

2014 FDI MOOT PROBLEM

UNCONTESTED FACTS

1. The Federal Republic of Dagobah (“Dagobah”) is deemed an emerging market which, after the restoration of democracy in the late 1960s, maintained a relatively stable economy until the end of the 1980s by adopting an inward-oriented development policy, characterized by moderately free markets.
2. Dagobah has always had close diplomatic and economic relationships with its developed neighbor, the Corellian Republic (“Corellia”), which has a sophisticated financial and banking industry. In 1992, the two countries entered into the Agreement between the Corellian Republic and the Federal Republic of Dagobah for the Promotion and Protection of Investments (“Corellia-Dagobah BIT”). This Agreement was part of a privatization and internationalization plan undertaken by Dagobah’s government to stimulate economic growth. The BIT provided for a definition of protected investments and contained standard clauses of protection such as national treatment, fair and equitable treatment, full protection and security and protection against expropriation [**Appendix 1**].
3. However, in early 2001, after a decade of heavy borrowing on international financial markets, combined with high government budget deficits, partly caused by massive tax evasion, Dagobah was faced with an unsustainable debt burden and descended into a two-and-a-half year long economic crisis.
4. On 7 May 2001, Dagobah’s inability to meet its debt obligations led its government to restructure its sovereign debt and launch an offer according to which bondholders would be able to exchange their bonds for new ones to be issued by Dagobah. The new series of bonds would reduce the bonds’ face value by 43%, as well as provide the possibility of cash buybacks with the assistance of the World Bank’s Debt Reduction Facility. As the haircut was estimated at 50% of the bonds’ net present value, such restructuring caused major losses to bondholders, among which were several investors from Corellia.
5. After becoming aware of the Dagobah crisis and its sovereign debt restructuring, the International Monetary Fund (“IMF”) presented certain recommendations for Dagobah to appropriately implement the sovereign debt restructuring process, as well as to prevent further increase of its debt and another future crisis.

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6. Pressured by the demands of its nationals and concerned with the effects that Dagobah's restructuring might have on its own economy, Corellia decided to ensure the protection of Corellian bondholders by trying to clarify the language of the Corellia-Dagobah BIT, which did not include an express reference to sovereign bonds under the definition of investments to which the treaty would apply.
7. Over the second half of 2001 diplomatic negotiations proceeded between representatives of the contracting States, but the parties were not able to agree on whether the treaty covered sovereign bonds or not and, therefore, whether Corellian holders of Dagobah sovereign bonds were protected by the framework of the Corellia-Dagobah BIT.
8. For that reason and pursuant to Article 7 of the BIT, Corellia commenced arbitral proceedings against Dagobah, administered by the Permanent Court of Arbitration ("PCA"), under UNCITRAL Arbitration Rules providing for State-to-State dispute settlement, requesting a decision on the interpretation issue that had arisen between the two parties.
9. Corellia argued that (i) the purchase of sovereign bonds issued by Dagobah constituted an "investment" within the meaning of Article 1(1) of the BIT, since it was made within Dagobah's territory and in accordance to its laws; and (ii) investors were entitled to pursue arbitration in accordance with the investor-State dispute settlement clause for violation of treaty provisions in case of State measures altering the terms and conditions of sovereign bonds.
10. Dagobah contended that the acquisition of Dagobah's sovereign bonds could not be considered an "investment", since (i) the BIT did not expressly address such issues and (ii) the bonds lacked a territorial link.
11. On 29 April 2003, the PCA Arbitral Tribunal finally decided, by majority, that sovereign bonds were investments within the definition of the Corellia-Dagobah BIT and that bondholders of both countries were entitled to its standards of protection and to resort to the investor-State dispute settlement provision included therein [**Appendix 2**].
12. On 19 May 2003, the dissenting arbitrator presented his opinion, in which he held that sovereign bonds could not constitute an investment in accordance with the wording of the BIT [**Appendix 3**].
13. By then, Corellian bondholders had already accepted a restructuring offer made by Dagobah, which ultimately only represented losses of less than 20% of the net present value of their bonds.

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No litigation proceedings were pursued by Corellian nationals against Dagobah in respect to its sovereign debt restructuring.

