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PRESENTS

THE MOOT COMPROMIS

FOR THE

1st VIRTUAL INTERNATIONAL MOOT COURT
COMPETITION, 2021

27th – 29th AUGUST, 2021



MEDIA PARTNERS:



EMAIL US AT:

inbaheadoffice@gmail.com



**INTERNATIONAL COURT OF JUSTICE
SPECIAL AGREEMENT**

**BETWEEN THE FEDERAL STATES OF OKUZA AND (APPLICANT) AND THE
REPUBLIC OF LIRYA (RESPONDENT) TO SUBMIT TO THE
INTERNATIONAL COURT OF JUSTICE THE DIFFERENCES BETWEEN THE TWO
STATES CONCERNING THE KK. SEVERE ACUTE RESPIRATORY SYNDROME
CORONAVIRUS 2 (KKC2)**

Jointly notified to the Court on 31st January, 2021

JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT:

The Hague, 31st January 2021

On behalf of the Federal States of Okuza and the Republic of Lirya, in accordance with Article 40 (1) of the Statute of the International Court of Justice, we have the honour to transmit to you an original of the Special Agreement for submission to the International Court of Justice of the differences between the Applicant and the Respondent concerning the KK. Severe Acute Respiratory Syndrome Coronavirus 2 (KKC2), signed in The Hague, The Netherlands, on the thirty first day of January in the year two thousand twenty-one.



Her Excellency Martha Verlow
Ambassador of the Federal States of Okuza
To the Kingdom of The Netherlands



His Excellency Wu Hon
Ambassador of the Republic of Lirya To the
Kingdom of The Netherlands

SPECIAL AGREEMENT
SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY THE FEDERAL
STATES OF OKUZA AND THE REPUBLIC OF LIRYA ON
DIFFERENCES BETWEEN THEM
CONCERNING THE KK. SEVERE ACUTE RESPIRATORY SYNDROME
CORONAVIRUS 2 (KKC2)

The Federal States of Okuza (“the Applicant”) and the Republic of Lirya (“the Respondents”) (hereinafter “the Parties”):

Recognizing that differences have arisen between the Federal States of Okuza and the Republic of Lirya concerning Lirya’s response to KKC2 Virus,

Noting that the Federal States of Okuza and the Republic of Lirya have been unable to settle their differences through negotiation,

Desiring that the International Court of Justice, hereinafter referred to as “the Court,” consider these differences,

Desiring further to define the issues to be submitted to the Court,

Have agreed as follows:

Article I

It is agreed by the Parties that the Federal States of Okuza shall act as Applicant and Republic of Lirya as Respondent, but such agreement is without prejudice to any question of the burden of proof and jurisdiction.

Article II

- (a) The Court is requested to decide the case based on the rules and principles of international law, including any applicable treaties.
- (b) The Court is also requested to determine the legal consequences, including the rights and obligations of the Parties, arising from its Judgment on the questions presented in the Case.

Article III

- (a) The proceedings shall consist of written pleadings and oral arguments.
- (b) The written pleadings shall consist of memorials to be submitted simultaneously to the Court by the Parties.
- (c) The written pleadings shall be consistent with the Rules for the competition.

Article IV

- (a) The Parties shall accept any Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.
- (b) Immediately after the transmission of the Judgment, the Parties shall enter into negotiations on the modalities for its execution.
- (c) If the Parties are unable to reach agreement within six months, either Party may request the Court to render an additional Judgment to determine the modalities for executing its Judgment.

In witness whereof, the undersigned, being duly authorized, have signed the present Special Agreement and have affixed thereto their respective seals of office.

Done in The Hague, The Netherlands, this seventh day of September in the year two thousand and twenty, in triplicate, in the English language.

STATEMENT OF AGREED FACTS
(Federal States of Okuza v. Republic of Lirya)

