ANNUAL WILLEM C. VIS
INTERNATIONAL COMMERCIAL
ARBITRATION MOOT

THE PROBLEM

Thirty Second Annual Willem C. Vis
International Commercial Arbitration Moot

Vienna, Austria
October 2024 – April 2025

Oral Hearings
11 –17 April, 2025

Organised by:
Association for the Organisation and Promotion of the
Willem C. Vis International Commercial Arbitration Moot

and

Twenty Second Annual Willem C. Vis (East)
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Oral Arguments
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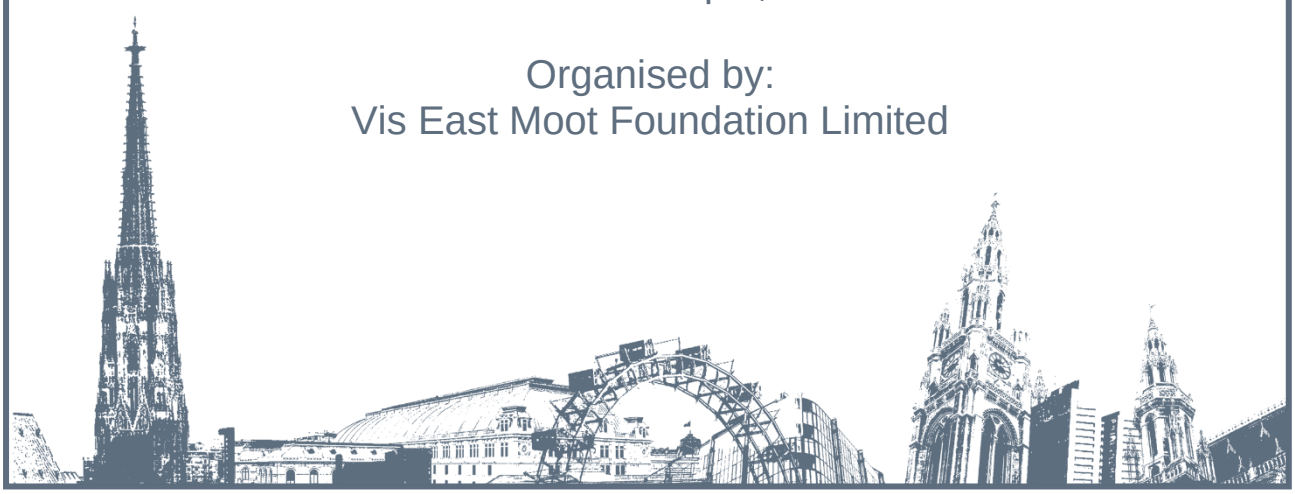

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31 July 2024

By email and courier
The Arbitration Institute of the Finland Chamber of Commerce
P.O. Box 1000
Fl-00101 Helsinki
Finland
info@arbitration.fi

Dear Mr. Sajakorpi,

On behalf of my client, *GreenHydro Plc*, I hereby submit the enclosed Request for Arbitration (RfA) pursuant to Article 6 of the Rules for Expedited Arbitration of the Finland Chamber of Commerce (FAI-Rules). A copy of the Power of Attorney authorizing me to represent *GreenHydro Plc* in this arbitration is enclosed as are the other required documents including Proof of Payment of the Filing Fee pursuant to Article 7 FAI-Rules.

The Claimant requests the performance of contractual obligations. The estimated monetary value of the claim in the sense of Article 6.3 (f) FAI-Rules is EUR 100 million. Respondent's contact details are set out in the RfA.

The contract giving rise to this arbitration provides that the seat of arbitration shall be Vindobona, Danubia, and that the arbitration shall be conducted in English. The arbitration agreement, which is largely a copy of the FAI "Combined arbitration clause", provides for the application of the FAI-Rules. In light of the amount in dispute and the complexity of the case, we consider the application of the Arbitration Rules of the Finland Chamber of Commerce (Arbitration Rules) to be more appropriate and we would suggest that, deviating from Article 19.1 (d) of the Arbitration Rules the third arbitrator should be appointed directly by the Arbitration Institute.

In case the Arbitration Institute decides for the application of the Arbitration Rules and three arbitrators, *GreenHydro Plc* hereby nominates Mr. Narvin Aqua as its arbitrator for confirmation.

Sincerely yours,

Joseph Langweiler

Attachments:
Request for Arbitration with Exhibits
Power of Attorney (not reproduced)
CV of Mr. Aqua pursuant to Art. 6.3(h) Arbitration Rules (not reproduced)
Confirmation of Payment of Filing Fee pursuant to Art. 6.3 (i) FAI-Rules (not reproduced)

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31 July 2024

Request for Arbitration

(pursuant to Article 6 of the FAI-Rules)

in the Arbitral Proceedings **GreenHydro Plc v. Equatoriana RenPower Ltd.**

GreenHydro Plc
1974 Russell Avenue
Capital City
Mediterraneo

- CLAIMANT -

Represented by Joseph Langweiler

Equatoriana RenPower Ltd.
1 Russell Square
Oceanside
Equatoriana

- RESPONDENT -

Represented by Julia Fasttrack

STATEMENT OF FACTS

1. Claimant, GreenHydro Plc, is a medium-sized engineering company specialized in the planning, construction and sale of plants for the production of green hydrogen and connected services for the whole hydrogen and Power-to-X value chain for the industry, energy and mobility sector.

2. Respondent, Equatoriana RenPower Ltd. (ERenPow) is a fully government-owned company. It was created in 2004 by a merger of the two state-owned energy companies operating in the field of renewables. In addition to being a major player in the Equatorianian market with its wind and solar farms, ERenPow plays an important role in the "Green Energy Strategy" of the Government of Equatoriana. To ensure the ambitious goal of Net-Zero-2040, ERenPow was to invest in the creation of a "sustainable hydrogen infrastructure covering the entire value chain needed to decarbonize Equatoriana's large steel and transport industry", as was stated in the Green Energy Strategy. On 3 January 2023, ERenPow invited bids for the construction and delivery of a plant to produce green hydrogen and potential derivatives.
3. The relevant documents were published via the official tender platform. They provided that the tender process as such was governed by the Public Procurement Law of Equatoriana and be conducted in its initial phase as a reverse auction. It was a technology open tender, and for the comparability of the various proposals, the overall efficiency in relation to the price was relevant. The Request for Quotation further stated that the local content of the materials to be provided was an important factor in evaluating the bids and to be eligible a minimum of 25% was required. (Claimant Exhibit C 1).
4. According to the description, the bids were to cover the following four elements: a fixed 100 MW plant for the production of green hydrogen (turnkey), maintenance and training services for one year, and two options for Respondent concerning the extension of the plant. The first covered a mere extension in capacity up to double the fixed contracted capacity. The second covered the addition of a part for the production of eAmmonia.
5. For Claimant, the realisation of the project was of considerable importance. It would have been the first opportunity for Claimant to showcase its new technology on a larger scale and show the advantages of its patent-protected production process. The process allows for the use of the excess heat created during the production of hydrogen for district heating, thereby increasing the overall efficiency of the plant. So far, the only operating plant is Claimant's own 5 MW facility and at the time of the tender, another 20 MW plant had just been commissioned by the Government of Mediterraneo. Claimant's innovative process is based on electrolysis using a proton exchange membrane (PEM-electrolysis). It relies on the special properties of the used membrane, which is permeable to protons but not to gases such as hydrogen or oxygen. The relevant electrolysers are delivered in stacks of 10 MW each. The modular setup has the advantage that further stacks may be added at a later time, provided that the required other infrastructure and space is available.
6. The PEM-electrolysis is particularly suitable for the use of unstable renewable power, and the overall plant efficiency in Claimant's research facility was over 85% due to the additional use of the process heat.
7. The great attraction of the project was the likelihood that it could be realized within a very short time. There was strong Equatorianian government support, and many preparatory steps in the planning and permission process had already been taken. Under the Green Energy Strategy, the necessary environmental, construction, and operation permits for green energy projects were to be granted in a facilitated and expedited procedure, which included strict timelines and a limitation of the possible objections. For the project itself, those parts of the planning process involving the participation of the local communities had already been completed, excluding the risk of any delay from that side. The issuance of the necessary environmental permits was imminent and only depended on internal procedures. For the other permits, which usually do not create any problems, the detailed planning of the plant was necessary. Furthermore, the construction site was prepared and well-connected with the required infrastructure.
8. In addition, a suitable transformer was available. In 2020, Claimant ordered the transformer from its long-time Equatorianian business partner Volta Transformer for another project. The transformer was to be delivered in early 2024, but in November 2022 the other project had been cancelled due to the insolvency of the other customer. The transformer was of the right size for the present project with a capacity able to cover also the two options, should

Respondent make use of them. The availability of the suitable transformer meant that one of the obstacles of projects as the one at hand which often resulted in longer lead in times could be avoided.

9. In light of these two factors, it was realistic that the plant would start producing green hydrogen from the beginning of 2026 onwards, as planned in the Request for Quotation, if the contracts were concluded in summer 2023. The fact that the plant would be operative by 2026 was important for the Claimant and an attraction of the project since it would allow the Claimant to use the project as a reference project for potential new projects, i.e., new customers. Taking into account the exponential market growth predicted from 2026 onwards, the existence of such a reference project was extremely important for Claimant. It could have helped to disprove the reservations which existed in certain quarters of the renewable energy community against the PEM-technique. While it is generally recognized that the PEM-technique has many advantages, in particular in case of an unstable power supply by green energy, its economic viability has been questioned by interested competitors. In light of these opportunities associated with a successful bid, Claimant decided to enter the tender process with an initial offer which was calculated on a cost-only basis without any profit margin.
10. On the basis of its initial offer and the innovative technology, Claimant was amongst the two final bidders with whom ERenPow entered into specific negotiations from early May 2023 onwards. From the beginning of the tender process, Claimant had been exploring its opportunities to fulfil its obligations of local content both in relation to the already fixed part of the delivery obligations as well as for the two options. At the time the detailed negotiations started, Claimant had been in very promising negotiations with two local producers. If successful, these negotiations would have ensured local content going well beyond the required 25%, in particular in case the eAmmonia-option was exercised.
11. For the hydrogen plant itself, i.e. the agreed 100 MW plant and the extension option, Claimant was about to sign a contract with Volta Transformer. According to the contract, Volta Transformer was not only to provide the transformer for the project but also 40% of the electrolyser stacks as well as the packaging of all stacks at the site in Greenfield in Equatoriana. The non-transformer-related tasks were to be performed by Volta Electrolyser, a 100% subsidiary of Volta Transformer. Volta Electrolyser produced, under a licence from Claimant, electrolysers which were nearly identical to the ones of Claimant's and could thus be combined easily with Claimant's stacks. That contract had largely been negotiated by the end of June 2023 but was finally signed only on 25 August 2023. The delay in signing was due to an unexpected offer on 29 June by the Volta Family, the owner of Volta Transformer, to sell the latter to Claimant. After an agreement had been reached on how the contract for the Green Hydrogen Plant should affect the purchase price for Volta Transformer, it was finally signed on 25 August 2023. The overall value of the contract for the fixed part of the Green Hydrogen Plant was close to EUR 100 million, while for the extension option, the plan was to reduce the quantity of stacks to be delivered by Volta Transformer to 20% and let them do the entire packaging.
12. In addition, since May 2023 Claimant has been in promising negotiations with the Equatorianian company P2G for the eAmmonia-option. At the time, Claimant was concerned that it would not have the necessary expertise, experience, and manpower to plan and build the eAmmonia module itself within the ambitious time frame. Thus, the plan was to largely contract out that work to a company with more experience in the field and limit Claimant's involvement to the overall planning and the integration of the module into the hydrogen plant. In that case, Claimant itself would have provided merely works and services making up roughly 20% of the value of the eAmmonia option while the remaining 80% would have been provided by P2G. If everything had worked out as planned and Respondent had made use only of the eAmmonia-option, around 45% of the overall contract volume would have been produced and delivered by entities from Equatoriana.
13. During the final discussion between the two CEOs on 13 July 2023, Claimant informed Respondent that it was willing to lower its already competitive price by another 5%, in return

for exclusion of the right to terminate the Agreement for convenience and certain commitments concerning the sharing of data for future marketing purposes. On the basis of the calculation at the time, the offer would not only have failed to cover the costs but also resulted in a loss of EUR 15 million already for the fixed part if no further savings could be realized. Respondent was aware of that, as Claimant was very transparent about its cost calculation during the negotiations. The realization of that innovative project required ongoing and forward-looking cooperation between the two partners who trust each other. Claimant also informed Respondent about its ongoing negotiations with the two local partners and the possibility that, if successful, Claimant would have a local content of much more than the required 25%.

