



INTERNATIONAL INSTITUTE OF SPACE LAW
OF THE INTERNATIONAL ASTRONAUTICAL FEDERATION

INSTITUT INTERNATIONAL DE DROIT SPATIAL
DE LA FÉDÉRATION ASTRONAUTIQUE INTERNATIONALE

THE 2009 MANFRED LACHS SPACE LAW MOOT COURT COMPETITION

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

BETWEEN

PRINCIPALITY OF FORNJOT
(APPLICANT)

AND

REPUBLIC OF TELESTO
(RESPONDENT)

JOINTLY NOTIFIED TO THE COURT ON 2 MAY 2019

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

ENTRE

PRINCIPAUTÉ DE FORNJOT
(DEMANDEUR)

ET

RÉPUBLIQUE DE TELESTO
(DÉFENDEUR)

NOTIFIÉ CONJOINTEMENT À LA COUR LE 2 MAI 2019

Case concerning the Deployment and Use of Force in Low Earth Orbit

Fornjot v. Telesto

STATEMENT OF AGREED FACTS

1. The Republic of Telesto is a rich and powerful continental State. It has one of the world's highest gross domestic product, both on an aggregate and per capita basis, and has one of the world's top ten territorial areas and population. It is also one of the world's most powerful and advanced military powers.
2. The Principality of Fornjot is an archipelagic State and is the largest economy in the world, with its principal economic activities being banking and finance, transport and shipping as well as the manufacturing of advanced technological products. Its location allows it to be shipping and aviation transport hub and a thriving centre of international commerce. In recent years, Fornjot has significantly increased its military expenditure, but its military power nevertheless lags far behind that of Telesto.
3. The Commonwealth of Daphnis is a former province of Fornjot that broke away in 2009 after a plebiscite supervised by the United Nations voted overwhelmingly in favour of independence from Fornjot. Relations between Fornjot and Daphnis remained tense, with Fornjot refusing to recognise the independence of Daphnis, despite its recognition by almost all Member States of the United Nations and its admission as a member of that organisation on 10 September 2010. In particular, the unsettled boundary between the two States has even led to skirmishes between the naval and air forces of the two States throughout the 2010s.
4. Relations between Telesto and Fornjot have traditionally been friendly. However, in recent times tensions have increased between the two States as they compete fiercely for world markets in raw materials and manufactured goods. This was particularly so with the continuing military assistance provided by Telesto to Daphnis, including the lease of military bases and the sale of advanced technology aircraft, missile systems and naval vessels.
5. Both Telesto and Fornjot have invested heavily in the deployment of governmental satellite constellations in low Earth orbit. In particular, Telesto has launched:
 - (i) the *Tarvos* series of 36 satellites deploying a global positional and navigational system;
 - (ii) the *Narvi* series of 72 satellites deploying a mobile satellite communications system; and
 - (iii) the *Paaliaq* series of 34 satellites deploying a high-resolution remote sensing system.
6. The *Tarvos* system is owned and controlled by the Government of Telesto, which contracted out its manufacturing to Dione Satellite Corporation (**DSC**), a privately-owned company incorporated in Telesto of which all of its shareholders are private individuals or firms of Telestoese nationality. The satellites were launched by Farbauti Aerospace International Limited (**FAI**), a launch services company in Telesto that is majority-owned by the Government

of Telesto, with the remaining shares held by private interests of Telestoese nationality. All of the *Tarvos* series, except for *Tarvos-24* and *Tarvos-39*, were launched from a facility owned by FAI that was located in Daphnis.