1. This matter is pertaining to disputes between the Republic of Lirya (Lirya) and the Federal States of Okuza (Okuza). Lirya is a developing peninsular country situated in the Southern part of the Gondwana continent, the largest continent of the world. The country got its independence from colonial rule in the year 1940 and since then has been governed under a single party democracy system.
2. The Communist Party of Lirya which is the only political party in the country believes in left ideology. The National Secretary of the Communist Party acts as the administrative head of Lirya. For administrative purpose, the country is divided into three different levels (district level, regional level and national level). The district administration is allowed to take decisions regarding day-to-day affairs. However, the most important policy and decision-making powers rest at the national level. National authorities closely monitor the functioning of regional and district bodies and have the power to overturn any decision made by them. The government of Lirya strictly regulates the market, media (including social media) and movement of people across the country. The government-owned large Public Sector Units (PSUs) are dominant players in the country's banking, manufacturing and travel sectors.
3. Since the early 90s, Lirya is continuously developing its manufacturing sector which was aided by a large population of around 1.5 billion people, skilled labour, progressive labour law, and an abundance of natural resources. Lirya is now the world largest manufacturer. Economies throughout the world prefer to import goods manufactured in Lirya as the goods are cheap and Lirya is well connected with the rest of the world through sea routes. Owing to a strong manufacturing sector Lirya has become the world fourth-largest economy.
4. Though the world relies on goods produced by Lirya, in reality, many developed capitalist countries consider it as a threat to their economic dominance. Furthermore, due to ideological differences, Lirya's policies have been questioned by these nations. Lirya is also one of the oldest civilizations in the world. The people of Lirya give a lot of importance to their

indigenous culture and tradition. The government of Lirya considers the protection of their ancient culture as their duty. All official communications in Lirya are made in Liryian language. The language is considered as one of the most complicated languages and hardly spoken at any other place in the world.

5. The Federal State of Okuza (Okuza) is the superpower and the world's largest and most developed economy. Okuza is situated in the Awadh continent and it is well connected with the rest of the world. Okuza is the oldest constitutional democratic country. It follows a dual-party system and head of the State is elected every five years through direct election.
6. Okuza has a strong federal structure where both local and national government enjoys a certain level of autonomy. However, international relations are exclusively handled by the national government. Further, Okuza, due to its military and economic might held a lot of influence in world politics and hence has a good political relationship with other developed capitalist countries, especially with countries in the Arori Union.
7. The Arori Union is a political and economic union of 27 member states which are located primarily in the continent of Arori. They are all highly developed countries with advanced capability in manufacturing goods ranging from automobiles to pharmaceutical goods. They are allies of the state of Okuza and also have a defence treaty with the state of Okuza. Okuza believes capitalism is essential to ensure world peace. Also, many developing and under-developed countries are dependent on Okuza's financial, military and humanitarian aid.
8. Okuza's large population and high per capita income make it the world's largest market. It is the world's biggest creditor as well as an investor. Many people from across the world come to Okuza in search of a better standard of living. Though Okuza still holds an important position in world politics, its dominance is now being challenged by Lirya and other emerging economies.
9. Khamkada is one of the densely populated districts of Lirya. The city is famous for its age-old seafood market. Liryian people historically take delight in consuming raw meat and Khamkada seafood market is the largest exotic raw meat market of the country. The market sells raw sea

animals, hedgehogs, bats, snakes, and turtledoves for human consumption. The international community has time and again advised Lirya to properly regulate its raw meat markets, especially after the spread of 2002 severe acute respiratory syndrome (SARS) which has its origin in Lirya.

10. On the evening of 19th December 2019, Mrs. X was admitted to Khamkada's government city hospital. Her medical report suggests that she was suffering from pneumonia of unknown cause. Next morning, Mr. Y along with two other family members was also admitted to the hospital. Their symptoms suggested that they were suffering from the same illness as Mrs. X. Both Mrs. X and Mr. Y had visited the seafood market. Dr Li, the head of government city hospital told his colleagues that it is possible that the disease may be contagious as it was hard to see all the family members suffering from the same disease.
11. On 24th December 2019, a video of a doctor from the government city hospital went viral on Liryian social media. The video showed a diagnosis report of Mr. Y and Mrs. X which stated that they were suffering from SARS. Later that report had been declared erroneous and government authorities deleted the video from the social media platforms. On 27th December, the local health commission issued an "urgent notice" intended only for medical institutions in Khamkada. The notice stated that cases of pneumonia from an unknown cause had emerged from the city's seafood market. It ordered hospitals to compile statistics on all such cases admitted in the previous week and report them to the Khamkada Health Commission as soon as possible.
12. The WHO's Country Office in Lirya picked up this notice from a media statement. On 28th December, the WHO requested Lirya's National Health Commission (National IHR Focal Point) for further information. Next day, WHO repeated its request to authorities in Lirya. On 30th December, the Liryian National Health Commission (NHC) informed WHO about viral pneumonia with an unknown cause. The NHC informed that till date there were 27 identified cases with no deaths so far and an investigation to identify the cause was underway. Next day, the WHO shared this information on the IHR (2005) Event Information System.