14. At the beginning of 2010, a new recession hit Dagobah as a consequence of the financial crisis that affected many nations around the world in 2008. Throughout 2010, fears increased among investors of yet another sovereign debt crisis due to a widespread increase in government debt levels. This put in question Dagobah's ability to meet its debt obligations and generated concerns about a possible default by the government.
15. On 14 September 2011, the IMF issued a recommendation stating that "*although Dagobah has for the most part followed the IMF's recommendations after the crisis of 2001, its debt, now estimated at more than US\$ 400 billion, is unsustainable*", and suggesting several measures that would enable the State to reduce its debt-to-GDP ratio to a more acceptable level within the next decade. Among such measures, the IMF suggested the implementation of a new sovereign debt restructuring that would reduce its debt.
16. The IMF also stated that, with the support of several States, it could facilitate a bailout estimated at US\$150 billion, as long as Dagobah refinanced and reduced its outstanding debt in bonds through an exchange offer [**Appendix 4**]. Most of the bailout resources would be used to ensure Dagobah's financial stability.
17. On 28 May 2012, Dagobah enacted the Sovereign Restructuring Act ("SRA") [**Appendix 5**], applicable to all bonds governed by Dagobah's law, which provided that if a qualified majority of the owners of 75% of the aggregate nominal value of all outstanding bonds governed by domestic law agreed to modify the terms of the bonds, that decision would bind all the remaining bondholders. Before the adoption of the SRA, the affected bonds did not allow for amendment unless all bondholders agreed to it.
18. On 29 November 2012, the Dagobah government offered bondholders the option to exchange their bonds for new ones worth approximately 70% of the net value of the outstanding sums under the original bonds. The exchange offer observed the IMF's policies regarding sovereign debt restructuring.
19. Since Dagobah's law governed the vast majority of restructured bonds and more than 85% of holders of bonds that were subjected to the SRA decided to participate in the exchange offer, on 12 February 2013 all of such bonds were exchanged for new ones on the terms provided by the

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exchange offer. The offer was also extended to the remaining creditors, who possessed bonds governed by other laws, almost all of which accepted the offer.

20. In contrast to the old bonds, which were governed by Dagobah's law and contained a forum selection clause granting exclusive jurisdiction to Dagobah's courts over any disputes arising therefrom, the new bonds were governed by the law of the Kingdom of Yavin, an international financial hub customarily chosen in international financial and capital market transactions. The new bonds also specified Yavin's courts as the forum for resolving disputes related to them.
21. The new bonds also included provisions regulating collective action (Collective Action Clauses, 'CACs'), which related both to the collective change of the bond terms as well as to the enforcement of any of the current bonds' contractual obligations. The CACs provided that if bondholders wanted to initiate any legal action, they would need to gather at least 20% of the nominal value of the issue in order to sue. Such a clause was absent in the old bonds.
22. On 30 August 2013, Calrissian & Co., Inc. ("Calrissian"), a Corellian hedge fund that holds a number of sovereign bonds subjected to the SRA and was among the holdout minority, commenced arbitral proceedings before the Arbitration Institute of the Stockholm Chamber of Commerce ("SCC") pursuant to the investor-State dispute settlement provision contained in the Corellia-Dagobah BIT, Article 8, and also referring to the decision on interpretation rendered by the PCA Arbitral Tribunal.
23. Calrissian (i) appointed Ms. Crusher, a prominent practitioner in the field of international arbitration, to act as an arbitrator, (ii) claims that the adoption of a collective action mechanism with retroactive effects through the enactment of the SRA, associated with the sovereign debt restructuring conducted by Dagobah, constituted a violation of the fair and equitable treatment standard of protection contained in Article 2(2) of the BIT and (iii) requests full compensation for the losses incurred.
24. After the SCC Board of Directors decided, pursuant to Articles 9 and 10 of the Arbitration Rules, that the SCC did not manifestly lack jurisdiction over the dispute, the SCC Secretariat confirmed to Calrissian receipt of the notice of arbitration and notified Dagobah of the Request.
25. In its Answer of 4 October 2013, Dagobah argues that Calrissian is not entitled to pursue arbitration since its sovereign bonds are not investments within the meaning of the Corellia-Dagobah BIT and therefore outside the scope of its protections, and that an SCC Arbitral Tribunal should not be bound by the PCA Arbitral Tribunal's interpretation. Dagobah also

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alleges that the PCA decision does not address the bonds that are the subject matter of these SCC proceedings, that its effects are in any event restricted to the crisis faced by Dagobah in 2001, and to suggest that that decision effectively amounts to an amendment of the BIT between the contracting States ignores fundamental principles of international law. Moreover, Dagobah argues that the SCC Tribunal should hold the claims inadmissible in view of the forum selection clause contained in the old sovereign bonds.

26. On the merits, Dagobah as the respondent State argues that measures related to the restructuring did not amount to a violation of the fair and equitable treatment standard. In any case, it alleges that the measures were taken according to the governing law and that it proceeded justifiably and in good faith. According to Dagobah, the measures were taken in its efforts to reduce its debt down to sustainable levels without compromising the basic functions of the State and to regain access to the world's capital markets, as authorized by Article 6 of the BIT. In its Answer, Dagobah appointed Prof. Riker, a leading scholar in the field of international law, as arbitrator.
27. On 28 November 2013, the SCC Board appointed Mr. Picard, an experienced arbitrator who has participated in a great number of arbitral proceedings, as the chairperson of the Arbitral Tribunal, determined the amount of the advance on costs, and designated Alderaan, in the Kingdom of Yavin, as the seat of arbitration.
28. Following the payment of the advance on costs by the parties, the case was referred to the Arbitral Tribunal on 8 January 2014.
29. On 3 February 2014, the Arbitral Tribunal issued Procedural Order No. 01, through which it determined several details including: deadlines for the submission of clarification requests and memorials; date and place for hearings; and issues to be addressed at this stage in the proceedings [the relevant procedural history is available at **Appendix 6**].