14. After two and a half months of intensive negotiations, Claimant finally managed to sign the Purchase and Service Agreement with Respondent on 17 July 2023. Deviating slightly from the originally planned structure, the Agreement provided in essence that Claimant would deliver at a first stage a plant of 100 MW at a price of EUR 285 million and would grant Respondent two options for the extension of the plant in capacity and products (Claimant Exhibit C 2).
15. As agreed, there was considerable media coverage about the project and the signing of the contract. The media emphasized the innovative character of the technology used (Claimant Exhibit C 3). Unfortunately, someone also leaked incorrect information about Claimant's adherence to the local content requirement, which seriously affected its ongoing negotiation with the local partner P2G for the eAmmonia module, reinforcing unrealistic price expectations.
16. In the end, the negotiations with P2G failed due to quality issues, and Claimant had to contract Green Ammonia from Danubia as its partner for the eAmmonia module. This had no influence on the local content for the contracted 100 MW green hydrogen plant which was still above the requested 25% but would have resulted in a lower percentage if Respondent exercised the eAmmonia option. Claimant immediately informed Respondent that its plan to contract P2G for the eAmmonia module had not worked (Claimant Exhibit C 4).
17. In October 2023, local elections in Equatoriana led to a shift in the power balance within the Equatorianian government. As a consequence, Mr. Positive, the particularly unpopular minister for energy and environment, was replaced by a colleague from the Equatoriana National Party (ENP), Ms. Theresa Vent. The ENP and Ms. Vent had long opposed the Green Energy Strategy developed by the previous minister. In their view, it was too strict and too focused on specific quotas for certain types of renewables, in particular green hydrogen.
18. In her first press conference, Ms. Vent announced a revision of the Green Energy Strategy and a major reshuffle in the board of directors of ERenPow. On 27 December 2023, Claimant's CEO, Mr. Cavendish, received a call from his then counterpart at ERenPow, Ms. Michelle Faraday. Ms. Faraday informed Mr. Cavendish that she would be replaced by the end of the month by a former manager of a solar company, Mr. Henry la Cour. He was a member of the ENP and a well-known critic of hydro energy. She confirmed rumours that ERenPow would review all contracts to see whether they fit the new policy objectives (Claimant Exhibit C 5). Her prediction was that the new CEO would try everything to either terminate the unwanted contracts or at least aggressively renegotiate them.
19. That is what happened shortly thereafter. On 29 February 2024, Respondent gave notice of termination of the Purchase and Service Agreement due to a delay of 28 days in delivering the final plans for the entire plant including the options (Claimant Exhibit C 6). Mr. la Cour further pointed to a provision in the law of Equatoriana according to which state entities could always terminate contracts for convenience against the payment of expenses incurred if government policies changed. In the ensuing negotiations, Respondent took the position that the Agreement allegedly no longer fitted the amended policy and thus had to be terminated.
20. Claimant strongly contested that view, and Mr. Cavendish left no doubt that in its view Respondent had no right to terminate the Agreement. In light of Claimant's interest in the realisation of the project as a reference project, any right to terminate for convenience had been

excluded in return for the final price reduction of 5%, and the delay did not justify a termination for a fundamental breach under the CISG.

21. During the Parties' negotiations, Claimant very soon got the impression that the termination was primarily intended to reduce the already very favourable price even further. Respondent's higher management always played with the option of fulfilling the contract under certain conditions that would lead to a more favourable price for Respondent. At the final stage of the negotiations, Respondent purported to have received the green light from the new minister to continue with the project provided that Claimant accepts another price reduction of 15%. This is evident from the content of the without-prejudice offer made by Respondent in the negotiations. (Claimant Exhibit C 7).
22. The offer shows that Claimant, whilst pretending not to pursue the Green Hydrogen Project due to a change in policy, was actually merely interested in renegotiating the price. This is not a valid reason for terminating the Purchase and Service Agreement with Claimant.

LEGAL EVALUATION

23. The Arbitral Tribunal has jurisdiction and the claim is admissible.
24. According to the dispute resolution clause in Art. 30 of the Agreement, the Arbitration shall be conducted in English under the FAI-Rules, with the place of arbitration in Vindobona, Danubia. The relevant clause provides:

> "Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or validity thereof, shall first be submitted to mediation in accordance with the Mediation Rules of the Finland Chamber of Commerce.
> (a) The place of mediation shall be Danubia.
> (b) The language of the mediation shall be English.
> Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or validity thereof, shall be finally settled by arbitration in accordance with the Rules for Expedited Arbitration of the Finland Chamber of Commerce. However, at the request of a party, the Arbitration Institute of the Finland Chamber of Commerce may determine that the Arbitration Rules of the Finland Chamber of Commerce shall apply instead of the Rules for Expedited Arbitration if the Arbitration Institute considers this to be appropriate considering the amount in dispute, the complexity of the case, and other relevant circumstances.
> (a) The seat of arbitration shall be in Vindobona, Danubia.
> (b) The language of the arbitration shall be English."

25. Neither the jurisdiction nor the admissibility of the claim is affected by the fact that the Parties did not enter into mediation proceedings as foreseen in the first part of Art. 30. From the conduct of the Parties' negotiations and Respondent's final offer of 25 May 2024, it was obvious that mediation would not have resulted in a resolution of the dispute, given Respondent's insistence on a 15% price reduction. In its without-prejudice offer following a meeting of both CEOs a week earlier, Respondent had made clear that "any further discussion made only sense if Claimant was willing to talk about serious price reduction of 15% or at least a two-digit number" (Claimant Exhibit C 7). That was, however, obviously unacceptable for Claimant, which was already making a deficit under the contract as it stood. Thus, mediation would have been a mere waste of time and resources.
26. The Agreement is governed by the CISG. The choice of law clause in Art. 29 of the Agreement provides:

> "The Agreement is governed by the law of Equatoriana to the exclusion of its conflict of laws principles".

27. As Equatoriana is a Contracting State of the CISG, the CISG applies to the Agreement, which is an international sales transaction. Contrary to Respondent's view expressed in its notice of

termination, the Parties did not exclude the CISG. It does not form part of the "conflict of laws principles" of Equatoriana.

28. As a mixed contract containing engineering and planning work as well as the delivery of goods, the Agreement also falls within the sphere of application of the CISG. The preponderant part with a value of over 60% of the overall prices consists of the delivery of goods.
29. Respondent's purported termination is invalid, as it is neither justified under the Agreement nor under the CISG. During the final stage of the negotiations, the Parties explicitly agreed that in return for a further reduction of the initially proposed price of 5% by Claimant, Respondent would only have a right to terminate the Agreement in case of severe breaches and would use its best endeavors to make the project a success. Thus, any right of termination for convenience was excluded as explicitly discussed between the Parties.
30. The delay in the first delivery did not constitute a fundamental breach justifying a termination of the Agreement under the CISG. Respondent only used the delay in the first delivery as a pretext to terminate the contract. In fact, it is the change in the Equatorianian government and the new government's change in policy that was driving Respondent's decision to terminate the contract. Moreover, it is Respondent that had promised to use its best endeavors to ensure the success of the project. This obligation of Respondent had been introduced in the contract under the condition that Claimant accepted the low price and was able to use the plant as a showcase. By terminating the contract for no valid reason, Respondent breached its promise to use its best efforts for the project implementation.
31. As a consequence, Claimant is entitled here to ask for specific performance of the contract, i.e., that Respondent continues to fulfill the contract, accepts delivery, and pays for it.
32. The estimated monetary value of the claim in the sense of Article 6.3 (f) FAI-Rules is EUR 100 million, representing Claimant's interest in the performance of the Agreement as planned. In light of the amount in dispute and the complexity of the case, Claimant considers the application of the Arbitration Rules of the Finland Chamber of Commerce (Arbitration Rules) to be more appropriate and suggests that, deviating from Article 19.1 (d) of the Arbitration Rules, the third arbitrator should be appointed directly by the Arbitration Institute.
33. In case the Arbitration Institute decides for the application of the Arbitration Rules and three arbitrators, *GreenHydro Plc* hereby nominates Mr. Narvin Aqua, Helsinki Crescent 3, Capital City, Mediterraneo, as its arbitrator for confirmation.

REQUEST

34. In light of the above, Claimant asks the Arbitral Tribunal for the following orders:

    1) Declare that the Agreement is governed by the CISG.

    2) Declare that the Agreement has not been validly terminated by Equatoriana RenPower.

    3) Order Equatoriana RenPower to fulfill the Agreement by using its best effort to have the necessary construction and operation permits issued and allowing Claimant to start with the construction works on the Greenfield site, as well as taking all further steps agreed upon under the Purchase and Service Agreement and necessary to ensure the realization of the project, including but not limited to making the relevant payments.

    4) Order Equatoriana RenPower to bear the costs of the arbitration.

    5) To make any other order the Arbitral Tribunal considers appropriate.

Joseph Langweiler

CLAIMANT EXHIBIT C 1

Equatoriana RenPower

Terms and Conditions

REQUEST FOR QUOTATION (RFQ)
PURCHASE AND SERVICE AGREEMENT
(Reverse Bid Auction)

RFQ 1/2023

Issue Date: 3 January 2023

1. Object

This request is for a quotation for

- the engineering, planning, construction, and delivery of a plant (turnkey) for the production of green hydrogen from 1.1. 2026 onwards in Greenfield, at the site described in detail in Annex 1, having an original capacity of 100 MW;
- the grant of an option to increase the quantity by up to 100 MW at a fixed price to be exercised within the first year of operation of the plant;
- the grant of an option to add production facilities for eAmmonia at a fixed price to be exercised within the first year of operation of the plant; and
- training and maintenance services for the first year of operation.

The technical specifications of all attachments must be complied with. Please read all the instructions below.

a. This request is for a quotation for the planning, construction, and delivery of a plant for the production of green hydrogen with features defined in the attachments (Basic Ordering Agreement).

b. If any product brand names or models are shown in any attachments, they are for reference only. You can offer products of a similar quality but you must include their brand names and models in your proposal. You must additionally submit their complete and accurate technical specifications in order to allow for their accurate evaluation.

c. This RFQ will be processed in 4 phases. Please refer to **Clause – RFQ Processing phases and deadlines** for further details.

1) Phase 1 – Presentation of initial proposals (28 February 2023)
2) Phase 2 – Equatoriana RenPower's internal proposal analysis (31 March 2023)
3) Phase 3 – Presentation of the Lowest Bid (reverse bidding auction) (28 April 2023)
4) Phase 4 – Negotiation with best two bidders – Final decision (June/July 2023)

2. Acceptance of Terms and Conditions

a. The Bidder's submission of a proposal for this RFQ indicates:

1) The **Bidder**'**s** acceptance of all terms and conditions written in this RFQ; and
2) The **Bidder**'**s** acceptance that these RFQ terms and conditions will be reflected in the contract that may be awarded should the **Bidder** win any item of this bidding process.

b. Equatoriana RenPower reserves the right to reject at any time, entirely or partially, any proposal that does not comply with the technical specifications and/or terms and conditions of this RFQ.

c. According to International Laws, based on the "*locus regit actum*" principle and in order to protect the **Bidders**' intellectual proprietary information, Equatoriana RenPower will not disclose, except to its personnel and advisors, any data, specifications or technical documentation regarding the **Bidder**'**s** proposal that are not in the public domain.

d. The costs of preparing and submitting **Bidder** proposals are the sole responsibility of the **Bidders**; under no circumstance will Equatoriana RenPower be responsible for these costs.

3. Supplier Registration
To participate in the RFQ, potential Bidders must have registered as suppliers before submitting their bids.

[…]

4. Validity
All bids (quotations) must be valid for a period of at least 36 months from the signature of the Purchase and Service Agreement.

5. Product and Prices
The exact technical specification of the final product to be delivered and the prices thereof will be determined in the final negotiations and will then be fixed in the Purchase and Service Agreement.

6. […]

7. Awarding Decision
The awarding decision will be taken following the detailed negotiations with the final Bidders. Bidders are expected to have the necessary resources in place to start with the work immediately.

8. Applicable Law to Bidding Process
The Bidding Process is governed by the Public Procurement Law of Equatoriana, which also governs the award of the contract.

9. Local Content / Offset Agreements
A relevant factor in awarding the project will be the amount of local content in the project. Each quotation must set out in detail the amounts of materials, services, and works to be supplied by entities located in Equatoriana. At least 25% of the materials and works for the plant as well as 25% of the material used for the Electrolyser-part of the Plant should originate from Equatoriana or be sold by entities in Equatoriana.

CLAIMANT EXHIBIT C 2

PURCHASE AND SERVICE AGREEMENT

Whereas the government of Equatoriana, as the owner of Equatoriana RenPower Ltd., has set in its Green Energy Strategy the goal to decarbonize energy production, the transport sector, and industrial production by 2040;

Whereas Equatoriana RenPower has been entrusted with implementing this strategy in the area of energy production and building up an infrastructure for the production of green hydrogen and possible derivatives such as eAmmonium infrastructure;

Whereas in pursuance of those objectives Equatoriana RenPower intends to build a plant for the production of green hydrogen and possible derivates;

Whereas GreenHydro Plc is a leading producer of electrolysers with experience in the use of PEM-electrolysers and the owner of a protected production process;

Whereas both GreenHydro Plc and Equatoriana RenPower are committed to jointly building the plant and making it operational by 1 January 2026;

Equatoriana RenPower Ltd., Rue 9, Capital City, Mediterraneo ("**CUSTOMER**"),

and

GreenHydro Plc Crescent 3, Oceanside, Equatoriana ("**CONTRACTOR**"),

collectively referred to as "**the Parties**", conclude the following Agreement.

Article 1 – DEFINITIONS AND INTERPRETATION

…	
Extension-Option	Customer's option defined in Article 2 (2) to request until 31 December 2026 an extension of the Plant of up to 100 MW at the price fixed and in line with the schedule agreed in Annex 2.
eAmmonia-Option	Customer's option defined in Article 2 (3) to request until 31 December 2026 the addition of a part to produce eAmmonia at the price fixed and in line with the schedule agreed in Annex 3.
…	
Plant	The 100 MW plant for the production of green hydrogen to be built on the Greenfield side with the specification and performance indicators as described in detail in Annex 1.

Article 2 – SCOPE OF SUPPLIES AND SERVICES AND OTHER CONTRACTOR OBLIGATIONS / SCOPE OF SERVICES

The Contractor agrees

(1) to deliver the 100 MW Plant for the production of green hydrogen with the technical and performance specifications as described in detail in Annex 1 in accordance with the terms of delivery as defined in Article 3;
(2) to grant Customer an option to be exercised until 31 December 2026 to request an extension of the Plant of up to 100 MW at the price, timeline, and specification fixed in Annex 2;
(3) to grant Customer an option to be exercised until 31 December 2026 to request the addition of a module for the production of eAmmonia of up to 100 MW at the specification, price, and timeline fixed in Annex 3;
(4) to provide maintenance and training services as agreed in detail in Annex 4.

Article 3 – TERMS OF DELIVERY / CONTRACTUAL MILESTONES

The Contractor agrees to deliver and hand over the Plant as agreed no later than 2 January 2026.