7. *Tarvos-24* and *Tarvos-39* were launched from Telesto when the facility in Daphnis was being refurbished to comply with new safety standards imposed under Daphnisan law.
8. The Government of Telesto uses the *Tarvos* system exclusively for its own use, including both non-military and military applications. The Government of Telesto has an equal interest in the *Albiorix* global positioning and navigational system, which is a joint venture between the Governments of Daphnis and Telesto. The system, which is inferior in accuracy to *Tarvos*, was built entirely by DSC in Daphnis and launched by FAI in Telesto. It is operated commercially and is made available for use in Telesto, Daphnis and other States.
9. The satellites of the *Narvi* and the *Paaliaq* systems were all built by DSC and launched by FAI in Telesto. The systems are both owned and operated by the Government of Telesto for its own exclusive governmental use, including both military and non-military applications.
10. The Government of Fornjot does not own or operate similar systems exclusively for its own use. However, it has access to the following satellite systems:
 - (i) the *Ijiraq* series of 32 satellites deploying a global positioning and navigation system;
 - (ii) the *Kari* series of 18 satellites deploying a global mobile communications system; and
 - (iii) the *Bebhionn* series of 24 satellites deploying a high-resolution remote sensing system.
11. The *Ijiraq* system is owned and operated by *Iapetus & Co.*, a commercial venture that is majority owned by the Government of Fornjot and the other shareholders are private interests of Fornjotian nationality. The Government of Fornjot has contracted with *Iapetus* for access to all three satellite systems for its military and non-military use.
12. Under the 2014 Convention of Eternal Friendship, Cooperation and Partnership in Peace (the **Skoll Convention**) signed in Skoll, Telesto, between Telesto and its core allies, including Daphnis, which is granted access and use of both the *Narvi* and the *Paaliaq* systems and their associated technology for an annual charge payable to Telesto. Further, Telesto is given access to all military installations and bases in Daphnis for the deployment of its air force, missile systems and naval vessels.
13. The Skoll Convention entered into force on 3 February 2015.
14. The Government of Daphnis immediately began adapting its military forces to the *Narvi* system, which provided a superior communications capability, particularly for encrypted communications, than the *Kari* system that was available to the military forces of Fornjot. Similarly, the *Paaliaq* system has provided Daphnis with real-time remote sensing imagery of far superior quality than that available to Fornjot from the *Bebhionn* system.
15. Fornjot strongly objected to the Skoll Convention, in particular the access to the military satellite systems given to Daphnis by Telesto. It perceives this as a threat to the national security of Fornjot, especially as skirmishes continue between Fornjot and Daphnis along their borders. Repeated protests through bilateral diplomatic channels between Fornjot and Telesto were ignored. The Security Council, General Assembly, Conference on Disarmament

and Committee on the Peaceful Uses of Outer Space of the United Nations all declined to take any action, despite much diplomatic effort on the part of Fornjot.

16. Since the Skoll Convention entered into force, Daphnis has enjoyed substantially more success in its irregular military skirmishes against Fornjot. On 29 November 2015, Fornjot deployed a large naval fleet with the intention of destroying the Daphnisan Navy in a surprise attack. However, the attack was unsuccessful as access to the *Paaliaq* system enabled Daphnis to be forewarned of the attack and had precise locations of each of the Fornjotian vessels for missile targeting purposes, with the active assistance of Telestoese military aircraft, vessels and personnel. After the battle, Telesto deployed ground-based anti-missile rocket systems and short-range nuclear missiles in Daphnis. These are technological and military capabilities that Daphnis did not have prior to the Skoll Convention.
17. Now with evidence that access to the *Narvi* and *Paaliaq* systems is a serious threat to the national security of Fornjot, especially if serious armed conflict broke out between it and Daphnis in the future, Fornjot decided to deploy an anti-satellite weapon system, called *Hyperion*, with the capability of destroying the *Tarvos*, *Narvi* and *Paaliaq* satellite systems. In addition, Fornjot decided also to deploy a space-based missile warning and defence system, called *Rhea*. The *Hyperion* and the missile defence component of *Rhea* are designed to lock onto missiles heading towards Fornjot or a targeted satellite and destroying them with a combination of laser and projectile weapon systems. The *Hyperion* and the *Rhea* were to be deployed gradually in low Earth orbit from August 2016 until their completion in December 2022 through a combination of manned and unmanned launch vehicles.
18. Telesto and Daphnis strongly protested the deployment of the *Hyperion* and the *Rhea* and, with the sanction of the United Nations Security Council, began an embargo of the supply of advanced satellite and launch vehicle components and laser systems to Fornjot. This has forced Fornjot to manufacture most of the components it needs for both satellite systems, significantly increasing the costs of their deployment and further increased tensions between the States.
19. On 11 November 2017, the Fornjotian manned reusable launch vehicle *Bergelmir*, carrying a crew of nine, had to make an emergency de-orbit and return to the Earth after its life support system was damaged after a collision with a microscopic piece of space debris. At that time, it had deployed the *Hyperion-16* and *Hyperion-23* satellites, but the *Hyperion-24* satellite was still onboard. The *Bergelmir* made an emergency landing at an air force base in Telesto where some of the strategic nuclear bombers of Telesto were based. Telesto refused to return the crew, the *Hyperion-24* or the *Bergelmir* to Fornjot, despite repeated requests by Fornjot through diplomatic channels, and charged the crew members with espionage. After a public trial, the crew members were convicted and sentenced to life in prison.
20. On 18 September 2018, a Telestoese spacecraft called *Janus*, carrying the President of Telesto and the Federal Chancellor of Daphnis, was returning to Earth after a brief six-hour visit to the International Space Station. The *Janus* was returning to Daphnis where the President of Telesto was to make a state visit for the following three days. Mistaking the *Janus* for an intercontinental ballistic missile fired from Telesto towards Fornjot, the *Rhea* system alerted ground-based systems in Fornjot, which automatically fired one of its ground-based missiles at the spacecraft, destroying it during its re-entry through the Earth's atmosphere. Images from both the *Paaliaq* and the *Bebhionn* systems at the time revealed that the *Janus* was destroyed one hundred (100) kilometres directly above the large island of Mundilfari in Fornjot. Debris from the *Janus* then collided with and destroyed the *Tarvos-9* and *Tarvos-24* satellites.

