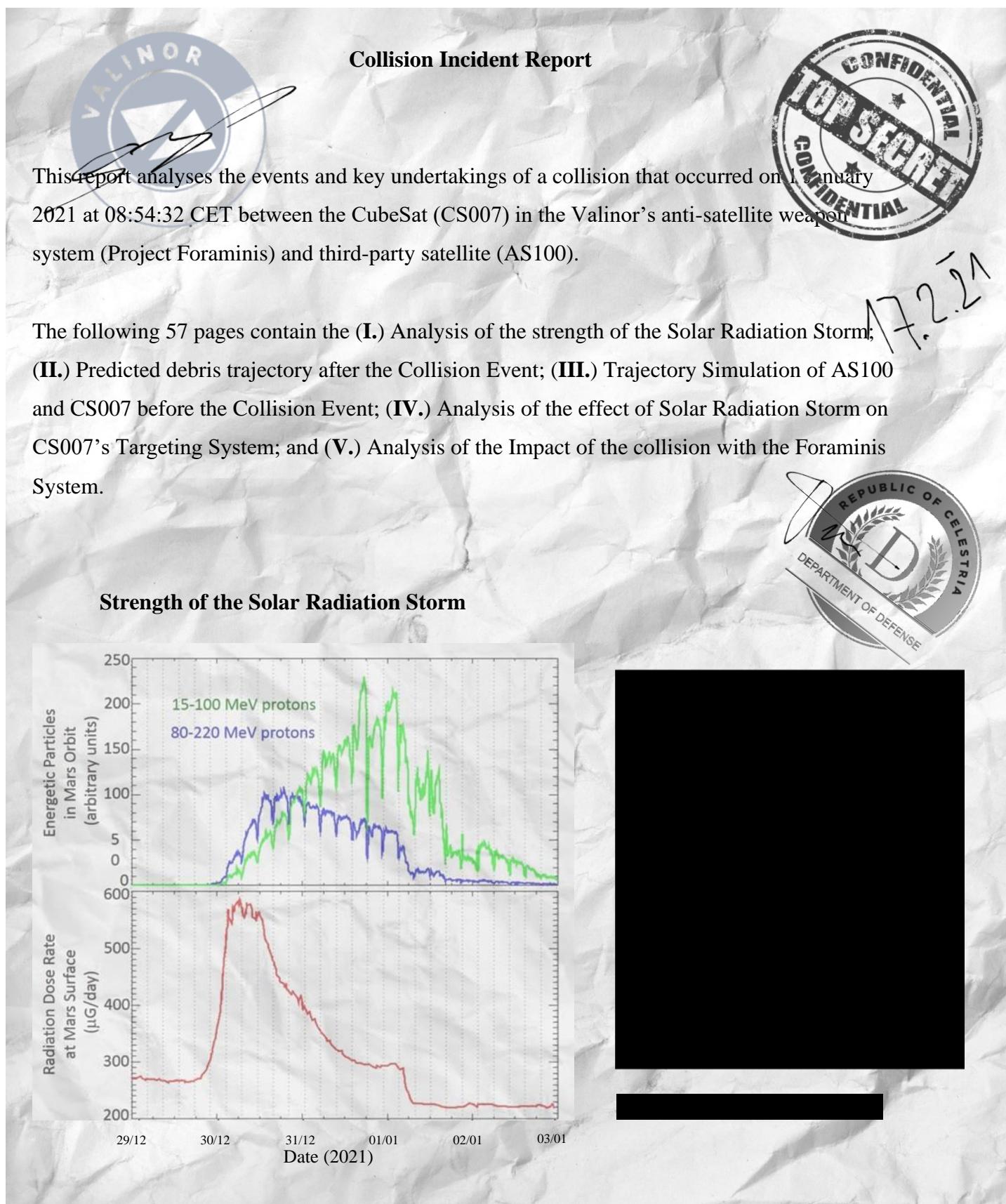
For the Claimant,



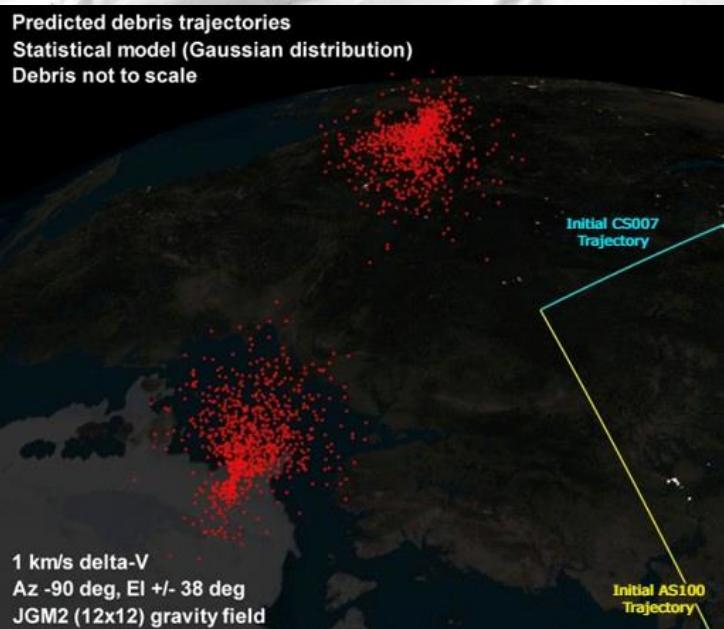
AstroJuris Arbitration

1685

## Exhibit C-12: Collision Incident Report



### Predicted Debris Trajectory after the Collision Event





1720

27 June 2024

To the attention of:

Mr. Jackson Cole, President of the Tribunal

Dr. Nika Havendale, Arbitrator

1725 Prof. Brynn Sterling, Arbitrator

**RESPONSE TO THE NOTICE OF NON-COMPLIANCE WITH DOCUMENT PRODUCTION**

Dear Members of the Tribunal,

Celestria writes in connection with Astracommex's submission of the Notice of the Non-

1730 Compliance with Document Production, dated 20 June 2024.

Following the Tribunal's decision on Astracommex's document requests, Celestria produced 15 documents under Request No. 23, with additional 48 being submitted into the privilege log.

Astracommex complains that the documents provided did not contain one very specific document, that it was specifically searching for, and alleges that Celestria engaged in unfair behavior and decided to "conceal" said document.

Without prejudice to the existence and/or veracity of said document and any possible applicable privilege, Celestria submits that document production in international arbitration is not an exhaustive exercise. Parties are required to conduct a reasonable search, not a limitless one. 1740 Celestria conducted a reasonable search, which is proven by providing more than 300 documents across all granted requests and over 200 documents being added to the Privilege Log. Thus, Celestria complied with its obligations under PO2.

Additionally, the ICSID Arbitration Rules 2022, which govern these proceedings, do not allow the Tribunal to draw adverse inferences. The Tribunal should therefore reject the request.

1745

Respectfully submitted,

A handwritten signature in black ink, appearing to read "ZJ".

CosmoLex Associates

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

1750

**In the arbitration proceeding between**

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Astracommex Regional Satellite Communication Inc.

*(Claimant)*

**and**

The Republic of Celestria

*(Respondent)*

1760

**ICSID Case No. ARB/22/99**

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**PROCEDURAL ORDER NO. 3**

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*Members of the Tribunal*

Mr. Jackson Cole, President of the Tribunal

Dr. Nika Havendale, Arbitrator