13. On 31st December, Dr Li gave an interview to a local newspaper. In his interview, he said that this new disease may transmit from a human to another human. He further added that many of his colleagues were showing similar symptoms as shown by the patients. Local health authority took cognizance of his statements and informed the same to their regional heads. They also ordered the disinfection and shut down the local seafood market until further notice. On 3rd January 2020, the NHC informed the WHO that it may be possible that there was a limited human-to-human transmission. Till date, there were only 41 reported cases of this new disease but some doctors were also showing the same symptoms as shown by the patients. Regardless, they claimed that there was no clear evidence of such human-to-human transmission.
14. On the same day, the WHO shared this information on the Event Information System. It also recommended Lirya to work according to the WHO's recommendations on public health measures and surveillance of influenza and severe acute respiratory infections. On receiving all this information, various developed countries including Okuza came forward to offer help. Okuza requested Lirya to allow a visit of a team of health experts from Okuza to investigate the matter. Lirya denied the request made by Okuza on the ground that there is no such serious threat.
15. From 7th - 10th January 2020, Lirya celebrated the annual solar festival. The festival was one of the biggest annual festivals of Lirya and Liryian people across the globe visited their native places for celebrating the festival. On 8th January 2020, a district laboratory in Khamkada discovered that the new disease is being caused by "KK. Severe Acute Respiratory Syndrome Coronavirus 2 (KKC2)". The terminology suggested that the virus has a link with the SARS virus. These reports were passed to national authorities for its scrutiny. On 12th January, NHC informed the WHO about the information. It also shared the genome of the novel virus as successfully sequenced by the district laboratory.
16. The WHO congratulated Lirya for successfully identifying the new virus in such a short duration. Through its Information System, it shared the same information and genome with other member nations. On 14th January 2020, three other member countries reported cases of the new disease to the WHO. All patients had travelled Lirya for the annual solar festival celebration. Based on this information, WHO requested Lirya to allow WHO's international

expert committee to make a visit to Khamkada and inspect the situation. Meanwhile, rumours began to spread in other countries that Lirya was once again facing SARS disease and therefore it was not safe to buy goods imported from Lirya.

17. Lirya's reply to the WHO stated that the situation was under control. It further stated that even though the virus showed human to human transmission, the rate of transmission was very low. Also, the number of active cases in Khamkada was almost stagnant. Out of the 51 reported cases, 4 patients had already recovered and only one patient Mrs. X (78) lost her life. Stating these reasons, Lirya rejected the need for international inspections. However, it stated that the WHO Lirya field office was free to inspect the situation. On 15th January, Okuza witnessed the first KKC2 virus death outside Lirya while five countries had reported active cases of the new virus.
18. The WHO Director-General asked its Lirya field office to meet health officials in Khamkada and inspect the situation. The country office in its report said that the number of patients was not increasing rapidly. However, health workers were getting affected and therefore it was reasonable to conclude that it is human-to-human transmission. More investigation was needed to understand the full extent of transmissions, according to the field office. The Director-General, therefore, constituted the IHR Emergency Committee (EC) to advise him whether the outbreak constituted a public health emergency of international concern (PHEIC). The committee on 18th January, based on existing evidence suggested that the present situation could not be declared as PHEIC, however, the situation would need to be reassessed every 10 days.
19. On 24th January 2020, Lirya reported a sudden spur of cases throughout its territory. As per the information given to WHO, in the last 24 hours it had reported hundred cases of the virus. The death toll also had increased to five. Many other member countries also reported KKC2 cases in their territory. After receiving new updates, the Director-General personally discussed the matter with the Secretary-General of Communist Party of Lirya and requested the visit of an international team to monitor and inspect the situation. The Secretary-General agreed to the same.