To ensure the timely hand-over the Contractor agrees to the following milestones described in detail in Annex 5:

1 November 2023	Submission of Permission Planning for approval
1 February 2024	Submission of Final Plans for approval (including a plan for eAmmonia Option)
1 June 2024	Start of building activities on-site
1 October 2025	Test run
1 November 2025	Performance and Acceptance Test

Article 4 – CUSTOMER'S OBLIGATIONS REGARDING PERMISSIONS, INSTALLATION AND COMMISSIONING / CUSTOMER'S OBLIGATION

The Customer is required to use its best endeavours to ensure the finalization of the project within the agreed schedule by supporting the Contractor where possible and taking all steps necessary from its side. In particular, the Customer is obligated to

- hand over the construction site at Greenfield in the condition and with necessary infrastructure as detailed in Annex 5 by 2 January 2024;
- to ensure the issuance of the necessary permits for the construction and operation of the plant by the Equatorianian authorities by 1 May 2024;
- to provide the necessary utilities for the construction of the Plant (Electricity/Water/Sewage); and
- to ensure the connection of the plant to the green energy infrastructure in Equatoriana in accordance with the Final Plans by 1 September 2025.

Delays in the fulfilment of any of these obligations may endanger the delivery of the Plant in accordance with the timeline in Article 3. Such delays entitle the Contractor to ask for an extension of the milestones and the timeline but not for further remuneration or damages if they do not exceed 6 months.

Article 5 – TRANSFER OF TITLE

[…]

Article 7 – REMUNERATION / CONTRACT PRICE AND PAYMENT

For the delivery of the Plant and the additional maintenance and training services, the Contractor is entitled to an overall remuneration of EUR 95,000,000 (Contract Price).

Payments have to be made according to the following schedule:

1 October 2023	10% of the Contract Price
10 February 2024	25% of the Contract Price
1 January 2025	25% of the Contract Price
10 October 2025	10% of the Contract Price
10 January 2026	20% of the Contract Price
31 December 2026	10% of the Contract Price

The payment schedule is dependent on the Contractor's fulfilment of its corresponding obligations.

[…]

Article 18: PERFORMANCE AND ACCEPTANCE TEST
The acceptance of the Plant will be based on the successful completion of the Performance and Acceptance Test as specified in Annex 7. The Contractor will approach the Customer at least one month prior to the planned date to coordinate the details of the Test and ensure that the Test Conditions will be met.

If the Plant does not pass the Test, the Contractor and the Customer will discuss the future steps to remedy the shortcomings. The Contractor is entitled to prove the conformity of its performance by another Test.

[…]

Article 27: RECORDS AND DATA ACCESS
Operating data obtained by the Contractor during the Performance and Acceptance Test and thereafter in the course of the maintenance and training services are the property of the Customer. This data shall be kept confidential. The Customer will allow the Contractor to use this data for reference purposes in accordance with the principles and the approval procedure foreseen in Annex 11.

Article 28: TERMINATION

1. Both Parties may terminate this Agreement for cause in case of a failure of the other Party to perform any of its obligations resulting from this Agreement that amounts to a serious and fundamental non-performance.
2. There is no right for the CUSTOMER or the CONTRACTOR to terminate the Agreement for convenience against the payment of compensation. Both Parties will use their best endeavours to realize the project.

Article 29: GOVERNING LAW
The Agreement is governed by the law of Equatoriana to the exclusion of its conflict of laws principles.

Article 30: DISPUTE RESOLUTION
Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or validity thereof, shall first be submitted to mediation in accordance with the Mediation Rules of the Finland Chamber of Commerce.

(a) The place of mediation shall be Danubia.
(b) The language of the mediation shall be English.

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or validity thereof, shall be finally settled by arbitration in accordance with the Rules for Expedited Arbitration of the Finland Chamber of Commerce. However, at the request of a party, the Arbitration Institute of the Finland Chamber of Commerce may determine that the Arbitration Rules of the Finland Chamber of Commerce shall apply instead of the Rules for Expedited Arbitration, if the Arbitration Institute considers this to be appropriate taking into account the amount in dispute, the complexity of the case, and other relevant circumstances.
(a) The seat of arbitration shall be in Vindobona, Danubia.
(b) The language of the arbitration shall be English.

Article 31: MISCELLANEOUS
This document contains the entire agreement between the Parties and is based on the Model Purchase and Sales Agreement for governmental entities in Equatoriana. It should be interpreted in light of the Request for Quotation RFQ 1/2023.

Equatoriana, 17 July 2023

Michelle Faraday

Michelle Faraday, CEO

Poul Cavendish

Poul Cavendish, CEO

TRANSITION NEWS

18 July 2023

In the presence of James Positive, Equatoriana's Minister for Energy and Environment, Equatoriana RenPower (ERP) and Green Hydrogen yesterday signed an agreement for the construction of one of the most advanced green hydrogen plants with an original capacity of 100 MW, but the possibility to increase the output at a later time up to double the amount. According to Ms. Faraday, the Agreement has the potential to be a quantum leap in the production of green hydrogen ensuring Equatoriana's position as one of the leading nations in the production of green energy.

The Agreement was the result of a controversial tender process which started in January 2023. With the publication of the Green Energy Strategy there has been, what critics have called, a "hydro-hype". The number of start-ups in the fields has multiplied as has the investment. Still there is, however, no production of green hydrogen on a large-scale basis, in particular not on the basis of PEM-electrolysis, used by Green Hydrogen. While it is generally acknowledged that PEM-electrolysis is conceptually more suitable for the use of an unsteady supply of energy resulting from renewables, its proponents have yet to prove the commercial viability of the technique. It is considerably more expensive than the traditional alkaline electrolysis and it has not yet been shown that the higher costs are compensated by the higher efficiency. Green Hydrogen's CEO Mr. Cavendish told journalists that he was happy to finally prove to critics that their concerns lacked any basis. In his view, Equatoriana RenPower was the perfect partner to show that the technique could not only be operated at small scale but also in large plants of 100 MW or more. With the strong government support and the advanced stage of planning, he considered the plan to have the plant operating from 2026 ambitious but realistic.

While for most other bidders the long lead times for transformers made the deadline unrealistic, Green Hydrogen had apparently guaranteed during the negotiations to have a transformer of the correct size available from the beginning of 2024. It is very likely that this is the transformer which had originally been ordered from Volta Transformer for the abandoned project in Ruritania. Volta Transformer, a world market leader in the area of large transformers based in Equatoriana and belonging to the Volta family refused to comment on that.

Not everyone is convinced about the decision of ERP. The criticism is coming from different angles and circles. Some question whether energy production with green hydrogen is really efficient. Others questioned the decision to supplement the plant with production facilities for e-Ammonia. In their view facilities for the production of e-fuels would have been needed more urgently.

Informed circles report that a crucial element for awarding the project to Green Hydrogen was the amount of parts produced locally in Equatoriana. Apparently Green Hydrogen is in advanced talks with two local companies. They would supply of close to 50% of the parts and services needed to fulfill the contract in the likely event that ERP realizes the e-Ammonia option. It seems, that Green Hydrogen's primary expertise lies in the field of hydrogen production while it has to rely on outside know-how for the production of e-Ammonia.

It can be assumed that the Agreement had the political backing of Mr. Positive. Thus, the minister, as usual goes all in. It is unlikely that he would politically survive a failure of the project. After some controversial legislative projects and the massive campaign started by the opposition and parts of the ENP against his politics his support rates are at an all time low. That makes him the premier candidate for any government restructuring.

It remains to be seen whether the project develops into the great success predicted by its proponents or is actually the boondoggle foreseen by the critics.

From: **<p.cavendish@greenhydro.me>**
Sent: 26 August 2023, 10:04 a.m.
To: <m.faraday@equatoriana-renpower.eq>
Re: Update on supplier

Dear Michelle,

I trust you are doing well. I would like to keep you updated on our negotiations with Volta Transformer and with P2G.

The contract with Volta Transformer was finally signed yesterday with the content which had formed the basis for the guaranteed part of local content in our Agreement. Consequently, Volta Transformer, either directly or through its subsidiary Volta Electrolysers, will provide 40% of the electrolyser stacks, the transformer and related electronic equipment, as well as perform the packing of all stacks at the Greenfield site in Equatoriana.

Unfortunately, the negotiations with P2G for their contribution to the optional eAmmonia module failed in the end. Our visits to their production site raised doubts that P2G would be able to provide the contracted services and work products within the time agreed. We are also concerned that their eAmmonia production installation would not meet our quality standards and thus would not fit well into our plant. We have scrutinized their production process, as well as their workforce for the last three weeks, and realized that it is doubtful that they can guarantee the quality and efficiency required.

The good news is, however, that Green Ammonia, the second company we were investigating as a potential supplier, complied with the quality requirements. They have also sufficient capacity to deliver the required products and services within a short period of time. At present their sole production facility is based in Danubia. Should our orders increase in the future, they will have to build a second production facility. In that case, the most natural place for them would be Equatoriana, where they would then have a reference project.

Irrespective of whether the option is finally exercised, we easily meet the local content requirement concerning the material to be provided. Even if you look at both parts of the Agreement, i.e., the Electrolyser-part and the EPC-part, for the firmly contracted capacity of 100 MW, the material produced and delivered by Volta Transformer makes up more than 30% of it. If you are just looking at the materials physically delivered, i.e., leaving out the planning, engineering, and construction work provided by us, the products delivered by Volta Transformer amount to more than 40% of the products delivered.

I will keep you updated on all further developments.

Kind regards,
Poul

CEO
GreenHydro plc
1974 Russell Avenue, Capital City
Mediterraneo
T: (0)146 9346355
Email: p.cavendish@greenhydro.me

CLAIMANT EXHIBIT C 5

Witness Statement Poul Cavendish

1. I am 57 years old and have been the CEO of GreenHydro since 2019.
2. I have a BS and a Master's degree in Engineering Science.
3. After my studies, I worked for several companies in the field of renewable energy production in and outside of Mediterraneo. In 2012, I became the head of research at Claimant, and in 2019 its CEO.
4. Claimant is a medium-sized engineering company with more than 2,000 employees active in the area of renewable energy production. After years of research, Claimant has developed an innovative process for the production of hydrogen for industrial use. It relied on PEM-electrolysis and recovered the heat created during the electrolysis for use in distant heating.
5. We have always been interested in the market in Equatoriana. After the announcement of its ambitious Green Energy Strategy in 2019, Equatoriana has been one of the fastest-growing markets for producing renewable energy, in particular green hydrogen. One of the main drivers in the market was Equatoriana RenPower, the government-owned producer of green energy. With its wind farms and solar parks, it played an important role in Equatoriana's Green Energy Strategy. In particular, it was tasked to develop the green hydrogen infrastructure necessary for attaining the ambitious Net-Zero 2040 goal of the Green Energy Strategy. I was pleased to realize that the then-CEO of Equatoriana RenPower was a former classmate from my master's program, Dr. Michelle Faraday.
6. When it became clear in 2022 that Equatoriana RenPower was planning to build three larger plants for the production of green hydrogen, we applied to be listed as one of the potential sellers. We were approved in November 2022, and on 3 January 2023, Equatoriana RenPower invited us to participate in a tender of its first major production facility for green hydrogen in Equatoriana.
7. For us, the delivery and construction of the plant would have been a unique opportunity to showcase our new technology of green hydrogen production at a larger scale. Due to its ambitious Green Energy Strategy, Equatoriana was moving much faster with environmental, construction, and operation permits for such projects. The investment climate was very favorable and we estimated for the future an exponential growth of the market for green hydrogen both in Equatoriana and elsewhere. Thus, the very ambitious timeline for the project, which foresaw a start of production at the beginning of 2026, made the project extremely attractive for us, as it provided the opportunity of a reference project in the near future.
8. In fact, the strict and ambitious timeline for the project, which prevented other companies from participating in the tender was in our favor. At the time of contracting, there was a considerable lead time of close to three years for the necessary transformers. That made the realization of the project within 2.5 years largely impossible for all companies which neither had a suitable transformer in their portfolio nor had at least ordered one before the tender process started. We were fortunate to have a transformer readily available for the plant. In 2020, we had ordered from Volta Transformer for another project in Ruritania a transformer with a capacity of up to 400 MW. In November 2022, our customer in Ruritania filed for bankruptcy and the other project was stopped by the insolvency administrator. As a consequence, however, we had a transformer for the present project from 2024 onwards for which only a few modifications were required.
9. In light of the visibility of the project and the unique opportunity to build a reference plant, we decided right away to submit a bid with a specifically low price that merely covered our direct and indirect costs and, thus, included no profit. Our initial bid provided for the delivery of the turnkey 100 MW plant including one year of maintenance for a price of EUR 300 million. The eAmmonia-option would have costed EUR 100 million and the (full) extension option would

have costed further EUR 60 million if exercised by Respondent. On the basis of this bid, we were then selected by Equatoriana RenPower as one of the two final bidders with whom they entered into detailed negotiations.

10. These detailed negotiations were facilitated by the fact that I knew Dr. Faraday very well from my master's program and we both have comparable views about climate change and the crucial role of hydrogen in the energy transition. Thus, when the main negotiators, Mr. Deiman on our side and Ms. Ritter on Respondent's side, seemed to have hit an impasse at the final stage of the negotiations, I called Dr. Faraday and agreed to have a meeting with her to remove the final hurdles. During those final discussions on 13 July 2023, I was very frank about our economic interest in the plant and our willingness to actually offer the plant at a cost price or even slightly below in return for the ability to use it as a showcase for our new technology. In the end, we agreed to reduce the already very favorable purchase price by another 5% in return for a waiver of Equatoriana RenPower's right to terminate the contract for convenience at any time against the payment of damages. We also agreed on a best endeavors clause concerning the ongoing mutual support for the successful realization of the project. As Ms. Faraday also had a strong interest in the success of the project, she did not have any problems with consenting to the changes requested. That was even more so as she knew that we were trying our best to overfulfill the local content quota.
11. To meet the local content requirements and increase our chance of winning the tender, we decided to not only use the transformer from Volta Transformer but also to purchase 40% of the electrolyser stacks from them. Volta Transformer's 100% subsidiary, Volta Electrolyser, was producing PEM-electrolysers under our licence which were largely identical to our electrolysers and could therefore be easily combined with them. I was told by Mr. Deiman that he had informed Ms. Ritter about these facts and had even shown her the corresponding internal calculation.