Prof. Brynn Sterling, Arbitrator

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*Secretary of the Tribunal*

Mr. Dapo Olasibi

1775

**28 June 2024**

1. Pursuant to ICSID Arbitration Rule 27, this third Procedural Order sets out the conduct of the  
1780 proceedings of this arbitration.

2. Parties have agreed upon a Statement of Uncontested Facts, as produced below. The Tribunal appreciates the effort made by the Parties to work together amicably to provide the Tribunal with uncontested facts.

3. Upon consultation with the Parties on video conference held on 25 June 2024, the Parties  
1785 agreed:

i. To conduct the proceedings in good faith - without any prejudice to the issue of third-party funding raised by Celestria and the jurisdiction of the Tribunal.

ii. To limit the first phase of the proceedings to questions listed below addressing the Tribunal's jurisdiction, the request for security for costs, whether Celestria breached the  
1790 BIT by way of expropriation, and whether the Tribunal can draw an adverse inference from the alleged non-compliance with the document production and/or order the repetition of the search.

iii. To limit themselves to one round of written submissions before the hearing as follows: the Claimant shall file its Memorial on 11 September 2024 and the Respondent shall file its  
1795 Counter-Memorial on 18 September 2024.

4. In their submissions and at the hearing to be held on 1-4 November 2024 in Berlin, the Parties shall address the following issues:

i. Whether the Tribunal has jurisdiction *ratione temporis* under the BIT to hear the Claimant's claims;

1800 ii. Whether Marcial Ventures Ltd and Platonial Investments are third party funders and whether the Tribunal should order security for costs;

iii. Whether the Respondent has breached Article VII of the BIT:  
a. Whether the Respondent's measures amount to creeping expropriation;  
b. Whether the Respondent's measures are justified under applicable international  
1805 law; and

iv. Whether the Tribunal has the power to draw adverse inference from a non-compliance with document production order and/or order Astracommex to repeat the search and produce any newly identified responsible documents.

5. The Tribunal is aware that the various questions are closely connected to each other. Thus, the  
1810 Parties are free to decide in which order they address the various issues.

