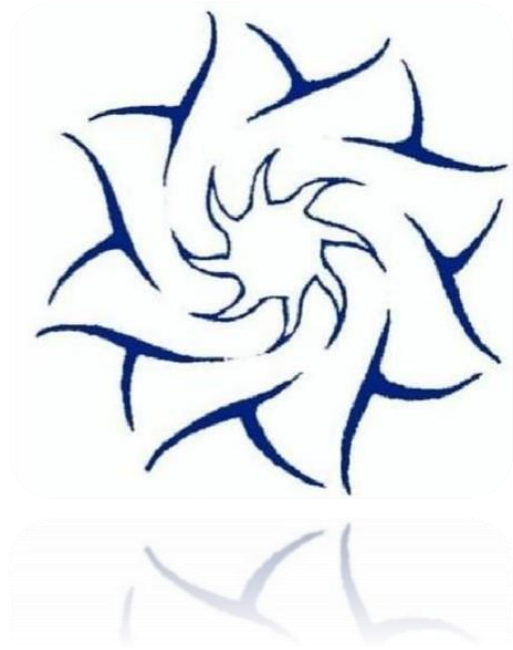
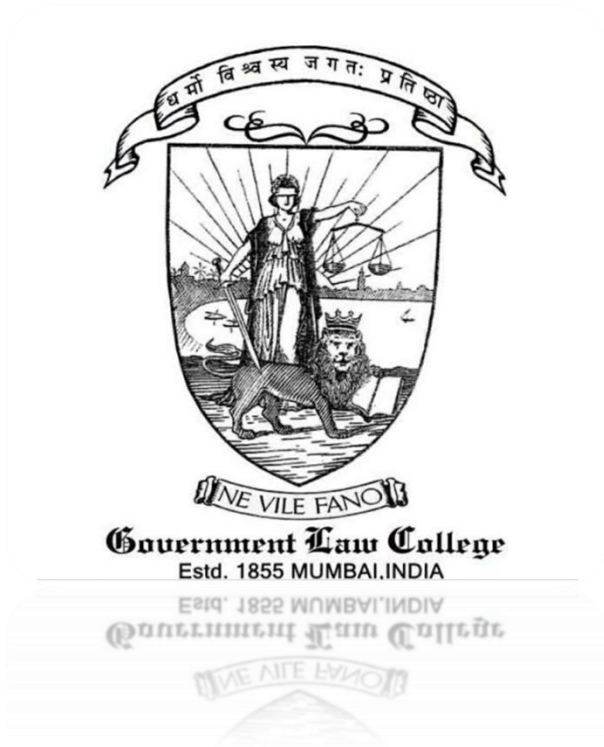


26TH D. M. HARISH MEMORIAL GOVERNMENT LAW
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Press Release

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Endor institutes proceedings against Alderaan with regard to “a dispute concerning the execution proceedings against assets of Endor”

further

Endor institutes proceedings against Tatooine with regard to “a dispute concerning the imposition of sanctions and the unlawful use of force”.

1. The Hague, 30th November 2024, The Federal Republic of Endor (“**Endor**”) instituted proceedings against the United Provinces of Alderaan (“**Alderaan**”) before the International Court of Justice (“**ICJ**”), the principal judicial organ of the United Nations, with regard to “a dispute concerning the execution proceedings against assets of Endor”. Further Endor also instituted proceedings against the Kingdom of Tatooine (“**Tatooine**”) with regard to “a dispute concerning the imposition of sanctions and the unlawful use of force”.
2. Endor and Alderaan have approached the International Court of Justice by way of a *Compromis* dated 28th November 2024 under Article 40(1) of the Statute.
3. Subsequently on 29th November 2024, Endor filed an Application to the Registry of the International Court against Tatooine invoking the compulsory jurisdiction of the Court under Article 36(2) of the Statute.