	Total Investment		**Green Hydrogen (Mediteranneo)**		**Volta Transformer (Equatoriana)**	
Electrolyser	**Investment (Mio €)**	**Ratio**	**Investment (Mio €)**	**Ratio**	**Investment (Mio €)**	**Ratio**
Core system	100	50%	60	60%	40	40%
Trafo and electrical equipment	40	20%	0	0%	40	40%
Packaging	20	10%	0	0%	20	20%
Project managment and engineering	15	7.5%	15	15%	0	0%
Site works	15	7.5%	15	15%	0	0%
Training and maintenance	10	5%	10	10%	0	0%
Subtotal	**200**	**100%**	**100**	**100%**	**100**	**100%**
EPC-Work	**Investment (Mio €)**	**Ratio**	**Investment (Mio €)**	**Ratio**	**Investment (Mio €)**	**Ratio**
Compressor, pipes, cable installation, connections, and other equipment	50	50%	50	50%	0	0%
Buildings and foundations for the facility	25	25%	25	25%	0	0%
Remaining "EPC" services for constructing the turnkey facility	25	25%	25	25%	0	0%
Subtotal	**100**	**100%**	**100**	**100%**	**0**	**0%**

12. Furthermore, we had started looking for a company which could provide the production facilities for eAmmonia in case Equatoriana RenPower exercised its options. We had been in negotiations with P2G from Equatoriana, which had been recommended to me by Ms. Faraday. Unfortunately, in the end, the negotiations with P2G failed. After an extensive scrutiny of their facilities and personnel, we had serious doubts that P2G would be able to deliver the plant within the agreed timeframe and the requested efficiency. Furthermore, Green Ammonia from Danubia, the second potential supplier with whom we had entered into negotiations had offered

to deliver the plant at a price which was EUR 7,5 million lower than that of P2G, because it wanted to enter the Equatorianian market. We therefore decided to go with Green Ammonia.

13. At the end of 2023, the economic downturn and local elections in Equatoriana led to a shift in the power balance of the government. As a consequence, the very unpopular minister of energy and environment, Mr. Positive, who had been the "father" of the Green Energy Strategy, was replaced by Ms. Theresa Vent. Ms. Vent was from the political party ENP. She had been an outspoken opponent of the Green Energy Strategy and in particular its strong quota for hydrogen. Thus, one of her first steps was to order a revision of the strategy and to replace Dr. Faraday as the CEO of Equatoriana RenPower.
14. On 27 December 2023, Dr. Faraday called me to inform me about her replacement as CEO. During that call, she confirmed rumors in the market that Equatoriana RenPower would review all existing contracts in light of the change in strategy, in particular those for the three hydrogen projects including ours. The new CEO, Mr. Henry la Cour, had earlier worked in the wind industry where he had developed the reputation of being a tough negotiator and a disruptive force.
15. In early May 2024, I arranged for a personal meeting with Mr. la Cour, hoping that we might solve the existing problems in a personal discussion. The meeting was, however, very brief. Mr. la Cour immediately made clear that further support from the government, in particular from the new minister Ms. Vent, was necessary. Such support would require a significant deduction of the price agreed in the Agreement; otherwise, the minister would not authorize the continuation of the Agreement. The meeting with Mr. la Cour ended quickly as there was apparently no room for any further discussions. This was then confirmed in Respondent's without-prejudice offer of 25 May 2024.
16. The offer, furthermore, made abundantly clear that without a serious price reduction of at least a double-digit number, any further negotiations would be fruitless. Since we could not agree to such a reduction, we saw no point in starting obviously hopeless mediation. To lose as little time as possible, we directly initiated arbitration.
17. I confirm the correctness of the above statements, which were prepared with the assistance of my lawyer.

Mediterraneo, 20 July 2024

Poul Cavendish

Poul Cavendish

CLAIMANT EXHIBIT C 6

29 February 2024

GreenHydro
Mr. Poul Cavendish, CEO
1974 Russell Avenue
Capital City
Mediterraneo

By courier

Re: Termination of the Purchase and Service Agreement of 17 July 2023

Dear Mr. Cavendish,

I herewith declare the termination of the Purchase and Service Agreement 1/2023 between GreenHydro and Equatoriana RenPower with immediate effect for cause due to your belated delivery of the detailed planning for the plant including its eAmmonium option.

According to the milestones foreseen in the Agreement, the final detailed planning including the schedule of works for the eAmmonia option was to be presented by 1 February 2024. As you are aware, it is a crucial document for Equatoriana RenPower's further planning.

Pursuant to Article 7.3.1 of the Equatorianian Civil Code, we are entitled to terminate the contract with immediate effects in cases of a fundamental breach of contract. Your belated delivery of the detailed plans for the plant, 28 days after the agreed milestone on 1 February 2024, and still lacking plans for the eAmmonia module, constitutes such a breach and raises serious concerns about your ability to perform the Agreement as contractually agreed.

In addition, as a governmental entity, Equatoriana RenPower is entitled to terminate any of its contracts for convenience if it conflicts with the policies of the government. As you are probably aware from the public discussion, there have been serious concerns about the negative effects of the Green Energy Strategy on the competitiveness of Equatorianian businesses due to the high costs of energy. That has led to a revision of the strategy which no longer focuses on the expensive generation of energy using hydrogen but more on other less expensive sources of energy. Consequently, the contract concluded with you no longer fits into Equatoriana's energy strategy.

Could I ask you to confirm receipt of this letter and inform us about your availability to discuss the legal consequences and the details of the termination? In the meantime, we will evaluate the damages resulting from your breach of contract and the ensuing termination and present you with a corresponding damage claim.

Yours sincerely,

H. la Cour

Henry la Cour, CEO

CLAIMANT EXHIBIT C 7

25 May 2024

GreenHydro
Mr. Poul Cavendish, CEO
1974 Russell Avenue
Capital City
Mediterraneo

By courier

Without-prejudice Offer

Dear Mr. Cavendish,

Following our last meeting, I had a discussion with the Minister explaining the situation and your interest in the project. We also investigated within the Ministry about other possible uses for the hydrogen to be produced by the plant.

At present, we are investigating as a possible option the use of hydrogen in the production of green steel. While we are still in the process of feasibility studies, it is already clear that to be competitive the price for the plant including the two extension options would have to be at least 15% lower.

In the interest of keeping the good relationship with you and ensuring the jobs of the Equatorianian workers at Volta Transformer, we would like to make the following offer without prejudice:

- Reduction of the price by 15%; and
- Realization of the Greenfield-Hydrogen-Project as planned, including a first demand guarantee for the performance of the obligations undertaken by Respondent in the value of 10% of the reduced price.

Please be aware that the Minister, Ms. Vent, will only agree to the continuation of the project if the hydrogen is produced at a price which makes it competitive with other forms of energy. To be competitive, we need a 15% price reduction, if not more. Any further discussion between us or our lawyers only makes sense if Green Hydro is willing to accept a serious price reduction of 15% or at least a two-digit number.

H. la Cour

Henry la Cour
Chief Executive Officer
Equatoriana RenPower

THE FINLAND ARBITRATION INSTITUTE

Helsinki, 31 July 2024

Mr. Joseph Langweiler
Advocate at the Court
75 Court Street
Capital City
Mediterraneo

By secure e-mail: langweiler@lawyer.me

CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

The Finland Arbitration Institute acknowledges receipt today of your letter dated 31 July 2024 enclosing the Request for Arbitration with supporting documents filed by GreenHydro Plc with this Institute.

Pursuant to Article 6.2 of the Rules for Expedited Arbitration 2024 of the Finland Chamber of Commerce, the arbitration is deemed to have commenced on 31 July 2024.

The caption and reference of this arbitration are indicated above. Please include the reference CASE NO. FAI MOOT 100/2024 in all future correspondence.

Legal Counsel Adriana Aravena-Jokelainen has been assigned to this arbitration. Her contact details are as follows: adriana.aravena@arbitration.fi, tel. +358 9 4242 6267.

We invite you to visit our website at www.arbitration.fi to learn more about our services.

THE FINLAND ARBITRATION INSTITUTE

Henrik Sajakorpi
Secretary General

THE FINLAND ARBITRATION INSTITUTE

Helsinki, 1 August 2024

Equatoriana RenPower Ltd.
Attention: Mr. Henry la Cour (CEO)
1 Russell Square
Oceanside
Equatoriana

By secure e-mail: h.lacour@equatoriana-renpower.eq

CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

GreenHydro Plc filed a Request for Arbitration with the Finland Arbitration Institute on 31 July 2024 (the "Request").

Pursuant to Article 6.2 of the Rules for Expedited Arbitration 2024 of the Finland Chamber of Commerce (the "Rules"), the arbitration is deemed to have commenced on 31 July 2024.

Answer to the request for arbitration

Your Answer to the Request for Arbitration (the "Answer") is due **within 15 days of the receipt of the Request for Arbitration** (Article 8 of the Rules).

Please send your Answer by e-mail to info@arbitration.fi. We encourage the use of free secure e-mail (https://secure.arbitration.fi/) instead of standard e-mail.

You may also send your Answer in hard copy to the postal address: The Finland Arbitration Institute, P.O. Box 1000, FI-00101 Helsinki, Finland.

Procedure for appointment of the arbitral tribunal

The parties have not agreed on the procedure for the appointment of the arbitral tribunal. Therefore, the arbitral tribunal shall be appointed in accordance with the Rules.

However, the Institute takes note of the Claimant's proposal in the Request regarding the appointment of the arbitral tribunal should the arbitration be referred to the Arbitration Rules 2024 of the Finland Chamber of Commerce (the "Arbitration Rules").

Constitution of the arbitral tribunal

Pursuant to Article 18 of the Rules, the parties may jointly nominate the sole arbitrator for confirmation **within 10 days from the date on which the Claimant received the Answer**. Failing such nomination within the set time limit, the Board will appoint the

sole arbitrator.

Possible referral and appointment of the arbitral tribunal

In its Request, the Claimant has requested that the Arbitration Rules be applied instead of the Rules.

Further, the Claimant has proposed that, if the Institute decides that the Arbitration Rules be applied, the arbitral tribunal be composed of three members: one nominated by each party and the presiding arbitrator appointed by the Institute.

The Claimant has nominated Mr. Narvin Aqua (Helsinki Crescent 3, Capital City, Mediterraneo) as an arbitrator for confirmation by the Institute.

In your Answer, you are invited to comment on the following:

1. whether you agree with the Claimant's request that the Arbitration Rules be applied instead of the Rules.

2. whether you agree with the Claimant's proposal that a three-member arbitral tribunal should decide the dispute and the proposed method of appointment.

Pursuant to Article 10.2 of the Rules, where the parties agree on the application of the Arbitration Rules, the arbitration may be referred to be conducted under the Arbitration Rules prior to the confirmation of the arbitral tribunal.

If you agree with the Claimant's request for referral and the Claimant's proposal concerning the arbitral tribunal and its appointment, you are required to nominate one arbitrator (title, full name, and contact details) for confirmation in your Answer.

Counterclaim and set-off claim

If you file a counterclaim or set-off claim with your Answer, the counterclaim or set-off claim must fulfill the requirements of Article 8.4 of the Rules.

Upon filing a counterclaim or set-off claim, you must pay a non-refundable Filing Fee pursuant to Article 1 of Appendix II to the Rules. The Filing Fee constitutes a part of the Administrative Fee and will be credited to your share of the advance on costs referred to in Article 2 of Appendix II.

Please find the payment instructions on the Institute's website at http://arbitration.fi/arbitration/costs-of-arbitration/filing-fee/.

THE FINLAND ARBITRATION INSTITUTE

Adriana Aravena-Jokelainen
Legal Counsel

Enclosures: (Request for Arbitration; Rules for Expedited Arbitration 2024 of the Finland Chamber of Commerce with enclosures; Arbitration Rules 2024 of the Finland Chamber of Commerce (not reproduced)

CC: Advocate at the Court Joseph Langweiler
By secure e-mail: langweiler@lawyer.me

JULIA CLARA FASTTRACK
Advocate at the Court
14 Capital Boulevard
Oceanside
Equatoriana
Tel. (0) 214 77 32 Telefax (0) 214 77 33
fasttrack@host.eq

By email and courier

The Arbitration Institute of the Finland
Chamber of Commerce
P.O. Box 1000
Fl-00101 Helsinki
Finland
info@arbitration.fi

Joseph Langweiler
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Mr. Narvin Aqua
Helsinki Crescent 3
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Mediterraneo
n.aqua@a-chambers.me

Mr. Carl Gustaf Synonoun
Väinämöinen Street 4
Oceanside
Equatoriana
cfsynonoun@adr-experts.com

14 August 2024

CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

Dear Colleagues,

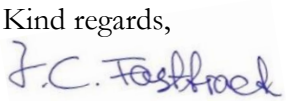
I hereby indicate that I represent RESPONDENT in the above-referenced arbitral proceedings. A power of attorney is attached.

Please find enclosed RESPONDENT's Answer to the Request for Arbitration, a copy of which has been sent directly to CLAIMANT and the two party nominated arbitrators.

RESPONDENT agrees to communicate by email only. Emails may be sent to fasttrack@host.eq.

RESPONDENT nominates as its arbitrator **Mr. Carl Gustaf Synonoun, Väinämöinen Street 4, Oceanside, Equatoriana.** Could you please take the necessary steps for his confirmation? RESPONDENT agrees to CLAIMANT's proposal that the FAI shall appoint the Presiding Arbitrator.

Kind regards,



Julia Clara Fasttrack

Attachments:
Answer to the Request for Arbitration with Exhibits
Power of Attorney (not reproduced)
CV of Mr. Carl Gustaf Synonoun (not reproduced)

JULIA CLARA FASTTRACK
Advocate at the Court
14 Capital Boulevard
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Equatoriana
Tel. (0) 214 77 32 Telefax (0) 214 77 33fasttrack@host.eq

By email and courier

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Joseph Langweiler
Advocate at the Court
75 Court Street
Capital City
Mediterraneo
Langweiler@lawyer.me

Answer to the Request for Arbitration

(pursuant to Article 8 of the FAI-rules)
in the Arbitral Proceedings
Green Hydro Plc v. Equatoriana RenPower Ltd.