6. **No further** questions going to the merits of the claims and jurisdiction of the Tribunal should be addressed at this stage of the proceedings. Parties should **not** argue whether the Tribunal should draw adverse inference in the present case – at this point the Tribunal is solely interested in whether it has the power to do so.

1815

On behalf of the Tribunal,



1820 Mr. Jackson Cole  
President of the Tribunal  
28 June 2024

## STATEMENT OF UNCONTESTED FACTS

1825

1. The present proceeding results from a series of measures taken by several agencies of the Republic of Celestria (“**Celestria**”) that allegedly affect the operation of Astracommex Regional Satellite Communication Inc. (“**Astracommex Regional**”) on the territory of Celestria.

1830 2. Celestria is a middle-income island nation with one principal island, twelve medium-sized islands, and seventy-three smaller isles. Around sixty percent of its population resides in rural and isolated areas. The nation’s key economic sectors include traditional manufacturing, agriculture and fishing. Operating under a presidential system, Celestria elects its president every five years by direct popular vote. In the 2010 election, the leader of the Celestria Unity Alliance (“**CUA**”), Mr. Andreas Skydoker, secured the presidency. The primary agenda of his party focused on boosting the economy through digitalization and channeling both public and private investments towards the development of digital infrastructures.

1835 3. Celestria is located in the Astral Archipelago Region. It shares a land border with the Kingdom of Cosmossis (“**Cosmossis**”) and is encircled by other states, including the Kingdom of Nebuland (“**Nebuland**”), from which it is separated by sea. Cosmossis is a developed state renowned for its globally dominant aerospace and space sector. Cosmossis owns an overseas space center in the equatorial region as one of its major research and launching sites. Nebuland is a developed State with an advanced tech industry, characterized by its robust ecosystem of start-ups, established tech giants, and research institutions.

1840 4. Celestria, Nebuland, and Cosmossis were parties to a Free Trade Agreement (the “**FTA**”) that entered into force on 2 December 2003.

1845 5. Astracommex Regional is a corporation established in 2015 under the laws of Nebuland with its principal place of business in Stelaria, the capital of Nebuland. Astracommex Regional operates as a wholly-owned subsidiary with all of its shares held by its parent company, Astracommex Global Satellite Communication Inc. (“**Astracommex Global**”), which is also organized under the laws of Nebuland. Astracommex Regional was established with the aim of managing and overseeing the operations in the Astral Archipelago Region’s nations outside of Nebuland.

- 1855 6. Mr. Jeffrey Myskin, the CEO of both Astracommex Regional and Astracommex Global, holds  
a Bachelor of Arts in Physics and a Master of Science in Aerospace Engineering from  
Nebuland Institute of Technology. Following his graduation, he and his university friends  
started a space lab in 2008 where they innovated and patented several space telecommunication  
technologies including advanced transmitters and antennas. The team's effort led to the  
founding of Astracommex Global in 2011, with the ambition to create a global high-speed,  
1860 high-quality and affordable space communication network. The network aims to provide  
internet connectivity in areas typically unserved or underserved by traditional terrestrial  
infrastructure, such as rural regions, remote islands, ships, and aircraft.
- 1865 7. In the summer of 2014, Astracommex Global introduced its groundbreaking low-Earth-orbit  
("LEO") satellite mega-constellation concept and swiftly gathered significant venture capital  
investments from Marcial Ventures Ltd ("Marcial") and Platonial Investments ("Platonial").  
Marcial and Platonial together hold a 25% equity stake in Astracommex Global.
- 1870 8. Concurrently, under the leadership of President Skydicker, Celestria was vigorously  
advancing its digitalization initiatives. A notable step in this direction was Celestria's  
application to the regional development bank on 1 January 2015, for funding of a digital health  
project, which received approval on 1 June 2015. The Digital Health Project aimed to create  
an integrated digital health information system across Celestria. Its primary goal was to bridge  
the information gaps between medical institutions on the various islands, thereby enhancing  
the quality of medical services available to the Celestrian population. The Project also involved  
collaboration with private sector companies for software provision, network connectivity, and  
1875 other technical support, stimulating economic growth. The health data collected in the Digital  
Health Project, with the consent of individual patients, was set to be utilized by partnering  
pharmaceutical companies and medical device manufacturers. The Project was promoted by  
the Skydicker administration as a prime example of how digital infrastructure can facilitate  
the growth of the national economy as a whole.
- 1880 9. On 1 January 2016, Celestria launched a Rural Digitalization Fund (the "RDF"). The primary  
aim of the RDF was to bridge the digital divide in Celestria, ensuring that communities and  
small businesses in rural areas had access to the same quality of internet communication  
services as urban areas. Celestria allocated to the RDF an amount of USD 1 billion over a

period of ten years to bring fixed broadband service to unserved and underserved areas in  
1885 Celestria.