20. On 25th January 2020, the WHO international expert committee visited Lirya. To assist the committee, NHC Lirya appointed a special task force. The task force shared all relevant samples with the expert committee along with some new findings. After three days of research, the committee found some important information about the virus and the disease.
21. As per the committee's report on KKC2, the virus was a new type of SARS virus. The virus might have shown slow human-to-human transmission in its early stages but it had the potential to transmit at a higher rate. The virus had its origin from the seafood market of Khamkada and it was transmitted to humans from consuming unhygienic exotic raw snake meat. The virus could turn deadly for persons with weak immunity. As the virus had now spread throughout the world, it was expected to grow exponentially.
22. Based on this new information, the IHR EC advised director-general to declare the outbreak a PHEIC. On 28th January 2020, the Director-General declared the outbreak of new disease as PHEIC. The Director-General also forewarned member nations to be prepared for a possible pandemic by taking stringent measures such as large-scale screening and national and international lockdowns. Further, the virus had already spread across twenty countries. Total numbers of reported cases were around five hundred and the death toll was around twenty-two. Lirya remained the most affected State.
23. KKC2 virus turned out as one of the deadliest viruses ever. The virus exponentially spread all across the globe and affected lives in around 120 countries. The WHO declared the disease as pandemic and even asked some member nations to shut their international and internal borders for months. By the end of July, the virus had infected more than twenty million people across the world and around nine hundred thousand people had lost their life. Though the WHO tried to regularly issue country-specific guidelines, however, it was very difficult to curtail the disease without any effective medication.
24. In its starting phase, the virus most drastically spread in the Arori continent. Even developed countries of the continent could not protect themselves against the virus. However, from April, the virus started affecting other parts of the world as well. Okuza was the worst affected state. As per WHO statistics on 31st July 2020, more than two hundred thousand people lost their

lives to the virus and five million people were infected in Okuza. The country, due to its large size and the strong federal structure was also facing some issues in implementing sufficient precautionary measures.

25. The harmful impact of the virus on a human, social, cultural and economic relationship was not quantifiable. Many countries had to close down their entire national and international economies for months. Students could not go to schools. Religious and other cultural activities were also suspended. As per a World Bank report, the global economy would witness the biggest recession of all time.
26. Till 31st July 2020, there was no vaccine or readily available medicine against the virus. The breakthrough in this regard came from Lirya which successfully tested the first and most effective human vaccine against the disease. However, achieving universal vaccination remained a big challenge.
27. Okuza had its presidential election in 2021. The current regime is continuously being questioned for its failure to stop the spread of the virus in the country. In one of its public meetings, the current President accused Lirya of spreading KKC2 virus in Okuza. He also said that he will “force Lirya to accept its guilt and pay damages to Okuza”. Okuza’s president was not the first to accuse Lirya. Many other countries had criticized Lirya for its attitude towards handling of the virus. However, no other country has yet officially demanded any damages.
28. On 31st August 2020, the government of Okuza in its official communication to government of Lirya wrote that, “the virus turned into pandemic because of late response from Lirya. If Lirya had complied with IHR Regulation and the WHO constitution, such a pandemic would have never occurred. Lirya never gave timely information under IHR 2005 nor cooperated with the other states and the WHO”. Therefore, Okuza demanded that Lirya must accept its culpability and compensate for the loss suffered by Okuza. This was seen as a political gimmick in the international community.
29. In reply, Lirya wrote that, “The government of Lirya had not violated any norms of international law through its conducts during the spread of the virus. Lirya had followed its

governing structure and after approval from national authorities, sharing all relevant information with the WHO. The outbreak of the pandemic is an unforeseeable event and Lirya could not be blamed for the same". Lirya flatly refused to accept the guilt of any wrong and added that they would never entertain such false acquisitions. Furthermore, Lirya requested Okuza not to defame Lirya in the eyes of the international community.

30. In response to Lirya's reply, Okuza's government decided to impose sanctions on Lirya. Subsequently, the President of Okuza gave his assent on Lirya Sanction Ordinance, 2020. The ordinance empowered authorities in Okuza to restrict Okuza-based financial institutions from granting loans or underwritings to Liryian businesses and prohibited Liryian firms from being listed on Okuza's stock exchanges. The ordinance also empowered authorities in Okuza to freeze Okuza-based assets of any individual or organization providing significant finance or credit to business entities in Lirya. The ordinance also put a travel ban on Lirya. Furthermore, Okuza had also asked all its allies to restrict their dealing with Lirya.
31. Okuza stated that the ordinance would be effective for two years from the date of its promulgation. Many Okuza-based assets of residents of Okuza, as well as other countries, were frozen under the new law. Due to the ordinance, investors across the globe started revoking their investments from Lirya. As per the International Monetary Fund's report on sanctions against Lirya, the ordinance was not only detrimental to Lirya's economy but also affected its capability to import many essential goods from the global market.
32. Accordingly, Lirya argued that Okuza does not have any right to decide whether Lirya had committed any wrong or not. Furthermore, as Lirya had not committed any international wrong, there was no question of taking any sanction against it. By taking such measures Okuza was unjustly using its powers to abuse developing countries. This would ultimately affect Lirya's citizens and its economy which was already in stress due to the pandemic.
33. In the meantime, state-owned companies in Lirya collaborated and built a vaccine by 31st July 2020, which they subsequently tested on front line workers. The trials proved successful and they started efforts to ramp up production of the vaccine. Further, the state-owned companies patented the vaccine all across the world including in Okuza and the Arori Union.