14 August 2024

Introduction

1. In its Request for Arbitration, Claimant summarizes the facts accurately as far as the dates are concerned. Beyond that, the Request for Arbitration contains more wishful thinking than a correct legal analysis.

2. The general attitude in which Claimant approaches its own obligations under the Purchase and Service Agreement is evidenced by its blatant breach of the confidentiality of the Parties' negotiations. It is just an example of Claimant's general bad faith behavior and should in itself already result in the rejection of the claims.

Facts

3. Following the announcement of its ambitious Green Energy Strategy, the government of Equatoriana took several steps to ensure the implementation of the Strategy. Inter alia, the planning and permission regimes for the necessary infrastructure to ensure the energy transition were streamlined and necessary funding was made available. Equatoriana RenPower, as one of the government's primary vehicles to implement its Strategy, was charged with ensuring an accelerated development of the green hydrogen infrastructure. In that context, it planned the construction of three major facilities to produce hydrogen and asked for proposals from interested producers.

4. At the time, there had been no local entity which would have been able to realize a project of such magnitude in the field of hydrogen production as the main contractor. One of the objectives of the tender processes was to develop the local industry active in the field of renewable energy production through high local content requirements. Respondent's main negotiator, Ms. Johanna Ritter, informed the two remaining bidders with whom Respondent

conducted detailed negotiations about that objective and that the amount of local content was a decisive criterion for the final selection (Respondent Exhibit R 1).

5. Claimant had in its bid promised a local content of at least 30% for the 100MW Plant via the involvement of Volta Transformer and Volta Electrolysers. Furthermore, Respondent's CEO had informed Ms. Faraday that for the additional eAmmonia module, they were planning to use the Equatorianian entity P2G as the main subcontractor, which was supposed to provide up to 80% of the overall necessary works and services. Internally, Respondent had always planned to add eAmmonia production facilities to the plant. That the additional eAmmonia module was structured as an option had primarily financial and fiscal reasons. At the time of contracting, the necessary funding had not yet been authorized by the ministry, so that Respondent could not yet enter into a binding agreement but had to wait for an authorization in the next fiscal year.

6. That is the background against which Ms. Faraday made the concessions as to the exclusion of the termination rights and the inclusion of the best endeavors clause. The concessions were based on the wrong assumption that Claimant's delivery would most likely contain close to 50% of materials and services produced in Equatoriana. That was the impression Claimant had created during the entire negotiation process, and which was maintained until the signing of the Agreement. On 12 July 2023, Claimant's chief negotiator for the entire project, Mr. August W. Deiman, sent a carefully drafted email which further reinforced the impression that there would most likely be close to 50% local content (Respondent Exhibit R 2).

7. By the time, Claimant was, however, already aware that the negotiations with P2G would most likely fail. It was internally thinking about ways to formulate that in the negotiations (Respondent Exhibit R 3).

8. After the conclusion of the Purchase and Service Agreement, Claimant's CEO then informed Ms. Faraday that the final contract for the eAmmonia option had not been concluded with P2G but with Green Ammonia, a company located in Danubia (Claimant Exhibit C 4).

9. Respondent was shocked about this development but had to accept it. Upon the instruction of Ms. Faraday, Ms. Ritter made that clear to Mr. Deiman and expressed the expectation that Claimant would do its best to otherwise increase the local content. Furthermore, she emphasized that through this development the Agreement would be under particular scrutiny by the critical public. In light of that, she emphasized once more the importance of strict compliance with timelines and budget to keep the project out of the discussion (Respondent Exhibit R 1).

10. That became even more important following the changes in the government's strategy to alleviate the burden put on businesses in Equatoriana. Due to this change, only one of the three green hydrogen projects originally planned was going to be realized.

11. Irrespective of that warning, Claimant immediately failed to meet the first milestone. On 1 February 2024, the final detailed plans were due. They were, however, only sent on 28 February 2024, and when they arrived, it became clear that they were not complete. They did not include the planning for the eAmmonia module. Claimant tried to explain that with problems on the side of its subcontractor which had not been able to deliver the plans in time.

12. In the meantime, however, Respondent had largely lost trust in Claimant's ability to realize the project as originally planned. Thus, its new CEO was forced to terminate the project on 29 February 2024.

13. The correctness of the decision to terminate this project and not the other project already contracted was later proven when criminal investigations were initiated against Mr. Deiman. He had in the meantime become the CEO of Volta Transformer, the Equatorianian entity responsible for delivering most of the local content. While Mr. Deiman was later acquitted, there had been lots of negative press associated with the project, which would have made its continuation more than difficult.

Legal Considerations

Jurisdiction and Procedure

14. Respondent nominates as its arbitrator **Mr. Carl Gustaf Synonoun, Väinämöinen Street 4, Oceanside, Equatoriana**.

15. Respondent agrees to Claimant's proposals that the FAI shall appoint the Presiding Arbitrator as well as that the Arbitration Rules should be applied.

16. The Arbitral Tribunal lacks jurisdiction to decide the case. Compliance with the mediation requirement is a condition precedent for the validity of the arbitration agreement or at least a requirement for the admissibility of the claim and should guide the Arbitral Tribunal in exercising its procedural discretion.

17. Claimant engaged in a blatant breach of the confidentiality of the negotiations between the Parties. The drafting history of the Agreement leaves little doubt that the confidentiality obligation in Article 15 of the FAI Mediation Rules in the present case also extends to all negotiations preceding the mediation. Irrespective of that inherent confidentiality obligation, Claimant has submitted Respondent's without-prejudice offer in clear breach of the Parties' agreement. To prevent Claimant from benefitting from this breach, the Arbitral Tribunal should exclude Exhibit C 7 from the file and ensure that its reasoning is not influenced by information contained in Exhibit C 7. Furthermore, the breach should be taken into account in any cost decision. This is in line with the ongoing developments in Danubia (Respondent Exhibit R 4).

Substance

18. Claimant's claims are devoid of any substance, as Respondent validly terminated the Agreement with its Termination Letter of 29 February 2024.

19. Contrary to Claimant's assertion, the relationship is governed by the Civil Code of Equatoriana and not by the CISG. In Article 29 of the Agreement, the Parties have explicitly chosen the "law of Equatoriana with the exception of its conflict of laws principles" as the governing law and thereby clearly excluded the CISG. The clause is from the model contract used by Equatorianian state entities for all their public procurement contracts and has to be seen against the background of the procurement law. While the previous model explicitly provided for the application of the CISG, that was changed in the new model contract to strengthen the role of Equatorianian law (Respondent Exhibit R 1).

20. Furthermore, the Agreement is anyway outside the CISG's scope and sphere of application. It was concluded as part of a reverse auction in the context of a public procurement process so that Article 2 lit. b CISG excludes the application of the CISG. Moreover, the contract does not constitute an international sales transaction. A considerable part of the Agreement consisted of planning and engineering work to be done by Claimant, and most of the actual deliveries of goods were made from its place of business in Equatoriana. Volta Transformer, while originally still independent, was producing at the time nearly exclusively for Claimant and thus already constituted a place of business of Claimant before its later formal acquisition by Claimant in November 2023.

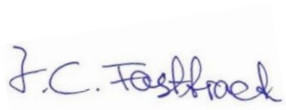
21. Under the Law of Equatoriana, Respondent, as a government entity, was entitled to terminate the Agreement both for cause and for convenience, which it did with its Termination Letter of 29 February 2024.

22. Even if the CISG were applicable and the termination was invalid – which is not the case – Claimant would not be entitled to specific performance. While specific performance is a remedy foreseen in the CISG, it should not be ordered, in particular not against a government entity. The Arbitral Tribunal should not interfere with the policy of a government. Furthermore, specific performance should already be excluded as the central piece of evidence presented for its submission that there would be no interference with the policy of the government is a document which is not admissible. The without-prejudice offer made by Respondent during the negotiation was protected by the confidentiality provision in the mediation rules.

Requests for Relief

23. In light of the above, Respondent requests the Arbitral Tribunal to make the following orders:

    a. To declare that it has no jurisdiction to hear the case;
    b. To exclude Claimant's Exhibit C 7 from the file;
    c. To reject the Claim; and
    d. To order Claimant to bear the costs of this arbitration.



Julia Clara Fasttrack

RESPONDENT EXHIBIT R 1

Witness Statement of Johanna Ritter

1. I was born on 9 June 1966 and have been the Head of Contracting of Equatoriana RenPower since 2016.
2. In that function, I had been in the lead for the tender process and the negotiations with the remaining bidders until the final decision was made. I was subsequently supervising the implementation of the Agreement.
3. From the beginning of the process, we had made clear to all bidders that for us the development of local capacity had been an important issue.
4. Following the selection of the final two bidders and an initial meeting of the two CEOs, I had a meeting with Claimant's main negotiator Mr. Deiman in which we discussed the further process. During that meeting, I specifically reemphasized the importance of the local content and Mr. Deiman told me that they were doing their best to increase the share of locally produced goods and services, beyond those provided by Volta Transformer. In one of the later meetings, Mr. Deiman informed me about their discussion with a second supplier from Equatoriana for the option of adding a module for the production of eAmmonia. That supplier was P2G. According to the internal calculation he had shown me, as correctly stated by Mr. Cavendish in his witness statement, the idea was that up to 80% of the works and deliveries for the eAmmonia Option would be provided by P2G. Claimant would only do the planning and engineering part, which would be around 20%. According to my recollection, the highlighted parts in the internal calculation contained in Mr. Cavendish's witness statement were the parts relevant for fulfilling the local content requirement as to the delivery of materials.
5. Mr. Deiman came back to me several days later with further details as to the ongoing discussions. I had the impression that there was a great likelihood that the contract with that supplier would materialize.
6. Later, I learned from a friend involved in the subsequent criminal investigation against Mr. Deiman that already in July 2023 Claimant considered it very unlikely to conclude the contract with P2G. Apparently, Claimant had received a better offer from a supplier in Danubia and had used its exaggerated quality concerns as a pretext to terminate the negotiations with P2G.
7. We had decided to use as the starting point for our negotiations with all bidders the "Model Contract for the Purchase of Goods and Services by Equatorianian State Entities", which we included in the documents attached to our Request for Quotation. We were aware that the Model might not fit entirely, as the project could probably not be realized on the basis of a sales transaction. Nevertheless, we selected the Model for political purposes. The Model Contract had been revised in 2022 by the Ministry of Justice. The revision occurred in the context of a larger campaign by the ministry led by a minister from the Equatorianian National Party (ENP) "to strengthen the role of Equatorianian Law and Equatoriana as a place of dispute resolution". Given that there had been considerable opposition to green hydrogen projects from within the ENP, we tried to avoid any potential discussion about the issue of the templates used. We were, however, aware that changes would be requested by the counterparties, and we were open to discussion.

8. That is what happened in relation to the dispute resolution clause of the Model Contract. Claimant was not willing to accept the foreseen arbitration clause in favor of arbitration in Equatoriana under the rules of the Equatorianian Arbitration Institution. Instead, it insisted on arbitration under the rules of an institution in a third country where also the place of arbitration should be. In the end, we agreed upon Claimant's suggestion on mediation and arbitration under the Rules of the Finish Arbitration Institute (FAI) and included their Model Clause in our Agreement.
9. In Equatoriana, there is consistent case law that in case of a multi-tier clause providing first for mediation and then for arbitration under the rule of an institution, the conduct of mediation is a condition precedent for the jurisdiction of the arbitral tribunal. I think I also told Mr. Deiman about that jurisprudence. I am, however, not entirely certain about that. Irrespective of that, I definitively told him that we had a strong interest in an amicable settlement of disputes and arbitration should only be the last resort to resolve disputes. That is the background to Mr. Deiman's explicit reference to the subsidiarity of arbitration in his email of 12 July 2023 (Responent Exhibit R 2)
10. Furthermore, given the political climate and the existing opposition to the new energy strategy, we wanted to keep any potential dispute within the project out of the press. At the same time, we did not want to press for a separate full-fledged confidentiality agreement for the resolution of disputes, which, if leaked, could be misinterpreted as an effort by us to hide relevant information from the public. Mr. Deiman reassured us that in case of disputes, the relevant rules already provided for the necessary confidentiality. For me, it was clear that Article 15 of the Mediation Rules should also extend to all negotiations preceding mediation.
11. The issue of applicable law had been one of the issues on the list which Mr. Cavendish sent Ms. Faraday for their initial meeting after Claimant had been selected as one of the two bidders for further negotiation. The issue was, however, not really addressed at that meeting or later. At the initial meeting, Mr. Cavendish merely mentioned to Ms. Faraday that in a previous transaction covering the sale of stacks, his head of the legal department had told him that for international sales transactions, the CISG is the gold standard. As neither Mr. Cavendish nor Ms. Faraday are lawyers, it was agreed that the issue should be left to the lawyers for discussion. There was no further discussion on the issue. Instead, Claimant accepted the choice of law provision, which had been taken directly from the 2022 version of the Model Contract. It had replaced an earlier version of the Model Contract, which had explicitly provided for the application of the CISG for all international sales transactions. During the negotiations, Mr. Deiman told me that they had already used the then Model Contract in a previous transaction with another government entity in 2020. As their experiences had been positive, he had no objections to using the Model Contract as a starting point for the negotiations. Thus, I assume that Claimant was aware of the change to the choice of law clause in the 2022 version.

Oceanside, 13 August 2024

J. Ritter

Johanna Ritter

From: **<deiman@greenhydro.me>**
Sent: 12 July 2023, 10:25 a.m.
To: <johanna.ritter@equatoriana-renpower.eq>
Re: Local content

Dear Johanna,

Thank you for the good and frank discussion on the issue of local content last week.
As promised, I would like to update you on our discussions with P2G concerning the eAmmonia module. We had a very good discussion with them and were initially impressed by their proficiency and the production facilities. While the facilities would definitely need some upgrades and the staff some additional training, we are confident that we may be able to overcome the present quality concerns. In that case, we would most likely even arrive at a local content of around 45% in case the option is exercised!
At the same time, we have also continued our negotiations with Volta Transformer and have identified further parts which could be delivered by them via their subsidiary Volta Electrolyser with some initial support from GreenHydro.
That means that I can assure you already now the local content for the initial 100 MW plant is more than 30%, well above the minimum requirements, irrespective of how our promising negotiations with P2G develop.