10. The RDF, jointly overseen by Celestria's National Frequency Agency (the “**NFA**”) and the Rural Development Agency (the “**RDA**”), implemented a transparent and inclusive application procedure. It invited bids from both domestic and foreign telecommunications and internet service providers. Successful bidders were allocated a portion of the USD 1 billion fund, proportionate to their project’s scope, through a tripartite contract involving both the RDA and NFA. Payments from the fund to the winning bidder were structured to occur annually, following the relevant contract’s activation.
- 1890
11. On 15 February 2016, Astracommex Regional applied to the RDF with its LEO satellite mega-constellation architecture named the Astra System. The application detailed a network of 5000 satellites, set to operate at altitudes of 400, 450, 500 and 600 kilometers. By the time of the application, Astracommex Regional had launched 100 satellites from the Cosmossis overseas space center that operate at an altitude of 400km and secured a launch agreement for another 1400 satellites from the same facility by 1 October 2018.
- 1895
12. On 1 August 2016, the NFA and the RDA announced the successful applicants for the RDF funding. Among these, Astracommex Regional was selected as one of the three awardees, alongside two domestic terrestrial telecommunication companies, using optical fibers and 5G towers. Astracommex Regional was the only successful bidder relying on a satellite mega-constellation architecture.
- 1900
13. Subsequently, on 1 October 2016, Astracommex Regional entered into a Rural Digital Fund and Frequency Agreement (the “**RDF Agreement**”) with the NFA and the RDA. As stipulated in the RDF Agreement, Astracommex was granted the rights to utilize specific frequency spectrums within the allocated Ka-bands over the territory of Celestria and 500 million USD dollars. The RDF Agreement, set for a duration of ten years, went into effect immediately on the date of its signing.
- 1905
14. Despite the major progress made in the digitalization agenda of the Skydicker administration, the Government’s support faced growing challenges due to the increasingly apparent impacts of climate change on Celestria. As an insular State country with low elevation compared to its neighbors, Celestria is particularly susceptible to the effects of climate change and natural

disasters. Since the summer of 2013, the frequency of tropical storms, tsunamis and extreme  
1915 weather events in Celestria has notably increased.

15. As a result, climate-driven migration escalated, with many of Celestria's residents seeking  
refuge in the neighboring, well-developed state of Cosmoss. The level of migration reached a  
critical point in the summer of 2016, following a devastating tropical storm that wreaked havoc  
1920 on Celestria's coastal areas. In response to this crisis, on 15 October 2016, Cosmoss  
implemented stringent migration policies. These new regulations categorically denied asylum  
to Celestrian residents displaced by natural disasters and the effects of climate change. On the  
same day, during a press conference, the Prime Minister of Cosmoss publicly condemned  
Celestria for its failure to adequately protect its citizens from the impact of natural disasters.

16. On 30 October 2016, Celestria's Ministry of Foreign Affairs delivered *a note verbale* to  
1925 Cosmoss' embassy in Celestria, stating in relevant part:

Celestria hereby expresses its formal objection to the recent migration policies instituted  
by Cosmoss. These policies, which discriminate against Celestrian nationals suffering the  
consequences of climate change, are of great concern. It is imperative to recognize that  
1930 Cosmoss has been the leading global emitter of carbon and greenhouse gas since its  
industrial revolution in the last century. In light of this, Celestria urges Cosmoss not to  
shrink its international responsibilities pertaining to climate change.

17. The tensions continued to escalate. On 1 November 2016, Cosmoss made a highly symbolic  
request for the return of Yorkie, an Astran elephant native to Cosmoss. This species, notably  
sensitive to climate change, had been gifted to the national zoo of Celestria as a token of their  
1935 once-amiable relationship. Celestria, however, denied the request. The denial to repatriate  
Yorkie and the series of events leading to this decision, was portrayed in the media as the  
“Yorkie Crisis.” This incident sparked major demonstrations outside the Celestrian embassy  
in Cosmoss' capital.

18. On 1 January 2017, following the Yorkie crisis, the Prime Minister of Cosmoss decided to  
1940 end its diplomatic relationship with Celestria.

19. The following day, Cosmoss terminated the FTA in accordance with its article 15 procedure.  
The FTA was no longer effective to Cosmoss, Celestria and Nebuland.

20. On the same day, the overseas space center of Cosmoss announced the termination of its  
launch service contract with Astracommex Regional, citing impossibility of performance. As

1945 part of this termination, the space center compensated Astracommex Regional with liquidated damages.

21. By 2 January 2017, Astracommex Regional had successfully launched 250 satellites into outer space, and subsequently deployed in the planned orbits. Of these, 100 were positioned at an altitude of 400 kilometers, while the remaining 150 orbited at an altitude of 450 kilometers. To 1950 fully deploy the Astra System, an additional 4750 satellites were required to be positioned across orbits at altitudes of 450, 500, and 600 kilometers.