LIST OF APPENDIXES¹

- Appendix 1:** Corellia-Dagobah Bilateral Investment Treaty
- Appendix 2:** Award rendered by the PCA Arbitral Tribunal
- Appendix 3:** Dissenting Opinion rendered in the PCA Arbitral Proceedings
- Appendix 4:** News article “Dagobah’s economic crisis in context”
- Appendix 5:** Dagobah’s Sovereign Restructuring Act
- Appendix 6:** Procedural History

¹ Parts of the attached documents that are deemed irrelevant for the analysis of the present case were purposefully omitted.

APPENDIX 1

AGREEMENT BETWEEN THE CORELLIAN REPUBLIC AND THE FEDERAL REPUBLIC OF DAGOBAH FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Corellian Republic and the Government of the Federal Republic of Dagobah (hereinafter the “Parties”);

Desiring to promote greater economic cooperation between them with respect to investment by nationals of one Party made in the territory of the other Party;

Recognizing that agreement on the treatment to be accorded such investment will stimulate the flow of private capital and the economic development of the Parties;

Agreeing that a stable framework for investment will maximize effective utilization of economic resources and improve living standards;

Recognizing the importance of providing effective means of asserting claims and enforcing rights with respect to investment under national law as well as through international arbitration;

Have agreed as follows:

Article 1 – Definitions

For the purposes of this Treaty:

“**investment**” means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

- i. an enterprise;
- ii. shares, stock, and other forms of equity participation in an enterprise;
- iii. turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;
- iv. intellectual property rights;
- v. licenses, authorizations, permits, and similar rights conferred pursuant to domestic law;
- vi. other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges.

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“investor of a Party” means a Party or a national of a Party that attempts to make, is making, or has made an investment in the territory of the other Party.

“national of a Party” means:

- (a) any natural person holding the legal nationality of a Party, provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his or her dominant and effective nationality;
- (b) any legal person established in the Territory of one of the Parties in accordance with the respective national legislation such as public establishments, joint-stock corporations or partnerships, foundations or associations, regardless of whether their liability is limited or otherwise.

“returns” means the amounts yielded by an investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees.

“territory” means the territory of the Parties, as well as the territorial sea and any maritime area situated beyond the territorial sea of the Party concerned which has been or might in the future be designated under the national law of the Party concerned in accordance with international law as an area within which the Party concerned may exercise rights with regard to the sea-bed and subsoil and the natural resources.

Article 2 – Promotion and Protection of Investments

1. Each Party shall encourage and create favourable conditions for investors of the other Party to invest capital in its territory, and, subject to its right to exercise powers conferred by its laws, shall admit such capital.
2. Investments of each Party or of nationals of each Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Party. Neither Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investment in its territory of nationals of the other Party.
3. Neither Party shall in its territory subject investments of the other Party or of nationals of the other Party to treatment less favourable than that which, in like circumstances, it accords to investment or returns of its own nationals or companies or to investments or returns of nationals of any third State.

Article 3 – Compensation for Losses

Investors of one Party whose investments in the territory of the other Party suffer losses owing to war or other armed conflict, revolution, a state of emergency, revolt, insurrection or riot in the territory of the latter Party shall be accorded by the latter Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Party accords to its own nationals or companies or to investors of any third State. Resulting payments shall be freely transferable.

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Article 4 – Expropriation

1. Neither Party may expropriate or nationalize a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization (“expropriation”), except:
 - (a) for a public purpose;
 - (b) in a non-discriminatory manner;
 - (c) on payment of prompt, adequate, and effective compensation.
2. The compensation referred to in paragraph 1(c) shall:
 - (a) be paid without delay;
 - (b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (“the date of expropriation”);
 - (c) not reflect any change in value occurring because the intended expropriation had become known earlier; and
 - (d) be fully realizable and freely transferable.
3. The affected investor shall have a right, under the law of the Party making the expropriation, to prompt review, by a judicial or other independent authority of that Party, of its case and of the valuation of its investment in accordance with the principles set out in this paragraph.
4. Where a Party expropriates the assets of a company which is incorporated or constituted under the law in force in any part of its own territory, and in which nationals or companies of the other Party own shares, the provisions of previous paragraphs of this Article shall apply.

Article 5 – Repatriation of Investment and Returns

Each Party shall in respect of investments guarantee to investors of the other Party the unrestricted transfer of their investments and returns. Transfers shall be effected without delay in the convertible currency in which the capital was originally invested or in any other convertible currency agreed by the investor and the Party concerned. Unless otherwise agreed by the investor transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

Article 6 – Essential Security

Nothing in this Treaty shall be construed:

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1. to require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or
2. to preclude a Party from applying measures that are necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

Article 7 – Settlement of Disputes between the Parties

1. Any dispute between the Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled by consultation through diplomatic channels.
2. If a dispute between the Parties cannot thus be settled, it shall, upon the request of either Party, be submitted to an arbitral tribunal for binding decision in accordance with the applicable rules of international law. In the absence of an agreement by the Parties to the contrary, the Arbitration Rules of 1976 of the United Nations Commission on International Trade Law (UNCITRAL), except to the extent modified by the Parties, shall govern the arbitration. The arbitration shall be administered by the Permanent Court of Arbitration.
3. Within two months of receipt of a request, each Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who shall be a national of a third State. The UNCITRAL Rules for appointing members of three member panels shall apply mutatis mutandis to the appointment of the arbitral panel except that the appointing authority referenced in those rules shall be the Secretary General of the Permanent Court of Arbitration.
4. The arbitral tribunal shall reach its decision by a majority of votes. Each Party shall bear the costs of its own representation in the arbitral proceedings. The costs and expenses incurred by the Chairman, the other arbitrators, and other costs of the proceedings shall be paid for equally by the Parties. The Tribunal may, however, at its discretion, direct that a higher proportion of such costs be paid by one of the Parties.