In relation to your concerns regarding the confidentiality of the foreseen ADR mechanisms and the communications made therein, I would refer you to Article 15 of the Mediation Rules and Articles 51 and 52 of the Arbitration Rules. The regulations contained therein should in my view be sufficient to address your concerns as they ensure the needed confidentiality. Furthermore, the FAI Model-Mediation Clause suggested by us clearly provides that the Parties must first try to mediate their dispute before resorting to arbitration. Thus, arbitration is only the last resort as you wished.

Kind regards,

August Wilhem Deiman (Head of Contracting)
GreenHydro plc
1974 Russell Avenue
Capital City
Mediterraneo
T: (0)146 9346355
Email: deiman@greenhydro.me

From: **<h.smith@greenhydro.me>**
Sent: 10 July 2023, 8:25 a.m.
To: <deiman@greenhydro.me>; <cavendish@greenhydro.me>
Re: Local content

Dear Poul,
Dear Wilhelm,

Coming back to your question about Wilhelm's email to Johanna Ritter (Equ. RenPower), I had a closer look at the law of Equatoriana concerning assurances and misrepresentations.

My understanding was that

- according to the RfQ local content is a relevant consideration for being awarded the contract for the green hydrogen plant at Greenfield, Equatoriana;
- in your initial offer, you had mentioned a price of EUR 300 million for the entire 100MW plant (turnkey), of which EUR 200 million were for the electrolyser part of the Agreement and EUR 100 million for the EPC part;
- the initial offer indicated that in the electrolyser part, materials and services in the value of EUR 60-80 million would come from entities from Equatoriana (parts of stacks/transformer and electrical equipment/packaging);
- for the eAmmonia module (EUR 100 million) you had been in negotiation with P2G from Equatoriana, which originally looked very promising but had remaining quality issues, and the price now speaks in favor of another supplier (Green Ammonia), which would cover 80% of the works and deliveries to be done with just 20% of planning and engineering done by GreenHydro; and
- you wanted to make sure with the draft of the email attached you would neither enter into a binding commitment nor could be accused of misrepresentation if the contract with P2G does not materialize due to the quality concerns and the price, which is not unlikely.

I have checked that under all potentially applicable regimes and think that if you tone down the draft a little bit concerning the likelihood that the contract may materialize, point out the ongoing quality issues, and state that you are confident that we may be able to overcome them, you should not engage in any misrepresentation or give actionable assurances.

Please find my drafting suggestions in red in the attached email.

Sincerely,

Heidi

Head of Legal Department
Admitted to the Bar in Mediterraneo

Vindobona Legal

| News | Business | Development |

23 January 2024

News from the Bar

Danubia The annual congress of the Danubian Bar Association ended yesterday with a clear request to the Danubian legislator for legislative action concerning both issues which had been on this year's agenda, i.e., the protection of confidentiality agreements in negotiations and ADR proceedings as well as a clear regulation of the treatment of privileged communications between the legal profession and its clients.

There is a widely held belief in the legal community that one of the major obstacles to greater use of all modes of alternative dispute resolution methods in Danubia is the insufficient protection of the confidentiality of negotiations either outside or within a mediation. Offers made in such negotiation are regularly used and admitted as evidence in subsequent court or arbitration proceedings by the other party to prove that the offeror was accepting part of the liability. As it is very difficult to quantify the damages resulting from such behavior, there have been requests for legislative actions to efficiently protect the confidentiality of the negotiations. The proposals made range from statutory penalties to rules excluding such documents as suitable evidence in any form of binding legal proceedings.

The second topic of legal privileges was addressed prominently by Santtu Osiris, the chief litigation counsel at Annubis, Danubia's largest company. In his keynote on "Privileged information about privileges" reporting about the work of the IBA Task Force on this topic, he gave a recent example of what he called a "serious disadvantage of the Danubian entities in international disputes".

So far, Danubia has no rules on legal privileges protecting such documents from disclosure. The mere provision that communication between counsel and clients is to be kept confidential contained in the ethical rules for lawyers cannot be compared with the detailed rules on privilege existing in other jurisdictions, such as the US or those jurisdictions which have followed the American approach such as Equatoriana. From the reports of speakers from other jurisdictions, it seems that only in Mediterraneo the situation is comparable to that in Danubia. In her first reaction to the requests, the minister of justice announced the formation of a working group to address both issues, which also in her view required a regulation to remedy the disadvantages of the legal profession in Danubia and Danubian parties in disputes abroad.

Joseph Langweiler
Advocate at the Court
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Mediterraneo
Tel (0) 146 9845; Telefax (0) 146 9850
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14 August 2024

By email and courier
The Arbitration Institute of the Finland Chamber of Commerce
P.O. Box 1000
Fl-00101 Helsinki
Finland
info@arbitration.fi

Mr. Narvin Aqua
Helsinki Crescent 3
Capital City
Mediterraneo
n.aqua@a-chambers.me

Mr. Carl Gustaf Synonoun
Väinämöinen Street 4
Oceanside
Equatoriana
cfsynonoun@adr-experts.com

Dear Ms. Aravena-Jokelainen,

On behalf of my client, *GreenHydro Plc*, I object to Respondent's transmission of Exhibit R 3 to the party-nominated arbitrators and would request to remove that Exhibit from the file to be transmitted to the Arbitral Tribunal or for the Arbitral Tribunal to exclude it and all information contained therein from the proceedings.

The document was obtained most likely in the course of an illegal criminal investigation used by the Government of Equatoriana, probably instigated by Respondent, to pressure Claimant into settling the dispute on favorable terms for Respondent. The criminal investigation has in the meantime been terminated and Mr. Deiman has been released and is cleared of all charges (Claimant Exhibit C 8).

Claimant does not know how exactly the document confiscated by the prosecution authorities has come into the possession of Respondent. It is, however, clear that it must have been by illicit means, either through a leak in the public prosecution office or by inducing an employee of Claimant to unlawfully disclose this highly confidential document.

The fact that Respondent nevertheless has sent it directly to the not-yet-appointed party-nominated arbitrators shows an attitude which completely disregards any rules of procedural fairness. For this reason alone, Respondent's two procedural requests should be rejected.

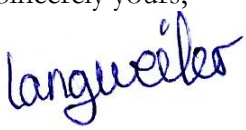
At the same time, Claimant objects to the request for the exclusion of Exhibit C 7 from the file. Respondent is 100% owned by the state of Equatoriana, which has not only signed the Mauritius Convention on Transparency but has been one of the most vociferous supporters of absolute transparency in the resolution of disputes affecting public interests. On several occasions,

ministers of Equatorian have publicly declared that they would submit all their arbitration to the UNCITRAL Rules of Transparency. It would be contrary to good faith in the sense of Art. 7 CISG if Respondent, as a state-owned company, could invoke confidentiality to exclude crucial documents from the arbitral proceedings.

To expedite the proceedings, Claimant would also like to directly address Respondent's bad faith challenge to the jurisdiction of the Arbitral Tribunal. This submission constitutes the Claimant's final comment on the matter concerning the Arbitral Tribunal's alleged lack of jurisdiction for the consideration of the Finland Arbitration Institute when making its *prima facie* decision on jurisdiction (Article 15 of the FAI-Rules).

First, mediation is not a condition precedent for the jurisdiction of the Arbitral Tribunal under the FAI Arbitration Rules. Second, Mr. la Cour's clear statement that a price reduction of 15% was a kind of pre-condition of any further talks made clear that without such a price reduction, which was obviously not acceptable for Claimant, mediation would have been a mere waste of time. Thus, Respondent's reliance on the mediation obligation is contrary to good faith and should be rejected already for that reason alone.

Sincerely yours,



Joseph Langweiler

CLAIMANT EXHIBIT C 8

Witness Statement of August Wilhelm Deiman

1. I was born on 23 January 1970 and have since 1999 worked for Claimant in different functions. My last position was the COO of Volta Transformer after they had been purchased by Claimant. Before that, I had been the Head of Contracting at Claimant. In the latter function, I was involved as the main negotiator on GreenHydro's side in the conclusion of the Agreement.
2. Following the acquisition of Volta Transformer in November 2023 by GreenHydro and my promotion to the COO of the latter, I have moved to Equatoriana. As the Agreement with GreenHydro was the most important individual contract of Volta Transformer making up 70% of its production capacities, I had all the information potentially relevant for the contract on my laptop. That also included my personal notes and other documents in relation to the negotiations between Claimant and Respondent resulting in the conclusion of the Agreement.
3. On 28 April 2024, i.e., before the negotiations failed, I had a discussion with Mr. la Cour in which he raised serious allegations against me, Mr. Cavendish, and Ms. Faraday concerning the conclusion of the Agreement. He informed me that, should there be no amicable settlement, he would hand over that information to the prosecution office for an investigation.
4. I immediately reported that back to Mr. Cavendish to whom the message was objectively directed. He told me not to worry and promised to contact Mr. la Cour.
5. Two weeks later, the police raided my office, confiscated all my documents, and detained me for two days in prison, allegedly "to prevent me from interfering with their investigation". After my release, my passport was withdrawn, and I was requested to report daily to the police.
6. In the end, those investigations were terminated after 1 month without any result, and the documents were returned to me.
7. Considering that experience, I decided to leave Equatoriana until the end of this arbitration. I can assure you that I have never shown the document presented as Respondent's Exhibit R 3 to anyone from Respondent's side or their lawyers' team or have otherwise made it accessible to them. I can only speculate that they received it from the investigators directly. Already in our discussions, Mr. la Cour mentioned his very close contact with the prosecution office.
8. The only other, but less likely, option is that someone in my office had provided Respondent or the state authorities with confidential and privileged information.

Capital City, 12 August

August Wilhelm Deiman

THE FINLAND ARBITRATION INSTITUTE

Helsinki, 15 August 2024

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CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

The Finland Arbitration Institute confirms the receipt of Equatoriana RenPower Ltd.'s Answer to the Request for Arbitration dated 14 August 2024 (the "Answer"), and of GreenHydro Plc's letter dated 14 August 2024 with enclosure, both enclosed to this letter.

Respondent's objection to jurisdiction

In the Answer, in paragraph 16, the Respondent has filed the following objection to jurisdiction:

> *"16. The Arbitral Tribunal lacks jurisdiction to decide the case. The compliance with the mediation requirement is a condition precedent for the validity of arbitration agreement or at least a requirement for the admissibility of the claim and should guide the Arbitral Tribunal in exercising its procedural discretion."*

The Institute notes that the Claimant has already commented on the Respondent's objection to jurisdiction in its letter dated 14 August 2024. The Institute does not expect additional comments from the parties on this issue.

Constitution of the arbitral tribunal

In the Answer, the Respondent agrees with the Claimant's proposal that the arbitral tribunal be composed of three members: one nominated by each party and the presiding arbitrator appointed by the Institute.

The Respondent has nominated Mr. Carl Gustaf Synonoun (Väinämöinen Street 4, Oceanside, Equatoriana) as an arbitrator for confirmation by the Institute.

Possible referral of the arbitration to be conducted under the arbitration rules

In the Answer, the Respondent agrees with the Claimant's request that the Arbitration Rules 2024 of the Finland Chamber of Commerce (the "Arbitration Rules") be applied instead of the Rules for Expedited Arbitration 2024 of the Finland Chamber of Commerce (the "Rules").

Decisions to be made by the Board of the Finland Arbitration Institute

The matter will be referred to the Institute's next international board meeting to be held on 27 August 2024, where two decisions will be made:

1. Decision on jurisdiction (Article 15 of the Rules); and
2. If the arbitration is allowed to proceed, the decision on the referral of the arbitration to be conducted under the Arbitration Rules (Article 10 of the Rules).

Claimant's request for exclusion of Respondent's Exhibit R 3 from the case file

In its letter dated 14 August 2024, the Claimant has requested that the Respondent's Exhibit R 3 not be transmitted to the arbitral tribunal for the reasons stated in it.

The Institute notes that the case file will be transmitted, including all exhibits submitted by the parties, to the arbitral tribunal in accordance with the applicable arbitration rules, whether it be the Rules (Article 24) or the Arbitration Rules (Article 25). Pursuant to both sets of arbitration rules, it is for the arbitral tribunal to determine the admissibility, relevance, materiality, and weight of the evidence.

THE FINLAND ARBITRATION INSTITUTE

Adriana Aravena-Jokelainen
Legal Counsel

Enclosures: - Answer to the Request for Arbitration with enclosures (not reproduced)
- Claimant's letter dated 14 August 2024 with enclosure (not reproduced)

THE FINLAND ARBITRATION INSTITUTE

Helsinki, 27 August 2024

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CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

Reference is made to our earlier correspondence on the above-referenced matter.

Decisions made by the Board of the Finland Arbitration Institute

At its meeting held today, 27 August 2024, the Board of the Finland Arbitration Institute decided as follows:

1. Decision on jurisdiction (Article 15 of the Rules for Expedited Arbitration 2024 of the Finland Chamber of Commerce, the "Rules")

   The Board decided that the arbitration shall be allowed to proceed because it is *prima facie* satisfied that an arbitration agreement under the Rules that binds the parties may exist.

2. Decision on Referral (Article 10 of the Rules)

   The Board decided that, as both parties agree on the application of the Arbitration Rules 2024 of the Finland Chamber of Commerce (the "Arbitration Rules") instead of the Rules, the arbitration should be conducted under the Arbitration Rules.

Constitution of the arbitral tribunal

The parties have agreed in their submissions that the arbitral tribunal be composed of three members: one nominated by each party and the presiding arbitrator appointed by the Institute.

The Claimant has nominated Mr. Narvin Aqua (Helsinki Crescent 3, Capital City Mediterraneo) as an arbitrator for confirmation by the Institute.

The Respondent has nominated Mr. Carl Gustaf Synonoun (Väinämöinen Street 4, Oceanside, Equatoriana) as an arbitrator for confirmation by the Institute.

