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June 25, 2017

VIA EMAIL, ORIGINAL TO FOLLOW

Mr. Roger Bilodeau, Q.C., Registrar
Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

Dear Mr. Registrar:

Re: ***Delta Air Lines v. Dr. Gábor Lukács***
Supreme Court of Canada File No.: 37276

Please accept this letter from the Respondent, Dr. Gábor Lukács, in response to the motions to intervene that were served by June 20, 2017. (The **Canadian Transportation Agency**'s motion was not served on the undersigned by said deadline, and will be addressed separately.)

The Respondent consents to the intervention of the **Attorney General of Ontario** and the **Council of Canadians with Disabilities** ("CCD").

The Respondent opposes the intervention of **IATA (International Air Transport Association)**. A proposed intervener must demonstrate that it is able to offer submissions that are relevant, useful to the Court, and different from those of the parties (Rule 57(2)(b) and *Reference re Workers' Compensation Act, 1983 (Nfld.) (Application to intervene)*, [1989] 2 SCR 335). It is submitted that IATA does not meet this test.

1. The central issue on the appeal is whether the Canadian Transportation Agency abused its discretion by basing its decision to refuse to hear a complaint on irrelevant considerations. Although this issue arose in the context of a complaint about an airline, this is purely a question of Canadian administrative law, and has very little to do with air transport or aviation. As such, IATA has no relevant expertise to offer.

2. IATA has no history of interventions before Canadian courts. Its Canadian experience is confined to consultations on regulations and policies. An appeal before this Court is not a consultation nor a townhall meeting. The interest of judicial economy dictates that only those who are able to offer a truly different perspective than the parties be allowed to intervene and be heard by the Court.

3. IATA was denied leave to intervene in this Court in *Thibodeau v. Air Canada* (SCC File No.: 35100). The issue in *Thibodeau* fell squarely within the four corners of air and international law (*Montreal Convention*), but the aviation perspective was already adequately represented by Air Canada.

4. IATA is unable to offer a truly unique perspective. As in *Thibodeau*, the aviation and the "global" perspectives are already adequately represented in this appeal by Delta, which holds an international licence. IATA's purported "global perspective" and proposed submissions are duplicative of Delta's. For example, IATA proposes to address the meaning and scope of "any person" s. 67.2(1) of the *Canada Transportation Act* (IATA's Notice of Motion, ground (k)(ii)). This issue has already been addressed at paras. 108-119 of Delta's factum.

5. Even if IATA were granted leave to intervene, it has not demonstrated that it would require more than the standard 10-page factum prescribed by Rule 42(5)(b).

Terms of intervention

Dr. Lukács respectfully submits that, as in *Google Inc. v. Equustek Solutions Inc., et al.* (SCC File No.: 36602), any order granting leave to intervene should include the following terms:

(a) no intervener may raise new issues, add to the record, or advance arguments based on unproven factual assertions;

(b) no intervener may submit a memorandum longer than 10 pages; and

(c) the Respondent may file a single factum of no longer than 6 pages in response to all three intervener factums, 28 days after receipt of the last intervener factum.

Yours very truly,

Dr. Gábor Lukács
Respondent

Cc: Mr. Carlos P. Martins, counsel for Delta Air Lines Inc.
Ms. Heather Mackay, counsel for the Attorney General of Ontario
Mr. Byron Williams, counsel for the Council of Canadians with Disabilities
Mr. David Neave, counsel for the International Air Transportation Association
Mr. Allan Matte, counsel for the Canadian Transportation Agency