Article 8 – Settlement of Disputes between Investors of One Party and the Other Party

1. Any legal dispute between an investor of one Party and the other Party in connection with an investment shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.
2. Each Party hereby consents to submit a dispute referred to in paragraph (1) of this Article, to binding arbitration before:
 - (a) the Centre for the Settlement of Investment Disputes Between States and Nationals of Other States, in the event that the Republic of Dagobah becomes a party to the Convention on the Settlement of Investment Disputes Between

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States and Nationals of Other States done at Washington, March 18, 1965 ("Convention") and the Regulations and Rules of the Centre;

(b) the Additional Facility of the same Centre; or

(c) the Arbitration Institute of the Stockholm Chamber of Commerce.

3. The tribunal shall decide the issues in dispute in accordance with this Agreement, any other applicable agreements between the Parties, any relevant rules of international law and, where applicable, any relevant domestic law of the disputing Party.
4. The place of any arbitration conducted under this Article shall be a country which is, at the time of the arbitration, a party to the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards and each Party undertakes to carry out without delay the provisions of any award resulting from an arbitration held in accordance with this Article. Further, each Party shall provide for the enforcement in its territory of such arbitral awards.

Article 9 – Subrogation

1. If one Party or its designated Agency makes a payment under an indemnity given in respect of an investment in the territory of the other Party, the latter Party shall recognize the assignment to the former Party or its designated Agency by law or by legal transaction of all the rights and claims of the Party indemnified and that the former Party or its designated Agency is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the investor indemnified.
2. The former Party or its designated Agency shall be entitled in all circumstances to the same treatment in respect of the rights and claims acquired by it by virtue of the assignment and any payments received in pursuance of those rights and claims as the indemnified investor was entitled to receive by virtue of this Agreement in respect of the investment concerned and its related returns.
3. Any payments received in non-convertible currency by the former Party or its designated Agency in pursuance of the rights and claims acquired shall be freely available to the former Party for the purpose of meeting any expenditure incurred in the territory of the latter Party.

Article 10 – Application of Other Rules

If the provision of law of either Party or obligations under international law existing at present or established hereafter between the Parties in addition to the present Agreement or if any agreement between an investor of a Party and the other Party contain rules, whether general or specific, entitling investments by investors of the other Party to a treatment more favourable than is provided for by the present Agreement, such rules shall to the extent that they are more favourable prevail over the present Agreement.

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Article 11 – Entry Into Force

This Agreement shall become effective on the date on which both Parties have notified the other of the ratification of this Agreement in accordance with their respective constitutional procedures.

Article 12 – Duration and Termination

This Agreement shall remain in force for a period of ten years. Thereafter it shall continue in force until the expiration of twelve months from the date on which either Party shall have given written notice of termination to the other. In respect of investments made whilst the Agreement is in force, its provisions shall continue in effect with respect to such investment for a period of ten years after the date of termination and without prejudice to the application thereafter of the rules of general international law.

IN WITNESS WHEREOF, the undersigned being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE IN Geneva, this thirtieth day of June, in the year one thousand nine hundred ninety two, in English.

FOR THE GOVERNMENT OF THE
CORELLIAN REPUBLIC

FOR THE GOVERNMENT OF THE
FEDERAL REPUBLIC OF DAGOBAH

APPENDIX 2

PERMANENT COURT OF ARBITRATION

PCA CASE NUMBER 000-00

IN THE ARBITRATION PROCEEDINGS BETWEEN

THE CORELLIAN REPUBLIC

- AND -

THE FEDERAL REPUBLIC OF DAGOBAN

AWARD OF THE ARBITRAL TRIBUNAL

THE ARBITRAL TRIBUNAL:

JUDGE JOSEPH OF THE MOUNTAIN (PRESIDENT)
PROFESSOR ANUSCHKA ZVEZDA
PROFESSOR ANDREAS JEGER

THE HAGUE, 29 APRIL 2003

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[...]

D. Conclusions

Considering the abovementioned, the Arbitral Tribunal holds that:

(i) Definition of Investment under the BIT

The term “investment” under the BIT is defined in Article 1 in very broad terms, adopting comprehensive expressions such as “every asset ... that has the characteristics of an investment”. In the same sense, as it is possible to observe in the sentence “Forms that an investment may take include” (emphasis added), the provision adopts a non-exhaustive list of examples of assets or other undertakings that qualify as such.