The Institute will proceed to contact the party-nominated arbitrators and will transmit their Arbitrator's Statements to the parties in accordance with Article 21.3 of the Arbitration Rules upon their receipt. The parties will be granted an opportunity to submit comments on the Arbitrator's Statements or object to the confirmation of the arbitrators within a set time limit. After the expiry of the time limit, the Institute will decide on the confirmation of the party-nominated arbitrators.

Upon confirmation of the party-nominated arbitrators, the Institute will refer the matter to the Board for the appointment of the presiding arbitrator.

THE FINLAND ARBITRATION INSTITUTE

Adriana Aravena-Jokelainen
Legal Counsel

(**NB**: *Certain communications concerning the arbitrators, such as the Arbitrator's Statements, as well as confirmations of receipt for parties' filings, are not included herein (in The Problem) but are available for download in PDF format at* www.arbitration.fi.*)*

THE FINLAND ARBITRATION INSTITUTE

Helsinki, 6 September 2024

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CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

Reference is made to our earlier correspondence on the above-referenced matter.

Constitution of the arbitral tribunal

Confirmation of the party-nominated arbitrators

The Finland Arbitration Institute notes that the parties have neither submitted comments on Messrs Narvin Aqua's and Carl Gustaf Synonoun's Arbitrator's Statements nor objected to their confirmation as arbitrators within the set time limit.

Consequently, on 5 September 2024, the Institute decided to confirm Messrs Narvin Aqua and Carl Gustaf Synonoun as co-arbitrators.

Appointment of the presiding arbitrator

The parties have agreed in their submissions that the presiding arbitrator be appointed by the Institute.

The Institute will proceed to appoint the presiding arbitrator at its next international board meeting to be held on 16 September 2024. The decision will be informed to the parties in due course.

THE FINLAND ARBITRATION INSTITUTE

Adriana Aravena-Jokelainen
Legal Counsel

CC: Co-arbitrator Mr. Narvin Aqua
By secure e-mail: n.aqua@a-chambers.me
Co-arbitrator Mr. Carl Gustaf Synonoun
By secure e-mail cfsynonoun@adr-experts.com

THE FINLAND ARBITRATION INSTITUTE

Helsinki, 20 September 2024

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CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

Constitution of the arbitral tribunal

Appointment of the presiding arbitrator

At its meeting held on 16 September 2024, the Board of the Finland Arbitration Institute appointed Prof. Dolores Greenhouse as presiding arbitrator, who has accepted the appointment.

Enclosed please find Prof. Dolores Greenhouse's Arbitrator's Statement and CV.

The parties may comment on the Arbitrator's Statement or object to the confirmation of the arbitrator by submitting a written statement to the Institute **on or before 25 September 2024** (Article 21.3 of the Arbitration Rules 2024 of the Finland Chamber of Commerce, the "Rules").

Please submit your statement, if any, by e-mail to info@arbitration.fi.

Upon receipt of the parties' comments or expiry of the set time limit, the Institute will decide on the confirmation of the presiding arbitrator (Article 22 of the Rules).

Decision on global advance on costs

On 20 September 2024, the Institute decided to fix a global advance on costs in the amount of **EUR 900,000.00**.

The global advance on costs is to be paid in equal shares by the parties as follows:

- The Claimant shall pay its share of the advance on costs in the amount of EUR 447,000.00. The Filing Fee paid by the Claimant (EUR 3,000.00) has been deducted from the Claimant's share of the advance on costs.

- The Respondent shall pay its share of the advance on costs in the amount of EUR 450,000.00.

The advance on costs is intended to cover the costs of the arbitration referred to in Article 49.2 (a)-(d) of the Rules.

Payment of the global advance on costs

The parties are requested to pay the advance on costs **on or before 25 September 2024** to the bank account of the Finland Chamber of Commerce (VAT 0%, exempt financial services, Section 41 of the Finnish Value Added Tax Act).

Bank account details of the Finland Chamber of Commerce:

Bank:	OP Corporate Bank plc
BIC/SWIFT Code:	OKOYFIHH
IBAN:	FI84 5789 5420 1165 48
Beneficiary:	Finland Chamber of Commerce
Reference:	Please include as reference "Claimant's share of the advance on costs in Case No. FAI MOOT 100/2024" or "Respondent's share of the advance on costs in Case No. FAI MOOT 100/2024".

If a party fails to pay its part of the advance on costs, the Institute shall give the other party an opportunity to pay the unpaid part on behalf of the defaulting party within the set time limit. If the other party makes such payment, the arbitral tribunal may, at the request of that party, issue a separate award for reimbursement of the payment in accordance with Article 45(a) of the Rules.

In the event that any part of the advance on costs remains unpaid, the Institute may terminate the proceedings or treat the claim for which the advance on costs has remained unpaid as withdrawn (Article 2.7 of Appendix II to the Rules).

The Institute will transmit the case file to the arbitral tribunal as soon as the presiding arbitrator has been confirmed and the advance on costs has been paid in full (Article 25 of the Rules).

The Institute will pay the costs of the arbitration from the advance on costs after the arbitral tribunal has rendered the final award, consent award, or order for the termination of the arbitration (Article 50.3 of the Rules).

Upon a reasoned request of the arbitral tribunal, the Institute may draw on the advance on costs to cover the costs of the arbitration during the arbitral proceedings as referred to in Article 50.4 of the Rules.

Adjustment of the advance on costs

The Institute may adjust the amount of the advance on costs and order any party to pay further advances on costs, at any time during the proceedings to take into account fluctuations in the amount in dispute, changes in the amount of the estimated expenses of the arbitral tribunal, the evolving complexity of the arbitration, or other relevant circumstances.

The arbitral tribunal shall promptly inform the Institute of any changes that may affect the amount of the advance on costs, such as an increase of the amount in dispute or the scope or complexity of the case (Article 2.6 of Appendix II to the Rules).

Role of the Finland Arbitration Institute as payment intermediary

The Institute acts only as a payment intermediary when paying the costs of the arbitration from the advance on costs. The responsibility for costs and taxes remains with the parties.

The amounts paid as advances on costs do not yield interest for the parties or the arbitrators (Article 2.12 of Appendix II to the Rules).

THE FINLAND ARBITRATION INSTITUTE

Adriana Aravena-Jokelainen
Legal Counsel

Enclosures: - Prof. Dolores Greenhouse's Arbitrator's Statement and CV (not reproduced)

CC: Co-arbitrator Mr. Narvin Aqua
By secure e-mail: n.aqua@a-chambers.me

Co-arbitrator Mr. Carl Gustaf Synonoun
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THE FINLAND ARBITRATION INSTITUTE

Helsinki, 27 September 2024

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CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

Constitution of the arbitral tribunal

Confirmation of the presiding arbitrator

The Finland Arbitration Institute notes that the parties have neither submitted comments on Prof. Dolores Greenhouse's Arbitrator's Statement nor objected to her confirmation as arbitrator within the set time limit.

Consequently, on 26 September 2024, the Institute decided to confirm Prof. Dolores Greenhouse as the presiding arbitrator.

Advance on costs

On 20 September 2024, the Institute decided to fix a global advance on costs in the amount of EUR 900,000.00.

The parties have paid the full amount of the advance on costs in equal shares.

Transmission of the case file to the arbitral tribunal

The Institute hereby transmits the case file, including all exhibits submitted by the parties, to the arbitral tribunal (Article 25 of the Arbitration Rules 2024 of the Finland Chamber of Commerce, the "Rules").

Adjustment of the advance on costs

The Institute may adjust the amount of the advance on costs and order any party to pay further advances on costs, at any time during the proceedings to take into account fluctuations in the amount in dispute, changes in the amount of the estimated expenses of the arbitral tribunal, the evolving complexity of the arbitration, or other relevant circumstances.

The arbitral tribunal shall promptly inform the Institute of any changes that may affect the amount of the advance on costs, such as an increase of the amount in dispute or the scope or complexity of the case (Article 2.6 of Appendix II to the Rules).

Time limit for the final award

Pursuant to the Rules, the final award shall be rendered **within nine (9) months from the date on which the arbitral tribunal receives the case file from the Institute**.

The case file is deemed to have been received on the day the arbitral tribunal has received it or it would normally have had received it given the means of transmission. The case file is therefore deemed to have been received on 27 September 2024.

Consequently, the time limit for the rendering of the final award is 30 June 2025.

Documents to be submitted to the Finland Arbitration Institute

The arbitral tribunal must submit the following documents to the Institute without delay:

- the procedural timetable in electronic format (Article 31.4 of the Rules);

- any separate award rendered in the case in PDF and Word formats as well as in original copy (Article 43.3 of the Rules); and

- final award, order for the termination of the proceedings, or consent award in PDF and Word formats as well as in original copy (Article 43.3 and 46.3 of the Rules).

In addition, the arbitral tribunal may be requested to submit other documents to the Institute.

Costs of the arbitration to be determined by the Institute

Before rendering the final award, consent award, or order for the termination of the arbitration, the arbitral tribunal shall request that the Institute determine the Institute's administrative fees and expenses, and the arbitral tribunal's fees and expenses. The arbitral tribunal shall verify which expenses may be reimbursed in accordance with the Arbitrator's Guidelines.

The arbitral tribunal shall include in the final award, consent award, or order for the termination of the arbitration the costs of the arbitration as finally determined by the Institute (Article 49.3 of the Rules).

THE FINLAND ARBITRATION INSTITUTE

Adriana Aravena-Jokelainen
Legal Counsel

Enclosures:
Case file (not reproduced)
Arbitration Rules 2024 of the Finland Chamber of Commerce (not reproduced)
Arbitrator's Guidelines (not reproduced)
Note on the Use of a Secretary (not reproduced)
FAI Tax Guidelines (not reproduced)
FAI Award Checklist (not reproduced)

Prof. Dolores Greenhouse
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By email and courier
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CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

27 September 2024

Dear Colleagues,

Taking into account your communicated availability, the Arbitral Tribunal would like to discuss with you in a TelCo on 10 October 2024 the further conduct of the proceedings.

Kind regards,

For the Arbitral Tribunal

D. Greenhouse

Presiding Arbitrator
Prof. Dolores Greenhouse

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CASE NO. FAI MOOT 100/2024: GREENHYDRO PLC (MEDITERRANEO) / EQUATORIANA RENPOWER LTD. (EQUATORIANA)

11 October 2024

Dear Colleagues,

The Arbitral Tribunal appreciates your cooperation during yesterday's TelCo.

Please find attached Procedural Order No. 1 which is based on the discussion during the TelCo.

Kind regards,

For the Arbitral Tribunal

D. Greenhouse

Prof. Dolores Greenhouse
Presiding Arbitrator

PROCEDURAL ORDER NO. 1
of 11 October 2024

in the Arbitral Proceedings FAI MOOT 100/2024
Green Hydro Plc. v. Equatoriana RenPower Ltd.

I. Following the receipt of the file, the Arbitral Tribunal held a telephone conference with both Parties on 10 October 2024 to discuss the further conduct of the proceedings.

II. The Arbitral Tribunal takes note of the fact that in the telephone conference of 10 October 2024, both Parties agreed:

- to conduct the proceedings based on the 2024 FAI Arbitration Rules; and
- to limit the first phase of the arbitral proceedings to the procedural questions and questions as to the law to be applied to the merits.

III. In the light of these agreements and considerations, the Arbitral Tribunal hereby makes the following orders:

1. In their next submissions and at the Oral Hearing in Vindobona (Hong Kong), the Parties are required to address the following issues:

   a. Should the Arbitral Tribunal reject the claim for lack of jurisdiction or admissibility or as part of its discretion?
   b. Should the Arbitral Tribunal order the exclusion of the documents Exhibits C 7 and R 3?
   c. Is the CISG applicable to the Agreement?
   d. If so, have the Parties validly excluded its application?

   The Parties are free to decide in which order they address the various issues. **No further** questions going to the merits of the claims should be addressed at this stage of the proceedings, in particular no questions relating to the remedies requested and their availability. The Arbitral Tribunal reserves the right to raise them at a later stage should it consider that opportune in light of the Parties' submissions.

2. For their submissions the following Procedural Timetable applies:

   a. CLAIMANT's Submission: no later than 12 December 2024;
   b. RESPONDENT's Submission: no later than 30 January 2025.

3. The submissions are to be made in accordance with the Rules of the Moot agreed upon at the telephone conference.

4. It is undisputed between the Parties that Equatoriana, Mediterraneo, and Danubia are Contracting States of the CISG and Member States of the New York Convention. The general contract law of Mediterraneo and Danubia is a verbatim adoption of the UNIDROIT Principles on International Commercial Contracts. Equatoriana has included a provision in Art. 7.3 that governmental entities may always terminate contracts which have been concluded in the pursuance of a particular strategy if the government has changed the

strategy. In these cases, the counterparty has to be reimbursed for the costs incurred in connection with the contract.

All countries have adopted the UNCITRAL Model Law on International Commercial Arbitration with the 2006 amendments (Article 7 – Option 1).

5. There is consistent jurisprudence in all the countries concerned that in sales contracts governed by the CISG, the latter also applies to the conclusion and interpretation of the arbitration clause contained in such contracts, in so far as the applicable arbitration law does not contain any conflicting provisions.

6. In the event that Parties need further information, Requests for Clarification must be made in accordance with para. 29 of the Rules of Moot no later than 1 November 2024 via their online party (team) account. No team is allowed to submit more than ten questions.

7. Where an institution is participating in both Hong Kong and Vienna, the Hong Kong team should submit its questions together with those of the team participating in Vienna via the latter's account on the Vis website.

Clarifications must be categorized as follows:

(1) Questions relating to the Parties involved and their business.
(2) Questions relating to negotiation, drafting, and conclusion of the Purchase and Service Agreement including the dispute resolution clause.
(3) Questions relating to the distribution of tasks between Claimant, Volta Transformer, P2G, and Green Ammonia.
(4) Questions relating to the Parties' obligations concerning the green hydrogen plant.
(5) Questions relating to the Parties' obligations concerning the two options.
(6) Questions concerning the negotiation between the Parties after the Termination Letter.
(7) Questions relating to the investigations against Mr. Deiman and the Exhibit R 3.
(8) Questions concerning the applicable laws and rules.
(9) Other questions.