1955 22. On 16 January 2018, Astracommex Regional succeeded in securing alternative launch sites. The adjustment, however, resulted in a one-year delay in the original launch schedule. According to the revised plan, the Astra System aimed to deploy satellites in phases: 500 by 1 October 2018; 1500 by 1 October 2019; 2500 by 1 October 2020; 3500 by 1 October 2021; and a total of 5000 satellites by 1 October 2022. Astracommex Regional's inability to meet the initial interim milestone of the RDF Agreement led to a one-year suspension of payments. Subsequently, payments resumed in 2019, and the milestone requirements in the RDF Agreement were modified to align with the new launch schedule.

1960 23. On 15 August 2019, Celestria suffered an almost complete internet blackout caused by an underwater volcanic eruption off its eastern coast, which severed its main subsea internet cable. The eruption severely impacted the Digital Health Project, which was in trial on ten islands, as medical centers couldn't access vital online patient records and had no offline backups. Immediately after, Celestria requested satellite communication support from Astracommex 1965 Regional.

1970 24. On the following day, Astracommex Regional distributed user antennas to the affected medical facilities and activated its network. At that moment, the Astra System had 1400 satellites in operation. The network performance was poor. Users experienced substantial latency and signal attenuations, resulting in about 80% of the medical facilities being unable to access patient medical records.

25. On 18 August 2019, Mr. Myskin explained to the press that the Astra System was not fully operational due to delayed launches. Mr. Myskin reassured that the service would meet its promised quality once it reached 1500 satellites in operation. This situation led to a decline in public confidence in the CUA's digitalization efforts, and both Astracommex and the Digital

- 1975      Health Project were heavily criticized in the media for their roles in this crisis. The support for CUA plummeted substantially as indicated by newspaper polls conducted in September 2019.
26. On 30 September 2019, the Astra System accomplished a significant milestone by successfully deploying 1500 satellite into orbit and officially activating its network. This marked the commencement of their Internet service offering in both Nebuland and Celestria.
- 1980      Astracommex Regional is in charge of managing client subscriptions and service delivery from Celestria, whereas Astracommex Global took on similar responsibilities for the Nebuland market. The users reported to experience bearable latency while using Astracommex's service. Astracommex assured its users that once there are cumulatively 2500 satellites in the Astra System, they will activate inter-satellite links and their broadband capacity will be able to surpass that of most ground-based networks.
- 1985
27. Meanwhile, newspaper surveys from October 2019 indicated a continuing decline in support of the CUA. In this time of crisis, the Green Party, long overshadowed by the CUA's dazzle, found its voice. The Green Party was led by Ms. Billie Ruckelshaus, a civil rights activist, who was the prior high-level administrator of Celestria's Environmental Protection Agency (the "EPA"). Her abrupt resignation in November 2015, triggered by budget cut to the EPA in favor of funding digitalization initiatives (primarily the RDF) led by the RDA, marked a turning point. In October 2016, she founded the Green Party, gradually attracting support from environmental advocates. The party's popularity saw a significant surge during the 2017 Yorkie crisis, as public opinion increasingly criticized the CUA's apparent negligence of climate change and migration issues.
- 1990
- 1995
28. On 15 January 2020, the Green Party secured a sweeping majority in the election and Ms. Ruckelshaus became the new president. She immediately issued a Presidential Order outlining ambitious environmental initiatives. These included the development of disaster alert systems along coastlines and islands, transitioning 50% of energy sources to renewable forms by 2028, and attaining carbon neutrality by 2040. To further these goals, the government introduced grants to encourage innovations in energy efficiency. As a result of these incentive-based strategies, there was a notable increase in government expenditure.
- 2000
29. On 1 April 2020, the Green Party enacted the National Environmental Protection Act (the "NEPA") that requires every governmental agency to take full account of environmental

- 2005 impact assessments when determining whether the planned activities may proceed. In the meantime, the RDA's high-level administrators were reappointed, and the RDA was restructured and formed a joint force with the EPA for sustainable development.
30. On 15 May 2020, the Celestrian Space Agency released a study in *the Celestria Journal of Astrophysics* highlighting the negative impact of the Astracommex Satellites on astronomy.
- 2010 Subsequently, on 16 May 2020, an investigation was launched into the Astra System under the NEPA. The Celestrian Space Agency, responsible for overseeing civil space programs, aeronautic research, and space research, took the lead in the investigation.
- 2015 31. On 20 May 2020, Celestria's largest non-profit amateur astronomy group published an open letter in *Astra Nature Astronomy*. This letter, calling for an immediate halt to the satellite light pollution caused by satellite mega-constellations like the Astra System, was also forwarded to the Celestrian Space Agency on the same day.
- 2020 32. On 1 June 2020, the Celestrian Space Agency, under the mandate of the NEPA, required Astracommex Regional to coordinate with both the Celestrian Space Agency and the amateur astronomy community.<sup>35</sup> Pending the identification and implementation of these mitigating solutions, the Space Agency put a temporary halt to Astracommex Regional's uplink and downlink communications near its ten radio observatories. Additionally, it designated radio silence zones in regions densely populated by amateur astronomers. As a result of these restrictions, the communication reach of the Astra System was effectively reduced to covering only 40 percent of Celestria's territory.
- 2025 33. On 15 July 2020, Astracommex Regional introduced a proposal to the Celestrian Space Agency to mitigate the astronomical impact. It proposed (i) to paint the upcoming satellites with a less reflective color and fitted visors to reduce reflection; and (ii) to emit narrower transmission beams, thus reducing radio frequency interference.
- 2030 34. On 15 August 2020, the Celestrian Space Agency replied that the Agency would lift the operational restrictions, contingent on the successful implementation of these measures.