Moreover, in the BIT, the parties chose not to provide an exact and rigorous test as to which features constitute “characteristics of an investment”. Instead, Article 1 merely mentions three possible features (“including such characteristics as”), in rather vague terms.

For the reasons stated throughout this Award, it appears consistent with the object and purpose of the Treaty and the intentions of the Contracting States to give a broad and comprehensive meaning to the term investment as defined therein and which they considered to be within the framework of the BIT.

Notwithstanding the fact that the list of examples does not expressly refer to sovereign bonds, as seen above, sovereign bonds fulfill all three of the characteristics of investment included in the definition: the commitment of capital (acquisition of the bond); the expectation of gain (interest payments and other promises); and the assumption of risk (which became so clear with the very occurrence of the crisis that it deserves no further explanation).

Thus, the Arbitral Tribunal finds that the language of Article 1 is broad and permissive enough to allow the acquisition of sovereign bonds to be qualified as an “investment” within the meaning of the BIT, in which case such bonds may enjoy the protection granted by the standards contained therein.

(ii) Sovereign Bond’s Territorial Link

Regarding the issue of whether the sovereign bonds, as investments, lack a territorial link with Dagobah, the Arbitral Tribunal is of the opinion that, when determining the existence of a territorial link between the investment and the host State, it is necessary to ultimately consider the place in which the funds deriving from the acquisition will be used.

The fact that the transaction in itself may take place in a State other than the issuing State or that the bonds may have been paid with reference to a currency different from that of the host State does not prevent a commitment of funds to the host State and, therefore, does not prevent an investment from having a territorial link with the issuing State.

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Consequently, the funds deriving from the acquisition of sovereign bonds were finally used in and by Dagobah and, for this reason, being an “investment” of a financial nature, the acquisition does not lack a link with Dagobah’s territory.

(iii) Recourse to International Arbitration

Considering the above, this Arbitral Tribunal has reached the conclusion that, because sovereign bonds are “investments” pursuant to Article 1 of the BIT, so long as all other requirements are met, an international arbitral tribunal constituted in accordance with the BIT’s investor-State dispute settlement provision would have jurisdiction over treaty claims raised by holders of bonds issued by State parties to the treaty.

Accordingly, this Arbitral Tribunal considers that, assuming that a potential bondholder claimant can establish a *prima facie* violation of the treaty, an investor-State tribunal would be able to establish its jurisdiction. In that sense, bondholders that are nationals of one of the Contracting Parties may resort to international arbitration pursuant to Article 8 of the BIT against the other Contracting Party.

[...]

Decision

For the reasons stated above, the majority of the Arbitral Tribunal finds that:

- (i) sovereign debt bonds issued by State parties to the treaty qualify as “investments” within the meaning of the BIT since (a) the language of Article 1 is broad and permissive and (b) the bonds do not generally lack a territorial link;
- (iii) bondholders may resort to international arbitration pursuant to Article 8 of the BIT, assuming other conditions are met; and
- (iv) in regard to costs, fees and expenses, [*omitted*].

So decided in The Hague, 29 April 2003.

/s/

Judge Joseph of the Mountain (President)

/s/

Professor Anuschka Zvezda

[Dissenting Arbitrator]

Professor Andreas Jeger

APPENDIX 3

PERMANENT COURT OF ARBITRATION

PCA CASE NUMBER 000-00

IN THE ARBITRATION PROCEEDINGS BETWEEN

THE CORELLIAN REPUBLIC

- AND -

THE FEDERAL REPUBLIC OF DAGOBAN

DISSENTING OPINION BY PROFESSOR ANDREAS JEGER

THE HAGUE, 19 MAY 2003

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[...]

2. Definition of Investment Under the BIT

[...]

88. Considering the abovementioned, it becomes clear that Article 1 – or any other treaty provision – provides no evidence at all that the Parties intended to protect sovereign bonds as investments under the BIT.

89. As a matter of fact, the provision does not list debt instruments as assets protected within the BIT's framework. Unlike similarly drafted BITs, the Corellia-Dagobah BIT makes no express reference to “financial instruments” as investments.

91. This does not come as a surprise, since bonds and the means through which they can be acquired resemble commercial transactions that can hardly be considered an investment, even if one applies the flexible test provided by Article 1. At most, as they are subject to the high volatility of financial markets, sovereign bonds could be considered portfolio investments, which are in most cases not covered by international investment protection instruments.

92. In this sense, sovereign bonds present solely a commercial risk instead of long-term investment risk. Since bonds are mere promises to pay, the only existing risk is that of default, *i.e.* of non-payment, as in any commercial or contractual transaction. On the other hand, the purpose of BITs is to protect investments against risks associated with political acts, rather than commercial ones.

93. In any event, even if some bonds could be considered as a protected investment under the treaty, it is not possible to provide a one-size-fits-all answer. In this sense a broad and encompassing interpretation as the one given by the majority of the Arbitral Tribunal is problematic. This controversial topic of investment law should always be analyzed on a case-by-case basis. Given that there are many different types of bonds, it is rather difficult to determine in the abstract all of the types of bonds that would or would not satisfy the BIT conditions.