BRIEF SUMMARY OF FACTS

4. Skynet Inc. is a company incorporated in and under the laws of Tatooine. It is a multinational technology corporation with a valuation of \$1 trillion that designs, develops, and sells consumer electronics, computer software, and online services. Its business ranges from the manufacture of high-end computers and laptop devices, mobile devices as well as other hardware to its more recent foray in online music retail, audio distribution networks as well as Cloud Services. Skynet has also developed an artificial intelligence and robotics program that promises to revolutionize the world.
5. In June 2021, the Government of Endor invited executives of Skynet to visit the Prime Minister and consider investing in Endor. Endor hoped that the assistance of Skynet would enable the Federal Republic to develop into a technologically driven superpower. Already rich in human resources and with one of the largest populations in the world, the Endorian Government set out with the ambitious project of setting up the greatest internet connectivity in the world. Endor proposed to provide Internet connectivity to every citizen and household with a minimum 100 GBPs connection. Endor's population of 500 million promised a large market. The Government also wanted to upgrade all Government technology and set-up a state-of-the-art surveillance and security mechanism. This was all part of the Government's proposed a National Security Data Grid that would reduce the threat of terrorism and enable the Government to accurately identify and isolate threats to national security.
6. Skynet entered into several contracts with a wholly owned subsidiary of the Ministry of Defense of Endor, called the National Defense Research and Development Corporation ("NDRDC") for what came to be referred to as the "Star Gaze" Project. The contracts between NDRDC and Skynet were signed by the Secretary of Defense on behalf of NDRDC. Skynet also entered into independent contracts with the Ministry of Tourism, the Ministry of Information and Technology as well as several tripartite agreements with Endorian Companies and Government Agencies. These Contracts crystallized to a sum total of \$100 billion in revenue for Skynet.
7. During the launch of Star Gaze, civil action groups filed various challenges before the Federal Courts of Endor. The Star Gaze program faced strong criticism both nationally as well as internationally. Curiously, even the Government of Tatooine published a White

Paper concluding that a program along the lines of Star Gaze would run contrary to Constitutional Freedoms and possibly obligations under International Law. Despite the criticism that the program faced, the Endorian Government moved ahead, confident that its Courts would uphold the constitutionality of the program.

8. During the numerous challenges that ensued, the International Press was flooded with allegedly leaked cables and communiqués from the Tatooinian Embassy to its Government highlighting the possible security risks of the program. Tatooine officially has denied the existence of such communiqués. The first of such cables was Tatooine’s ability to legally order disclosure of any and all information available on servers located within its jurisdiction. The ‘FREEDOM Act of 2001’ gave the Tatooinian Government permission to not only collect and analyze data located in servers situated within its sovereign territory but also collect and monitor any and all data that travelled through its territories. The Supreme Court of Endor which was seized of the matter at the time considered the constitutional right of its citizens and concluded that although the Government of Endor could legitimately establish a program such as Star Gaze, the possibility that a foreign Government could gain access and control to such information amounted to a denial of basic principles of privacy and ran contrary to guarantees found in both Endorian Law as well as International Law.
9. Accordingly, a major part of the Star Gaze program was held unconstitutional. The Government sought to negotiate with Skynet in good faith to bring about a solution to dispute. However, Skynet, which was subject to the jurisdiction of the FREEDOM Act, found no way to circumvent the laws of Tatooine.
10. In January 2023, Skynet instituted proceedings before an arbitral tribunal constituted by the Permanent Court of Arbitration claiming breach of Contract, unfair treatment, expropriation and consequent damages.¹ Endor, represented through its counsel took jurisdictional objections well as raised defenses on merits. However, these came to be rejected by the tribunal holding that even though the contract may have run afoul of Endorian Constitutional guarantees, Endor could not expropriate assets of Skynet and awarded damages to the tune of \$35.5 billion (Award dated 24th March 2024).

¹ The contract provided for arbitration before the Permanent Court of Arbitration. The arbitration agreement accepted the Permanent Court of Arbitration Rule, 2012 as the Rules governing the Arbitration. The seat was declared as Endor City, but the law applicable to the dispute was accepted as the Laws of the United States of America.