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<sup>35</sup> The Celestrian Space Agency is a civil research and development agency of the Celestrian government. While the Celestrian Space Agency does not directly regulate commercial space programs, Celestrian domestic law empowers the Space Agency to establish radio silence zones and implement additional measures to ensure commercial space uses do not interfere with civil research endeavors. The jurisdiction of the Celestrian Space Agency is not challenged by the Claimant before both domestic courts and the current arbitral tribunal.

However, these adaptations necessitated a shift to a different frequency spectrum within the Ku-bands for transmission purposes. This new spectrum fell outside of the original range authorized for Astracommex Regional's operations in Celestria.

- 2035 35. On 5 September 2020, Astracommex Regional applied to the NFA for the required Ku-band frequencies, accompanied by relevant technical documentation related to telecommunications.
36. On 1 October 2020, a study conducted by a laboratory sponsored by the EPA (see above) indicated potential unintended atmospheric impacts from Astracommex Regional's LEO mega-constellation. By 1 October 2020, 2500 satellites were deployed successfully in the Astra System.
- 2040 37. On 2 October 2020, the NFA requested additional documentation from Astracommex Regional to specifically address these atmospheric concerns. On 15 October 2020, Astracommex Regional responded to the NFA, declining to provide the requested supplementary information. On 15 December 2020, the NFA rejected Astracommex Regional's application to Ku-band frequencies on the basis of the NEPA.
- 2045 38. On 1 January 2021, one of Astracommex Regional's satellites, AS100, collided with a cube satellite (cubesat) that wandered around the adjacent orbit on a crossed orbital plate. The cube satellite was run by Valinor, a private company, in partnership with Celestria's Department of Defense ("DoD"). The cubesat was not equipped with any collision avoidance system and was smashed into small debris upon collision. AS100 was partially damaged – but both its Telemetry, Tracking, and Command (TT&C) system and its communication system ceased to function. The data up until the impact moment indicated an interference to onboard computing system by extreme radiation. This record was transmitted and stored in the Astra System, and subsequently used by Astracommex's engineers to assess the event and prepare software updates for existing and future Astra satellites.
- 2050 39. On 5 January 2021, the DoD initiated an investigation and ordered Astracommex Regional to suspend all satellite communications within the territory of Celestria.<sup>36</sup>

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<sup>36</sup> The DoD is charged by Celestrian domestic law with coordinating and supervising all agencies and functions of the Celestrian government directly related to national security.

40. On 1 February 2021, after several months of negotiations, Nebuland and Celestria concluded an Agreement on reciprocal promotion and protection of investments that entered into force on the same day.

2060 41. On 1 March 2021, the DoD issued a directive to Astracommex, mandating the repositioning of all its satellites from their current 400km altitude orbits to new orbits below 350 kilometers. The DoD instructed that all satellite communications within the territory of Celestria should remain suspended until these orbital adjustments are fully executed.

2065 42. The following day, Astracommex Regional immediately objected to the above order and submitted a request to the DoD to reconsider its decision, on the basis that the change of orbits was technically and economically difficult for the Astra System to achieve. Astracommex Regional estimated that moving the satellites to new orbits below 350 kilometers will incur an additional cost of USD 1 billion and will require Astracommex Regional to apply for new frequencies due to the change of its network configuration.

2070 43. On 1 April 2021, the DoD refused to change its decision. In response, Astracommex Regional initiated proceedings against the DoD in the domestic courts in accordance with Celestrian Administrative Law.

2075 44. On 1 October 2021, the NFA and the RDA suspended the annual payments under the RDF Agreement according to Article 7(1) of the RDF Agreement. Since 1 October 2020, Astracommex Regional didn't launch any new satellites into the Astra System.