94. Therefore, in this arbitrator's opinion, the majority's decision contains a serious flaw: it refers generally to any type of bond in an attempt to supplement the language of the BIT, while, at the same time, it pursued an analysis focused on the specific circumstances of the crisis currently faced by Dagobah and of the bonds affected by the latter's sovereign debt restructuring.

95. Consequently, the definition of “investments” contained in Article 1 of the Corellia-Dagobah BIT cannot be interpreted as including sovereign bonds issued by state parties to the treaty, especially in the terms provided by the decision rendered by the majority of the Arbitral Tribunal on 29 April 2003.

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3. The Sovereign Bond's Lack of Territorial Link

[...]

121. As opposed to the decision of the majority of the Arbitral Tribunal, my view is that the fact that Dagobah does not have control over the subsequent fate of the bonds when they are traded on the secondary market renders the referenced bonds outside the protection and scope of the BIT.

122. In fact, it would not be feasible for an issuing State to directly participate in the subsequent acquisitions by third parties or to control how the initial underwriters divide and trade the bond entitlements. As Dagobah was and remains completely unaware of the identity of Corellian bondholders and was not involved in any kind of negotiations whatsoever with such bondholders, it is clear that there is no link that could satisfy the requirement of territoriality, inherent in any definition of foreign investment subject to international investment protection.

123. In light of the above, the sovereign bonds acquired by Corellian nationals cannot be considered investments in the absence of a true territorial link.

[...]

5. Concluding Observations

153. In conclusion, I regret I cannot join the majority of the Arbitral Tribunal. I stand in clear opposition to their conclusions and, most of all, to the reasoning that led them to such conclusions.

154. Sovereign bonds are very diverse and generalizations will be misleading; if a broad statement has to be made, then it should be that bonds are not investments. In particular, the majority made a broad pronouncement based solely on the unique facts related to a specific type of bond, which, in any case, do not provide any basis to characterize them as investments.

155. Consequently, my position is that sovereign debt bonds cannot in the majority of cases be qualified as an investment under the Corellia-Dagobah BIT, since (i) the language used in the BIT does not permit such an extensive interpretation as to encompass those instruments within the definition of investment; and (ii) the absence of a territorial link prevents sovereign bonds from being qualified as investments. For that reason, bondholders may not resort to arbitration pursuant to the investor-state provision contained in the BIT.

156. Therefore, with the due respect to my colleagues I present this Opinion dissenting from the majority's Award.

(signed)

Professor Andreas Jeger

The Hague, 18 June 2003.

The Global Financial Herald

12 December 2011

Dagobah's economic crisis in the context

By E. Brock, international correspondent in Dagobah

International financial markets fear that Dagobah might be yet another country joining the club of defaulting states harshly affected by the global economic and financial crisis. It looks more than probable that the country will soon be experiencing its second sovereign debt restructuring in the last eleven years.

Although the country claims it has been implementing the recommendations issued by international multilateral institutions, such as the International Monetary Fund, in the years following its 2001 default, many have criticised its expansive borrowing policy, which has not been complemented by adequate reforms on the revenue side. The same critics have also opined that strict austerity measures conditioning the IMF's debt relief suffocated the economy and did not bring about the necessary economic recovery. As a result Dagobah was not prepared for the difficult times brought about by the 2008 economic crisis. In this article, we briefly describe the events surrounding the current economic meltdown in which the federation has found itself.

Generous support received from the IMF after the 2001 default helped Dagobah to overcome the immediate crisis, and in 2003 Dagobah was considered to be past the most difficult period. Currently, most of Dagobah's debts are in form of bonds held by millions of private investors all over the world. An optimistic estimate of Dagobahian economic capacity made investors believe that post-2003 Dagobah was a safe haven in which to invest. It seemed that the 2001 default and the following crisis were soon forgotten in the international financial markets. It was believed that the restructuring effected by Dagobah in 2001 was a solution to a crisis of liquidity, rather than one of solvency. This assessment has proven not entirely correct. The tough reality of the global economic recession has quickly sobered many.

The still fragile Dagobahian economy, relying mostly on financing through borrowing, could not generate enough revenues in order to service its debt, which by 2010 reached unsustainable levels once again. Also the price of oil, which had increased after 2001, contributed to the bust apparently awaiting the Dagobahian economy. In addition, it is also believed that the significant issue of tax

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evasion had remained long unaddressed, which, when combined with the austerity measures recommended by the IMF, became even more pronounced and amplified the government's revenue crisis.

Low levels of public spending did not generate the growth needed to prepare the recovering economy for the global recession. Investors became far more cautious after the 2008 financial crisis, and Dagobah thus found itself unable to secure additional funds on the international financial markets on terms that it would be reasonably able to fulfil. Official creditors, including the IMF, have made it clear that they will not provide more money to bail out Dagobah, unless the country ensures participation of private creditors through a debt restructuring. Thus, it seems probable that we will witness yet another sovereign debt restructuring in the near future.