- 11.** Endor challenged the Award before its own domestic courts, on numerous grounds. Skynet argued that even the domestic courts were required to apply the law applicable to the substance of the dispute in adjudicating the dispute and not the law of the seat, in the event of any conflict between the two.
- 12.** Despite this Skynet parallelly sought enforcement and execution of the Award against Endor before the Endorian Courts. Skynet argued that pursuant to its treaty obligations, Endor was compelled to execute the Award in the same manner as a decision of the highest National Court and it had no jurisdiction to set aside the Award.
- 13.** Naturally, domestic courts held that the Award was contrary to domestic law and thus could not be enforced under the New York Convention for Recognition and Enforcement of Arbitral Awards which was adopted, ratified and promulgated in the Arbitration Act of Endor. The Endorian Supreme Court ultimately concluded that in light of the decision passed in the numerous constitutional challenges, the national courts could never have come to such a verdict (as the Tribunal) and in any case, would run contrary to the decision of the previous decision of the Supreme Court of Endor. The Supreme Court held that enforcement of the Award would itself amount to condoning and ratifying contracts that were in violation of Endorian law. The Court concluded that basic human rights of privacy, dignity and freedom were non-derogable obligations under both Endorian Law as well as Public International Law. In addition to holding against the execution on the principle that the Supreme Court was bound by its earlier decisions on account of the principle of precedents and *stare decisis*, the Court relied strongly on the argument that basic human rights were normatively superior to treaty obligations in the hierarchy of International Law. Consequently, it refused the execution of the Award.
- 14.** Skynet then pursued the execution of the Award in the United Provinces of Alderaan. Alderaan, which neighbors Endor, is a friendly nation state with a developed economy and a robust federal judiciary. Skynet sought recognition and enforcement of the Award dated 24th March 2024 against the assets of Endor situated in Alderaan.
- 15.** Skynet succeeded in its Application for Recognition and Enforcement since the Alderaanian courts held that refusing to enforce the Award would be contrary to the fundamental notions of what is decent and just. The Alderaanian Court held that even though the Award was set aside by the Courts of Endor, it would be recognizable and enforceable. Consequently,

Skynet filed a motion to obtain third-party debt and charging orders against bullion and security held by Alderaanian banks for the Sovereign Gold Fund of Endor (“**the Fund**”).

16. The Sovereign Gold Fund was set up as an international fund to collect monies from international investors as well as sovereign states willing to invest in Endor. The purpose of the fund was to provide much needed capital for the development of infrastructure such as bridges, roads, high-speed trains as well as technology and communication.
17. Endor opposed the motion for attachment on the ground that the asset was not a commercial asset but a sovereign asset, which would be exempt from execution under the Foreign Sovereign Immunities Act, 1976 of Alderaan. Endor also argued that since the fund was owned and operated by the Bank of Endor, it would be immune from execution under customary International Law on immunity including Article 19 of the United Nations Convention on Jurisdictional Immunities of States and Their Property, 2004. Endor argued that in any case properties held for the development and benefit of infrastructure constituted sovereign assets and not commercial assets, thereby immune from execution proceedings.
18. Alderaan’s Federal Courts rejected these arguments and accepted the arguments of Skynet, which were two-fold. The Court upheld Skynet’s argument that even though the Award was set aside by the Courts of Endor, it could still recognize and enforce the Award (and would be treaty bound to do so) under the New York Convention as well as its own national law. As such it was capable of being enforced subject to the Foreign Sovereign Immunities Act, 1976 (“**FSIA**”).² Customary International Law principles could not be considered by the execution Court. The Court went on to hold that under the FSIA, although the Bank of Endor managed the assets, they were in fact for the benefit of commercial activities in Endor by Public Sector Corporations. The Court held that the infrastructure projects to be funded by the Fund would ultimately be Awarded to foreign or domestic bidders and the costs for the same would be recovered not in the form of taxes but in the form of fees/cesses/costs for services rendered. Thus, the Federal Court of Alderaan concluded that under its national law, viz. FSIA, the assets situated in various Alderaan banks pertaining to the Fund would be commercial assets and not sovereign assets. It concluded that the Internet program as well as the high-speed train program were all commercial ventures by the State of Endor

² The FSIA, 1976 is a literal adoption of the United States Foreign Sovereign Immunities Act, 1976. All references to the United States shall deemed to be references to Alderaan.

and were not pursued as sovereign functions. The Court relied very heavily on the fact that these projects were to be executed through Public Sector Corporations and not directly by the Government itself. The Court held that since the New York Convention required enforcement and execution under national law, the Court could not consider principles of Customary International Law and limited its judgment to the interpretation of FSIA. Ultimately, the Court granted Skynet's motion for third-party debt and charging orders against the Fund's assets.