2080 45. On 15 October 2021, Astracommex Regional initiated proceedings against the DoD, the RDA, the NFA and the Space Agency in the domestic courts. The domestic litigations were consolidated on 1 November 2021. The Supreme Court of Celestria rejected all of Astracommex Regional's claims against the DoD, the NFA, the RDA and the Space Agency on 1 April 2022 and ordered it to bear the costs of the proceedings. To date, Astracommex Regional failed to comply with the cost order.

2085 46. Subsequently, Astracommex approached Celestria with a request to commence conciliation proceedings under the ICSID Convention. Celestria declined the request, prompting Astracommex to initiate arbitration proceedings on 9 September 2022. The Request for Arbitration was registered by ICSID on 25 September 2022.

47. In the present proceedings, Celestria produced documents under all requests that were granted (partially or in full) by the Tribunal. Astracommex Regional never objected to any of the documents produced, nor to the sufficiency and reasonableness of the search conducted by Celestria, apart from the incident report of AS100 collision. Celestria did not include the  
2090 incident report of AS100 collision in their privilege and confidentiality log.
48. Celestria, Cosmossis, and Nebuland are parties to the Outer Space Treaty of 1967, the Convention on Registration of Objects Launched into Outer Space of 1974, and United Nations Framework Convention on Climate Change of 1994 at all relevant times. Celestria, Cosmossis, and Nebuland are United Nation member countries, and International Telecommunication  
2095 Union member countries at all relevant times.

**AGREEMENT ON RECIPROCAL PROMOTION AND PROTECTION OF  
INVESTMENTS BETWEEN THE KINGDOM OF NEBULAND AND THE REPUBLIC  
OF CELESTRIA**

2100 The Kingdom of Nebuland and the Republic of Celestria,  
hereinafter referred to as the Contracting Parties,

2105 *Desiring* to strengthen their traditional ties of friendship and to extend and intensify economic relations between them by creating conditions with a view to attract and promote responsible foreign investment of the Contracting Parties in their respective territories that contribute to sustainable economic development;

2110 *Recognizing* that fostering an open and transparent policy environment and protecting investments of investors of one Contracting Party in the territory of the other Contracting Party are conducive to the stimulation of mutually beneficial economic activity and intensification of economic cooperation;

2115 *Reaffirming* their commitment to sustainable development and to enhancing the contribution of international trade and investment to sustainable development;

2120 *Recognizing* the importance of equality between men and women when formulating, implementing and reviewing measures within the field of international trade and investment;

2125 *Considering* that these objectives can be achieved without compromising the right of the Contracting Parties to regulate investment within their territories through measures necessary to achieve legitimate policy objectives, such as the protection of public health, safety, environment, public morals, labor rights, animal welfare, social or consumer protection or for prudential financial reasons;

2125 Have agreed as follows:

**Article I      Definitions**

1. For the purposes of this Agreement:

2130 (a) “investment” means every kind of asset that has the characteristics of an investment, which includes a certain duration, the commitment of capital or other resources, the expectation of gain or profit, and the assumption of risk. Forms that an investment may take include:

- i. movable and immovable property as well as any other property rights in rem in respect of every kind of asset, such as mortgages, liens and pledges;
- ii. rights derived from shares, bonds and other kinds of interests in companies and joint ventures;

- iii. claims to money, to other assets or to any contractual performance having an economic value;
  - iv. rights in the field of intellectual property, technical processes, goodwill and know-how;
  - v. rights granted under public law or under contract, including rights to prospect, explore, extract and exploit natural resources.

(b) "investor" means with regard to either Contracting Party:

- i. any natural person having the nationality of that Contracting Party under its applicable law;
  - ii. any legal person constituted under the law of that Contracting Party whose shares in the company exceed 50 per cent; or
  - iii. any legal person that is constituted under the law of that Contracting Party and is directly or indirectly owned or controlled by a natural person as defined in (i) or by a legal person as defined in (ii).

(c) “territory” means the territory of the Contracting Party concerned, including its territorial sea and any area beyond the territorial sea of the Party within which it exercises jurisdiction or sovereign rights in accordance with international law.

(d) “environmental impact assessment” means the process used to predict the environmental consequences (positive or negative) of a plan, policy, program or project prior to moving forward with the proposed action.

## 2. Functionally Shared

## **Article II Scope of application**

### **Article III     Favorable conditions for investment**

1. Each Contracting Party shall, within the framework of its laws and regulations and in accordance with its international obligations, promote economic cooperation and encourage the creation of favorable conditions for responsible investment in its territory that contribute to sustainable economic development.

2. Subject to its right to exercise powers conferred by its laws and regulations, each Contracting Party shall admit foreign investments.
3. The Contracting Parties strive to strengthen the promotion and facilitation of investments that contribute to sustainable development, including but not limited through regular consultations between investment promotion and facilitation agencies and the exchange of information regarding investment opportunities.