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THE CONGRESS OF THE FEDERAL REPUBLIC OF DAGOBAH

approved the following

Sovereign Debt Restructuring Act No. 45/12

Preamble

Considering the circumstances of the Federal credit ensuing from the global economic recession;

Considering the urgency of adopting measures necessary to protect essential security interests of the Federal Republic of Dagobah;

Considering the recommendations by international financial institutions, including the International Monetary Fund, to adopt debt-restructuring measures;

Desiring to alleviate the current situation and return the Federal Republic of Dagobah to a healthy credit state;

Desiring to protect and fulfill the fundamental duties the Federal Republic of Dagobah owes towards its population and international community;

The Congress has approved the following.

Article 1

1. For the purposes (application) of this Act the following terms are defined as follows:

a) A **‘title (instrument)’** is considered a bond, debenture or other title (instrument) of debt, in physical or dematerialized form (registered or book entry form), governed by Dagobahian law and whose:

aa) issuer or guarantor is the Federal Republic of Dagobah (Dagobah),

bb) original duration (maturity) at the time of the first issuance exceeds twelve months and

cc) issuing date precedes the 31st December 2011.

APPENDIX 5

b) An **‘eligible title (security)’** is considered any title (security) specified by decision of the Ministerial Council and by invitation of the Federal Republic of Dagobah, as defined in Article 2.

c) An **‘outstanding capital’** is considered the capital (amount) of the eligible title (security) which has not been paid (redeemed) according to the terms of the eligible title (security) on the date specified by the invitation, and **‘aggregate outstanding capital’** is considered the sum of all outstanding capitals (amounts) of all eligible titles (securities) which are defined in the relevant decision by the Ministerial Council and the corresponding invitation of the Federal Republic of Dagobah, as provided in article 2 (‘invitation’), with no regard to the series, duration (maturity), interest rate (coupon) or other individual characteristics of the eligible titles (securities).

d) An **‘amendment’** of titles (securities) is considered the change or addition of terms to one or more of the eligible titles (securities) or the exchange of one or more of the eligible titles (securities) with one or more new titles (securities).

e) A **‘new title (security)’** is considered a bond, debenture, other title (security) of lending (instrument of debt) or guarantee, or financial instrument, in a physical or dematerialized form (registered or book entry form), or an equivalent of the above for the purpose of applying foreign provisions, that is exchanged for one or more eligible titles (securities) that are amended. If the new title (security) is a financial instrument it is accepted to have its performance (return) linked to the GDP.

f) A **‘Bondholder’** is considered to be a participant who is registered under the System for Monitoring Transactions in Book-entry Securities (the "System") of paragraph 3 of Article 3 of Law 21/1962 (‘The Capital Market Transactions Act’), to the accounts of which, in the system, the eligible titles (securities) are registered, as specified in the invitation.

g) The **‘Process Manager’** is considered the Bank of Dagobah.

h) An **‘investor’** is considered:

aa) for titles (securities) monitored by the System, to be one who has a claim on or under the title (security) according to the provisions of paragraphs 2 and 4 of Article 6 and Articles 7 and 8 of Law 21/1962, and

bb) for titles (securities) that are not monitored from the System, to be the bondholder.

i) A **‘participation’** in the decision-making process of paragraph 6 of article 2 shall mean exclusively, the positive or negative vote of the Bondholder who owns outstanding capital of eligible titles.

Article 2

1. The Ministerial Council, following the suggestion of the Minister of Finance, will launch the procedure for amending the eligible titles (securities) held by the

APPENDIX 5

Bondholders, determine the eligible titles (securities) and upon exchange define the capital (principal) or nominal amount, the interest rate (coupon) or the yield to maturity, the duration (maturity), and specify the Yavinian or other law which will govern the new titles (securities) to be issued by the Federal Republic of Dagobah.

The invitation will call the Bondholders of the eligible titles (securities) specified in it to decide, within a certain timeframe, whether they accept the amendment of the eligible titles (securities), as proposed by the Federal Republic of Dagobah and in accordance to the (described) procedure of this article.

In the invitation will be defined inter alia:

- a) the eligible titles (securities),
- b) the terms which are proposed to be amended,
- c) the new content of the terms,
- d) any new terms,
- e) upon exchange of the eligible titles (securities), the terms of the new titles (securities), as defined by decision of the Ministerial Council and their additional conditions, such as the subdivisions of the title (security), the grace period, the currency (denomination), the terms and means of payment, repayment and repurchase (buyback), the reasons for termination (events of default), the negative obligations of the issuer (negative pledges), the appointment rights and obligations of the Bondholders' trustee, the collective action clauses of the new titles, etc.
- f) the period within which the bondholders of the eligible titles (securities) are required to decide, and
- g) the particular terms and mechanism for participating in the decision-making process.

2. The invitation shall be served to the Process Manager and published on the Internet as specified herein. The deadline for a decision cannot be less than ten (10) days from the date of the publication of the invitation.

3. Bondholders may participate in the process with some or all of the eligible titles they own. For the eligible titles (securities) to be amended, a quorum of at least half of the aggregate outstanding capital ("participating capital") will be required to participate in the process, and a qualified majority in favor of the amendment of at least seventy five per cent (75%) of the participating capital will have to vote to approve the exchange.

[...]