IV. Both Parties are invited to attend the Oral Hearing scheduled for 11 – 17 April 2025 in Vindobona, Danubia (30 March – 6 April in Hong Kong). The details concerning time and venue will be provided in due course.

Vindobona, 11 October 2024

For the Arbitral Tribunal

D. Greenhouse

Prof. Dolores Greenhouse
Presiding Arbitrator

PROCEDURAL ORDER NO. 2

of 13 November 2024

in the Arbitral Proceedings:

FAI MOOT 100/2024
Green Hydro Plc. v. Equatoriana RenPower Ltd.

1. **Are the administrative centers of the various companies involved located at their places of registration?** Yes.
2. **Have the Parties had any previous contractual relationships?** No. Claimant, however, had concluded two smaller contracts with other government entities based on the old Model Contract. Both had been negotiated by Mr. Deiman and Mr. Law, Claimant's head of legal at the time, and had not resulted in any problems. It had been in the context of the first of these transactions concluded in 2020 that Mr. Law had made the statement concerning the CISG being the "Gold Standard" in international transactions to Mr. Cavendish.
3. **To what extent was the Government of Equatoriana involved in the business of Respondent?** Respondent is a separate legal entity of private law. Its only shareholder is the State of Equatoriana which also appoints Respondent's management, which is then entrusted with the day-to-day management, including the representation of Respondent.
4. **Does Respondent have assets in countries other than Equatoriana which would make it possible to enforce a potential award against Respondent in said country?** Yes, there are assets in other countries which would most likely not benefit from immunity from execution.
5. **What portion of Volta Transformer's overall business did its relationship with Claimant make up before the negotiations between Claimant and Respondent?** Volta Transformer, in principle, had the capacity of producing two transformers of the size acquired by Claimant at a time. Depending on existing deadlines, the workforce, and other resources are not always evenly allocated between the contracted transformers but one of the projects is prioritized. That is what happened from June 2023 onwards with the transformer that Claimant had originally ordered for the project in Ruritania and then had planned to use for the project with Respondent. Furthermore, according to the contractual set-up Volta Transformer was also Claimant's contractual partner for the delivery of the stacks and the packaging services which were to be provided by Volta Electrolyser. That is the background of Mr. Deiman's not entirely accurate statement in Exhibit C 8 that the Agreement with GreenHydro was the most important individual contract of Volta Transformer "making up 70% of its production capacity".
6. **Is Volta Electrolyser selling the electrolysers produced under a license of Claimant to third parties?** Yes, until the order for the plant project, Volta Electrolyser was nearly exclusively producing for third parties and not for Claimant. The order for the contracted plant would have made up 60% of the annual production capacity of Volta Electrolyser for the next year.
7. **At the time when the Respondent was contracting with the Claimant were they aware of the acquisition of Volta Transformers by the Claimant**? Claimant did not inform Respondent about the offer by the Volta family before the conclusion of the Agreement.
8. **How was Volta Transformer acquired by Claimant?** By a share deal. Until the acquisition there were no formal or informal agreements which guaranteed Claimant any control or operational influence on Volta Transformer.
9. **Was the reverse auction conducted in person or online?** The entire process developed in three different steps of which the reverse auction itself constituted the second step which was conducted in person. At the first stage, all registered suppliers which intended to submit bids had to do so online. In light of the "technology-open" nature of the RfQ it was necessary to

make the various bids "comparable" despite the differences in the technologies suggested (e.g. PEM-Electrolysers/Alkaline-Electrolysers). For that Respondent had developed a complex formular weighing inter alia the technologies used, the efficiency of the plant and other factors to arrive at the (calculated) price. The formular and the (calculated) price of its bid was communicated to each bidder. The reverse auction, as the second step, was then conducted on the basis of these formulas and the resulting calculated prices. With the final two bidders Respondent then conducted individual negotiations.

10. **What was the wording of the choice of law clause of the former Model Contract of the Equatorianian government?** "The Agreement is governed by the CISG. For all issues not regulated by the CISG the law of Equatoriana shall apply". The official press release made in relation to the amended Model Contract in 2022 explicitly mentioned that changes were made to the forum selection clause and the choice of law clause "to strengthen the role of Equatorianian Law and Equatoriana as a place of dispute resolution".

11. **What was the background for including the issue of the applicable law on the list of issues to be discussed by Mr. Cavendish with Ms. Faraday?** The list had been prepared by Claimant's head of legal at the time, Mr. Law, after he had taken a look at the Model Contract and the changes made to the old Model Contract which had been the basis of a previous transaction with another government entity. Originally, a meeting between Mr. Law and Mr. Cavendish had been planned for the day before the first meeting with Ms. Faraday in which the different items on the list were to be discussed. Furthermore, it was planned that Mr. Law would support the negotiations from the legal side as he was the only lawyer in the five lawyers of the legal department that specialized in international contracts. The other lawyers dealt with labor law and regulatory questions. On the day before the meeting, it was discovered that Mr. Law had leaked important information to one of Claimant's competitors, which led to the immediate termination of his contract and the start of a criminal investigation against him. Thus, the reason for the inclusion was never revealed to Mr. Cavendish. The following negotiations were conducted by Mr. Deiman with the support of Ms. Smith, one of the labor lawyers who then became the new head of the legal department. As Ms. Smith had interpreted the choice of law clause in the Model Contract to refer to the non-harmonized law of Equatoriana, she had conducted her examination referred to in Exhibit R 3 primarily on the basis of the non-harmonized law of Equatoriana. In addition, her legal intern – a former Vis Mootie – had also provided an evaluation on the basis of the CISG, which is the reason for her statement that she had "checked that under all potentially applicable regimes".

12. **Is there any usage or practice concerning the enforceability of mediation clause, or did the Parties discuss during negotiations of the Purchase and Service Agreement, that mediation was to occur within a specified time period?** No.

13. **Was there any discussion about the mediation clause and its deviation from the model clause?** No. Respondent accepted the draft of the clause submitted by Claimant without checking whether it deviated from the FAI-model clause.

14. **Did the Respondent ever request mediation or indicate that it would be inclined to participate in mediation as it applies to these issues?** No. There was no specific request after the dispute had arisen and before the RfA had been submitted.

15. **Did Respondent make any payments to Claimant?** Yes. Respondent paid the 10% due on 1 October 2023 but not the 25% due on 10 February 2024 as Claimant had not submitted the Final Plans on 1 February 2024. Respondent has complained about the non-delivery, stating that it would not make any further payment until the Final Plans were delivered for which it set a deadline until the end of the month. Respondent reserved any further rights.

16. **Were the components produced by Volta Transformer/Electrolyzer to be delivered directly to the construction site?** Yes. As the transformer and the stacks were produced in Equatoriana, it was planned to have them delivered directly to the site where they were to be

connected to the existing infrastructure (electricity, pipes, buildings). The connection of the transformer the stacks and the various other elements of the core system was to occur in a way which allowed their easy removal in case of maintenance or replacement.

17. **Under the EPC-work Section of the table, do the headings "Compressor, pipes, cable installation, connections, and other equipment" refer to the supply of goods?** Yes. The highlighted parts for the EPC-Work and the electrolyser are to be treated as a delivery of goods.

18. **Are the two extension options finalized to the extent that the Purchase and Service Agreement already includes the final purchase price as well as a timeframe?** Yes. For the case that Respondent intended to exercise the options in full, price, timeframe, and all further details were agreed and no further contract needed to be concluded. That was also the background for including clause 4 into the RfQ. Respondent, however, also had the option to exercise the extension options only in part. For that case, the Agreement provided for a proportional reduction of the price and the addition of a further handling fee to compensate Claimant for the additional costs resulting from the reduced scope.

19. **Did the local content requirement ("at least 25%") concern just the electrolyser (i.e., the main plant) or were the option(s) a part of it?** It extended to the options as well. Claimant would have met the requirement even if only the eAmmonia option had been exercised and Green Ammonia had done the work.

20. **Does Green Ammonia source any of its material from Equatoriana?** No.

21. **Would the delay in delivery of the final plans for the eAmmonia option have had any effect on the delivery date of the turnkey plant?** Most likely not. The delay was entirely due to problems on the side of Green Ammonia where the entire planning team had left the company in December. Claimant had expected the plans for the eAmmonia option in the first week of January to include them in its Final Plans. As Respondent had informed Claimant that the exercise of the eAmmonia-option was very likely, Claimant wanted to take into account the plans for the eAmmonia extension in its planning of the already contract plant, hoping to subsequently save up to EUR 1 million for a subsequent construction of eAmmonia extension. In the beginning, Green Ammonia had promised Claimant to deliver the planning by the end of January but then did not deliver anything until the end of March. Claimant communicated the reasons for not submitting the Final Planning to Respondent on 1 February 2024 when the plan was due. It also started to finalize the plans for the plant without taking into account the eAmmonia option. It intended to recover the additional costs resulting for the lack of coordination or the planning from Green Ammonia, in case the eAmmonia-option was exercised.

22. **Is there an urgency for Claimant to complete the project by the agreed timeline in the Agreement of 2026?** Claimant had a very strong interest in having the plant operate as soon as possible to have a reference project available for the expected increase in orders for green hydrogen plants from 2026 onwards.

23. **What was the extent of the Parties' negotiations between the issuance of termination letter and the without-prejudice offer?** With the letter of 12 March, Claimant had rejected Respondent's termination as non-justified and pointed out that the belated delivery of the Final Plans would most likely not result in any delays concerning the final handover of the plant. Furthermore, Claimant requested payment of at least 50% of the amount due on 10 February 2024 and the issuance of the final permits as agreed, or a discussion about dates should that not be possible. By the letter of 24 March, Respondent rejected those requests, confirmed the termination, and announced that no further payments would be made. Claimant reacted with a letter dated 4 April, prepared by its lawyers, rejecting once more the termination and outlining the legal situation and potential claims by Claimant suggesting a meeting at C-management level. The meeting had been planned for 28 April in Equatoriana. Due to a car accident on 27 April which left him hospitalized, Mr. Cavendish had to cancel the meeting which led to the discussion

of Mr. la Cour and Mr. Deiman on 28 April. The meeting between Mr. Cavendish and Mr. la Cour took place on 12 May, lasted only 30 minutes, and had the content reported by Mr. Cavendish in his witness statement.

24. **How did Claimant respond to the without-prejudice offer?** Claimant rejected that offer on the next day and threatened to initiate arbitration proceedings should Respondent not engage in further discussion without any preconditions. There was no further response from Respondent to that letter.

25. **What happened to the other hydrogen projects that were reviewed by Equatoriana RenPower?** For one of the projects, the final contract was yet to be signed when the change of government occurred. The negotiation was terminated, and no contract was ever signed. The second project, which involved a 50 MW plant based on an alkaline electrolyzation process, was successfully renegotiated between the Parties and a new agreement providing, inter alia, a price reduction of 7 % was finally signed on 1 October 2024.

26. **What is Mr. Deiman's background?** Mr. Deiman has a degree in economics as well as an LL.M.

27. **Was the investigation against Mr. Deiman initiated based on information Mr. la Cour provided?** Yes. Mr. la Cour had accused Mr. Deiman of fraud through misrepresentations during the negotiations of the Agreement and collusion with unspecified employees of Respondent to the detriment of Respondent. None of the allegations could be proven, which led to the acquittal within one month.

28. **Do Claimant's employees have confidentiality agreements with the company?** Yes.

29. **Do communications by In-House lawyer containing legal advise benefit from the attorney-client privilege under the law of Equatoriana?** Yes, at least if the inhouse lawyer is at the same time a member of the bar and the advice was given in relation to a specific legal question relevant

30. **Are there any cases or jurisprudence in Equatoriana, Danubia, or Mediterraneo as to what the term "without-prejudice" means and how documents that have that label may be used?** No.

31. **Are all the relevant states Contracting Parties to the Singapore Convention and the Vienna Convention on the Law of Treaties?** Yes.

32. **Does the Public Procurement Law of Equatoriana cover only the bidding process and the award of the contract?** Yes. It does not cover the performance of the contracts concluded..

33. **Is Article 7.3.8 of the Equatorianian Civil Code, containing the right of governmental entities to terminate contracts for convenience under certain conditions, mandatory?** There are diverging views on that with a slight majority considering it to be not mandatory. It is, however, largely accepted that the provision does not form part of the ordre public of Equatoriana.

34. **Can you provide some additional information about the legal system in Equatoriana?** Equatoriana is a common law country and a dualistic state. It has ratified the Mauritius Convention and has adopted the UNCITRAL Model Law on Mediation, as has Danubia. There is no precedent on excluding the CISG, which would fit the present situation.

35. **Claimant would like to make the following corrections and clarifications to its submissions:**

In the Request for Arbitration the following corrections are necessary:

a. In para. 22 it should read "The offer shows that Respondent" (instead of Claimant).

b. Exhibit C 2 contains the version of the Purchase and Service Agreement which had been signed by the Parties on 17 July 2023. It was later discovered that inadvertently an earlier internal and not corrected version of the Purchase and Service Agreement had been printed out and signed at the ceremony. When that was discovered, a new version was signed which corrected the mistakes as to the Parties' addresses and the remuneration in Article 7 which should have been EUR 285,000,000 (instead of EUR 95,000,000).

c. In Claimant Exhibit C 8, the Witness Statement of Mr. Deiman should be dated "14 August 2024" (instead of 12 August).

36. Respondent would like to make the following corrections and clarifications to its submissions:

In the Answer to the Request for Arbitration the following corrections are necessary:

a. In para. 5 it should read "Claimant's CEO had informed Ms. Faraday" (instead of Respondent's CEO).

b. In para. 13 it should read "become the COO of Volta Transformer" (instead of CEO).

c. In para. 16 it should read "is a condition precedent for the operability of the arbitration agreement" (instead of "validity").

Vindobona, 13 November 2023

For the Arbitral Tribunal

D. Greenhouse

Prof. Dolores Greenhouse
Presiding Arbitrator