## **Article V Investment and environment**

1. The Contracting Parties recognize that their respective environmental laws policies and multilateral environmental agreements to which they are both party, play an important role in protecting the environment.
2. The Contracting Parties recognize that each Party retains the right to exercise discretion with respect to regulatory, compliance, investigatory, and prosecutorial matters and to make decisions regarding the allocation of resources to enforcement with respect to other environmental matters determined to have higher priorities.
3. The Contracting Parties recognize that each Party undertakes to respect and observe the social responsibility owed to the other Party.
4. Nothing in this Agreement shall be construed to prevent a Party from adopting, maintaining, or enforcing, in a non-discriminatory manner, any measure otherwise consistent with this Agreement that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental and social concerns.
5. Reaffirming Principle 15 of the Rio Declaration on Environment and Development of 1992, investors, their investment and host state authorities shall apply the precautionary principle to their environmental impact assessment and to decisions taken in relation to a proposed investment, including any necessary mitigation or alternative approaches of the precautionary principle by investors and investments shall be described in the environmental impact assessment they undertake.

## **Article VI Non-discriminatory treatment**

1. Each Contracting Party shall accord to an investor of the other Contracting Party and to an investment of an investor of the other Contracting Party, treatment no less favorable than the

treatment it accords, in like situations, to its own investors and to their investments with respect to conduct, operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.

- 2200 2. Each Contracting Party shall accord to an investor of the other Contracting Party and/or to an investment of an investor of the other Contracting Party, treatment no less favorable than the treatment it accords in like situations, to investors of a third country and to their investments with respect to the conduct, operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.
- 2205 3. Substantive obligations in other international investment and trade agreements do not in themselves constitute “treatment”, and thus cannot give rise to a breach of paragraph 2 of this Article, absent measures adopted or maintained by a Contracting Party pursuant to those obligations. Furthermore, the “treatment” referred to in paragraph 2 of this Article does not include procedures for the resolution of investment disputes between investors and States provided for in other international investment and trade agreements.

## **Article VII Expropriation**

- 2215 1. Neither Contracting Party shall expropriate or nationalize a covered investment either directly or indirectly through measure tantamount to expropriation or nationalization, unless the following conditions are complied with:
  - (a) the measure is taken for a public purpose;
  - (b) the measure is taken under due process of law;
  - (c) the measure is taken in a non-discriminatory manner; and
  - 2220 (d) the measure is taken against prompt, adequate and effective compensation.
2. Direct expropriation occurs when an investment is nationalized or otherwise directly taken through formal transfer of title or outright seizure.
3. Indirect expropriation occurs if a measure or a series of measures of a Contracting Party has an effect tantamount to direct expropriation, in that it substantially deprives the investor of the economic value of its investment, or of the fundamental attributes of property in its investment, without formal transfer of title or outright seizure.

## **Article VIII Subrogation**

If the investment of an investor of a Contracting Party is insured against noncommercial risks or otherwise gives rise to payment of indemnification in respect of such investment under a system established by law, regulation or government contract, any subrogation of the insurer or re-insurer or agency designated by that Contracting Party to the rights of the said investor pursuant to the terms of such insurance or under any other indemnity given shall be recognized by the other Contracting Party.

## **Article IX Alternative dispute resolution**

1. Any dispute should, as far as possible, be settled amicably through negotiations, conciliation or mediation. A disputing party shall give favorable consideration to a request for negotiations, conciliation or mediation by the other disputing party.
2. Mutually agreed solutions shall be made publicly available. However, the version disclosed to the public may not contain any information that a disputing party has designated as confidential.

## **Article X Submission of a claim**

1. If a request for alternative dispute resolutions has been submitted in accordance with Article IX and where the request does not result in a resolution of the claim within three months from the date of the request, the investor may submit a claim under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965 (ICSID Convention).
2. The responding Contracting Party hereby consents to the submission of a claim as provided under this Article.

## **Article XI Constitution of the tribunal**

The Tribunal shall be constituted in accordance with Article 37(2)(b) of the ICSID Convention.

## **Article XII Entry into force, duration and termination**

1. The present Agreement shall enter into force on the date of its signature by both Contracting Parties.

- 2260 2. Unless notice of termination has been given by either Contracting Party at least six months before the date of its expiry, the present Agreement shall be extended tacitly for periods of five years, whereby each Contracting Party reserves the right to terminate the Agreement upon notice of at least six months before the date of expiry of the current period of validity.

### **Article XIII Relationship with other treaties**

This Treaty shall not alter the rights and obligations of the Contracting Parties which arise from  
2265 other agreements compatible with this Treaty and which do not affect the enjoyment by the other Party of its rights or the performance of its obligations under this Treaty.

DONE in two originals on 1 February 2021, each in English

2270 For Nebuland



2275 Mr. Janis Solaris  
Minister of Justice

For Celestria



2280 Ms. Stella Mercury  
Minister of Foreign Affairs