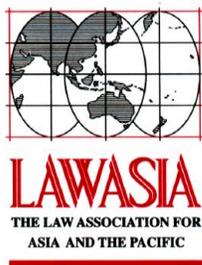




13th LAWASIA International Moot

CLARIFICATIONS TO THE MOOT PROBLEM



Organiser of the LAWASIA International Moot Competition

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Below you will find the answers to some of the clarification requests. Not all clarification requests have been answered; only those which are relevant in any way or clarify an issue and/or fact.

The clarification requests that have been answered have been transcribed verbatim to this document and, next to each one of them, an answer follows in **bold**.

1. *“Is Claimant/Chuizi Leishen’s LLC a private or public entity?”*
Claimant is a private entity.
2. *“In light of line 2 (“incorporated under the laws of Cambodia”) of paragraph 7, page 1, was the Respondent registered as a subsidiary of Vader under the laws of Cambodia?”*
RES is a Single-Member Private Limited Company. RES’ sole shareholder is Vader.
3. *“Were there financial support from Vader Ltd to RES initially?”*
Initially, Vader injected capital into RES to undertake the establishment costs and to allow for the starting of operations.
4. *“Does Mr. Kalai Deewarvala has any specific position apart acting only as representatives for CL and what is his specific job scope?”*
He is an employee and a representative of Claimant (see paragraph 11). At all times, he had sufficient powers to sign the contracts.
5. *“Reading in totality lines 7 and 8 (“respective legal counsels and representatives”) of paragraph 10 as well as paragraph 13, on page 2, do the Representatives possess any legal knowledge or legal qualification?”*
Mr. Armando Paredes was born in Playa Del Carmen (Quintana Roo, Mexico) and went to school in Mexico City. He also attended University in Mexico City where he received a Degree in Engineering. Later, he completed an MBA in France.

Mr. Kalai Deewarvala was born in Ipoh (Perak, Malaysia) and went to school in Kuala Lumpur. He also attended University in Kuala Lumpur where he received a Degree in Architecture. Later, he completed an MBA in Australia.

6. *“How long has Mr. Armando been in Asia, and could he be said to be reasonably acquainted with local customs, traditions, and practices?”*
Mr. Armando Paredes was in Mexico City when he was hired by RES. He flew directly to Cambodia to work for RES. Mr. Paredes spends most of his time in Cambodia. Before 23 November 2016, he had only travelled to Vietnam, China, Laos and Russia for business. However, he travelled to other Southeast Asian countries for vacations in four occasions.
7. *“Did Brexit affect the Respondent's business?”*
Indirectly; Brexit affected Vader's operations in Europe. Pursuant to what is described in paragraphs 19 and 27, RES became independent as Vader stopped exercising any control over RES.
8. *“Ever since Vader's Board of Directors decided to delegate the duty to Mr Paredes, is there any other way Vader is link to RES?”*
There was no change in Mr. Armando Paredes' corporate duties.
9. *“The event of Brexit, does Mr Paredes has full control over the company? What does it mean by “the operations of RES should remain independent?” in para 19?”*
Due to the Brexit, Vader's profits plunged in Europe. Thus, it's full attention was given to withdrawing its business and representation from Europe. For this purpose, Vader's Board of Directors passed a resolution pursuant to which no further support would be given to RES and no further requirements would be made to RES. From that point on, Vader would not help RES and would not require anything from RES.
10. *“After the realization of misunderstanding on mid-March 2017, was there any form of meetings to remedy the situation?”*
No.
11. *“Does the Respondent possess any business assets?”*
Yes but they are tied up as collateral for investments; i.e. they are not freely disposable assets.
12. *“Why the seller did hired a number of local Cambodian Nationals and a team of In-House Counsels when the company suffered financial difficulties?”*
Hiring a number of local Cambodians implied many benefits for RES (in opposition to, for instance, hiring foreign personnel). For example, Cambodian lawyers acting as In-house counsels would have access to local courts, would be familiar with local judicial and arbitration procedures, would be remunerated as per the local Cambodian market, and would be familiar with

the local culture. In light of the difficult financial situation of RES, a more expensive alternative was out of the question.

13. *“Despite having the exclusive distribution agreement, did RES sell brick to other counterparts?”*

RES did not sell bricks to other parties before the end of 2016.

14. *“Pursuant to [Para 21 and 22], other than the shaking of hands, was a written contract for the First Incentive ever formalised between both parties?”*

No.

15. *“Where exactly was the first contract signed between Claimant and Respondent?”*

The first contract was signed by electronic means through counterparts.

16. *“Paragraph 48, page 7; what is the non-specific security deposit? Is it included under in section 3 deposits AIAC, schedule 2?”*

See Rule 14 of the KLRCA Arbitration Rules 2017. The Director fixes a security deposit to cover the costs of the arbitration taking into account, among others, the value of the claim and the counter-claim, if any. When there’s not a stated claim amount, the Director will consider the circumstances of the case and fix a non-specific security deposit for the case to proceed.

17. *“Is there any other laws applicable to govern the contract?”*

The legal framework applicable to this case contained Paragraph 15(f). Please see the chart below for clarification:

Arbitration Agreement	Contained in the Arbitration Clause
Arbitration Rules	KLRCA Arbitration Rules 2017
Seat of Arbitration	Kingdom of Cambodia
Applicable law to the contract	UNIDROIT Principles of International Commercial Contracts 2016

18. The Claimant set the value of its claim at USD\$456,262,500.00 in para 55. Is it possible for the Claimant to itemize the claim value?

As per paragraph 45, Claimant is asking for the tribunal to order Respondent to perform the first two deliveries of 2017. The value of such deliveries is USD\$456,262,500.00.

19. *“Pursuant to [Para 62], has the Claimant filed for a joinder of Vader to the instant arbitral proceeding?”*

Yes. Claimant filed a Request for Joinder after the constitution of the arbitral tribunal.

20. *“Is there a typographical error in the 3rd issue, the word “Respondent’s” that should be used in place of “Claimant’s” as Paragraph 37 clearly suggests that the offer was made by the respondent?”*

Yes, there is typographical error. The third issue should be: “Was there a valid acceptance of the Respondent’s offer?”

Tuesday, 24 April 2018