- 19.** The Alderaanian Government faced considerable resistance from the Government of Endor, which began increasing costs of trade and issuing travel warnings. The Government of Endor also imposed tariffs and other restrictions on imports which critically affected the economy of Alderaan. Considering the friendly relations between both Governments, Alderaan agreed to submit the dispute arising out of the execution of the Award dated 24th March 2024 by the Federal Court's Judgment dated 18th September 2024.
- 20.** Perturbed by the inability to execute Skynet's Award (and after considerable lobbying by Skynet), Tatooine imposed heavy sanctions on Endor. Tatooine forthwith imposed trade embargos as well as curtailed cross-border travel. These sanctions included a complete cessation of trade between both nation states. It prohibited all cross-border travel. Tatooine also prohibited the flow of currency from Tatooine to Endor. Tatooine stated that these measures were being put in place on account of Endor's failure to adhere to its treaty obligation under the New York Convention.
- 21.** Endor's President issued a statement that the sanctions imposed by Tatooine constitute a violation of the inviolable rule of International Law against the use of force. The President condemned the sanctions. The President stated that these sanctions were arbitrary and issued without any violation of International Law on the part of Endor. On 27th January 2025, Endor filed an Application to the Registry of the International Court against Tatooine invoking the compulsory jurisdiction of the Court since both countries had issued declarations recognizing the compulsory jurisdiction of the ICJ under Article 36.
- 22.** Endor, Alderaan and Tatooine are all parties to the New York Convention. Neither state is party to the United Nations Convention on Jurisdictional Immunities of States and their Property, 2004.

COMPROMIS BETWEEN ENDOR AND ALDERAAN

23. Endor urged the following:

- (i) Alderaan's execution (of an Award already set aside by the Courts of Endor) against the assets of Endor constituted a violation of the New York Convention since the Award was set aside by the Courts of Endor and was thus unenforceable;
- (ii) Alderaan's execution against the assets of Endor was contrary to principles of immunity under customary International Law as well as the FSIA.

Alderaan on the other hand contended that:

- (i) The New York Convention did not prohibit enforcement of Awards that had been set aside and as such, the law applicable to ascertaining execution would be national law of the executing state and not Customary International Law;
- (ii) The International Court of Justice does not have jurisdiction to sit in appeal over the decision of the Federal Court, which is the ultimate interpreter of FSIA;
- (iii) Principles of immunity from execution did not form part of Customary International Law.

ENDOR'S APPLICATION AGAINST TATOOINE

24. Endor argues that:

- (i) The sanctions imposed by Tatoonine would amount to use of force prohibited by International Law and further;
- (ii) Any alleged violation of the New York Convention for failure to enforce an award, if any, would not merit the use of force. Thus, Endor argues that the sanctions issued by Tatoonine constitute a violation of International Law.

Tatoonine contended that:

- (i) Endor violated its treaty obligations to enforce and execute the Award, which constitutes a violation of the New York Convention for which Endor must be held responsible;
- (ii) In other words, the defense of domestic courts illegally setting aside an Award, could not be used as a ground to refuse enforcement;

- (iii) Sanctions imposed by Tatoonine are valid and commensurate under International Law since Tatoonine seeks to enforce Treaty obligations.

ORDERS PASSED BY THE COURT

25. The Court has permitted both matters to be heard together since common issues arise for consideration. Alderaan and Tatoonine have requested permission to appoint a common Agent to appear before the Court, which the Court has accepted. Accordingly, Endor of the first part and Alderaan and Tatoonine of the other part are directed to submit Written Memoranda on or before 28th January 2025 on the following legal issues (and all necessary sub-issues):

1. Whether Alderaan's execution of an Award that has already been set aside by a court amount to violation of the New York Convention?
2. Whether Alderaan's execution against the assets situated in Endorian banks is contrary to the FSIA and/or Customary International Law?
3. Whether Endor violated its treaty obligations under the New York Convention by refusing to recognize and enforce the Arbitral Award?
4. Whether sanctions and other measures adopted by Tatoonine constitute use of force as prohibited under International Law?

NOTE

The Compromis is purely a work of fiction and created solely for the purpose of the Moot Court Competition. The characters, institutions, organizations and events depicted in this Compromis are purely fictional. Any similarity or resemblance to actual persons or actual events is purely coincidental and unintentional. The contents of the Compromis do not intend to defame/ denigrate/ hurt the sentiments of any person(s), institutions, communities, groups or class of persons.