34. As the vaccine was proving effective all over the world, the demand for vaccine surged. Even though Lirya was rapidly ramping up production of the vaccination, it could not immediately meet the global demand. Further, the priority of Lirya was to conduct mass vaccinations for its citizens rather than exporting the vaccine all over the world.
35. Since Okuza was no longer negotiating with Lirya or Lirya-based companies, Okuza did not request or place an order for the vaccines with Lirya like other countries did, which included the Arori Union. Rather, Okuza immediately granted compulsory licences under TRIPS to various domestic companies who were already researching and developing a vaccine and therefore had the capability for mass production. This decision was publicly conveyed by the President of Okuza. Further, on Lirya's intimation to the Arori Union that it would only be able to deliver the vaccines ordered within three months and not immediately, Arori Union issued compulsory licenses to its domestic manufacturers to fulfil its domestic demand and subsequently notified Lirya.
36. Gradually, Lirya ramped up production of the vaccine dramatically due to a collective effort of many companies and started exporting vaccines to countries that had placed an order with it. In the meanwhile, as Okuza was also mass-producing the vaccines, it felt obliged to help the international community, and therefore, at no charge, in form of aid packages, Okuza sent the vaccines to many countries that had placed an order with Lirya for the vaccines. This also included the Arori Union, who in return sent ventilators which it was mass-producing as a sign of gratitude. Also, it was publicly known that the Okuza's aid packages sent to other countries were decided on political grounds.
37. Lirya alleged that Okuza could not export any vaccines that were made under compulsory license and exporting the vaccine to well-developed nations, who were already producing the vaccine under compulsory licence violated TRIPS. Further, Lirya claimed that Okuza granting a compulsory license without consulting the patent owner or entering into talks for remuneration was in violation of TRIPS as well. Okuza claimed that it never exported any vaccines but merely provided free aid to its allies as it was obligated to do which was not

export. Also, Okuza claimed that there existed a national emergency and the vaccine was for public non-commercial use and hence it was exempted under TRIPS.

38. Following this, Okuza and Lirya, tried to resolve their issues through negotiation as well as mediation however they were unable to arrive at a mutually acceptable settlement. Even the Director-General of WHO could not help in settling the disputes.

39. After failed diplomatic efforts, the Applicant and the Respondent have now agreed to seek a settlement of their disputes by approaching the International Court of Justice. Both the countries agreed that liability of Lirya only to be decided if the Court has jurisdiction by virtue of any existing treaty between both the countries. The Applicant and the Respondent submitted the following points before the ICJ:

- I. Whether the ICJ has any jurisdiction under any existing treaty between the parties to determine claim made in Issue II?
- II. Whether Lirya has violated any norms of international law through its conduct while KKC2 virus was spreading?
- III. Whether the Lirya Sanction Ordinance is in violation of International Law?
- IV. Whether Okuza has violated any provisions of TRIPS or WTO in the manufacturing and subsequent distribution of the vaccine?

Note: Arguments related to jurisdiction of the Court can only be made where it is explicitly asked for.

Additional Information: Both Okuza and Lirya are one of the founding members of the United Nations and are permanent members of the Security Council. Both countries are also members of the World Health Organisation and the World Trade Organisation. Okuza and Lirya have also ratified IHR Regulation 2005 and are parties to the United Nation Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Vienna Convention on Law of Treaties. Okuza and Lirya are also signatories to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Both countries have also adopted The Doha Declaration on the TRIPS Agreement and Public Health. Both the countries are also parties to the Statute of the International Court of Justice

(ICJ). Pursuant to Article 36, paragraphs 2 and 3, of the Statute of the ICJ, Okuza has recognized the ICJ's jurisdiction as compulsory ipso facto. Lirya has not recognized the ICJ's jurisdiction as compulsory ipso facto.