21. Outraged at what it perceived as an armed attack on one of its spacecraft and the intentional assassination of its President, the Government of Telesto ordered immediate retaliation. On 19 September 2018, Telesto launched a large-scale attack from ground-based missiles located in Telesto and Daphnis, destroying most of the satellites of the *Rhea* and *Ijiraq* systems.
22. Fornjot responded on 20 September 2018 by bombing military bases in Daphnis where Telestoese military aircrafts and personnel were based and using the *Hyperion* satellite system to destroy seven satellites of the *Tarvos* constellation.
23. However, before further attacks were launched by either Fornjot or Telesto, the United Nations Security Council mandated a cease-fire that came into effect on 21 September 2018. The Secretary-General of the United Nations began mediating between the three States. Eventually, Fornjot and Telesto agreed to refer their dispute to the International Court of Justice. Similarly, Fornjot and Daphnis agreed to refer their boundary dispute and other liability issues to the International Court of Justice in separate proceedings.
24. Fornjot contends that:
 - (i) Telesto contravened international law by refusing to promptly return to Fornjot the *Bergelmir*, its cargo and its crew;
 - (ii) Telesto contravened international law by the military use of satellite systems by Telesto and later by Daphnis pursuant to the Skoll Convention; and
 - (iii) Telesto is liable for the destruction of the *Rhea* and *Ijiraq* satellite systems.
25. Telesto contends that:
 - (i) Fornjot contravened international law by deploying the *Hyperion* and the *Rhea* satellite systems in low Earth orbit;
 - (ii) Fornjot is liable for the destruction of the *Janus* and the *Tarvos-9* and *Tarvos-24* satellites and for the deaths of the individuals onboard the *Janus*; and
 - (iii) Fornjot is liable for the destruction of the seven *Tarvos* satellites by the *Hyperion*.
26. In addition to the specific claims advanced by Fornjot and Telesto, each party has specifically denied the claims asserted by the other. Thus, Telesto has denied that its refusal to return the *Bergelmir*, its cargo and its crew was contrary to international law; that its use (or that of Daphnis) of certain satellites pursuant to the Skoll Convention contravened international law; and that it was liable for the destruction of the *Rhea* and *Ijiraq* satellite systems. Similarly, Fornjot has denied that its deployment of the *Hyperion* and *Rhea* satellite systems contravened international law; that it was liable for the destruction of the *Janus* and the *Tarvos-9* and *Tarvos-24* satellites, or for the deaths of the individuals onboard the *Janus*; and that it was liable for the destruction of seven *Tarvos* satellites by the *Hyperion*.
27. Fornjot and Telesto are members of the United Nations, the Conference on Disarmament and the International Atomic Energy Agency. Fornjot and Telesto are both parties to the Outer Space Treaty, the Rescue Agreement, the Liability Convention and the Registration Convention. Fornjot has signed but not ratified the Vienna Convention on the Law of Treaties, while Telesto has not signed it.