6. The participation of a Bondholder in the decision-making process of this Article will be considered, with regard to the Process Manager, the Federal Republic of Dagobah, and their assignees, to be performed in accordance with the direction and with the consent of the investor. The above-mentioned shall not be liable to the Bondholder or any third party if a Bondholder participates in the process without the consent of the investor or in violation of his instructions.

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7. The decision of the Bondholders will be certified by an act of the Process Manager, which is to be published in the same manner as the invitation and is to be approved by a decision of Ministerial Council, which will be published in the Government Gazette.

8. Since the approval decision of the Ministerial Council will be published in the Government Gazette, the decision of the Bondholders, as witnessed by the Process Manager, applies erga omnes, binds the bondholders and investors of the eligible titles (securities) as a whole and prevails over any potential contrary legislation, of any kind, general or specific provisions of law or regulation issued by the administration or agreement. In the case of exchange of the eligible titles (securities), the eligible titles (securities) that are superseded will be cancelled automatically with the registration in the System of the new titles (securities) and any right or obligation derived therefrom, including all rights and obligations that at any time formed part of them, will be extinguished.

9. The issuance of the new titles (securities) will be conducted upon the decision of the Minister of Finance which is published in the Official Gazette. Any specific technical issue necessary to implement the provisions of this Article may be adjusted by decision of the Minister of Finance which is published in the Government Gazette.

10. The provisions of this Article aim to protect the supreme (overriding) public interest, are mandatory rules effective immediately, and prevail over any contrary legislation of general or special provisions or regulations issued by the administration or agreements. Their application does not generate or activate any contractual or statutory right in favor of the bondholders or the investors, nor does it activate any contractual or statutory obligation against the issuer or guarantor of the titles (securities), except for those that are explicitly referred to in the provisions of this Article.

Article 3

The validity of the present law commences from the publication in the Government Gazette, unless it is specified otherwise in the individual provisions.

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**ARBITRATION PURSUANT TO THE RULES OF ARBITRATION OF THE
ARBITRATION INSTITUTE OF THE STOCKHOLM CHAMBER OF COMMERCE**

Calrissian & Co., Inc.

(Claimant)

v.

The Federal Republic of Dagobah

(Respondent)

REQUEST FOR ARBITRATION

30 August 2013

APPENDIX 6

1. **Calrissian & Co., Inc.** (“Clarissian Fund” or “Claimant”), submits the present Request for Arbitration against the **Federal Republic of Dagobah** (“Dagobah” or “Respondent”) pursuant to Art. 8 of the Agreement between the Corellian Republic and the Federal Republic of Dagobah for the Promotion and Protection of Investments (“BIT”; *Exhibit A*), and in accordance with Art. 2 of the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (“SCC Rules”).

I. Facts

2. The Claimant is a hedge fund incorporated in, and in accordance with the laws of, the Corellian Republic, which has acquired a number of sovereign bonds issued by Respondent (*Exhibit B*) [*exhibit omitted*].

3. On 28 May 2012, Respondent enacted the Sovereign Restructuring Act (“SRA”; *Exhibit C*), which was deemed applicable to all bonds governed by Dagobah’s law and provided that a qualified majority of 75% of the aggregate nominal value of all outstanding bonds governed by domestic law could modify the terms of the bonds and bind all of the remaining bondholders.

4. On ~~29 July~~ November 2012, the Dagobah government offered bondholders the option to exchange their bonds for new ones worth approximately 70% of the net value of the original bonds.

5. Claimant and other bondholders refused to participate in the exchange offer because of the drastic reduction in the bonds’ value. Despite this opposition, holders of bonds governed by Dagobah’s law representing more than 75% of the aggregate nominal value decided, on 12 February 2013, to participate in the exchange offer. On this basis, Respondent changed all of such bonds for new bonds in the terms provided by the exchange offer, including Claimant’s, giving a retroactive effect to the SRA that caused many losses to Claimant.

II. Jurisdiction of the SCC and the Arbitral Tribunal

6. Article 8(2)(c) of the BIT expresses the contracting States’ consent to submit disputes between an investor of one Party and the other Party in connection with an investment “*to binding arbitration before: (...) (c) the Arbitration Institute of the Stockholm Chamber of Commerce*”, which language constitutes a valid offer to arbitrate. Claimant accepts such offer

APPENDIX 6

by the present Request for Arbitration, thus perfecting the parties' agreement to arbitrate. The claims against Respondent are in connection with an investment made by Claimant – acquisition of sovereign bonds issued by Respondent; thus, there is no doubt as to the jurisdiction of the Arbitral Tribunal to be constituted pursuant to the SCC rules.

7. In this respect, Claimant brings to the attention of the SCC and of the Tribunal the fact that, as a result of Dagobah's financial crisis in 2001, which led to its first sovereign debt restructuring, the State of Corellia initiated diplomatic discussions with Respondent to ensure that its nationals investing in Dagobah, including bondholders, were – definitely and without a doubt – protected by the BIT signed between the two States.

8. Given Dagobah's resistance to accepting this fact, Corellia initiated arbitral proceedings before the Permanent Court of Arbitration ("PCA") in order to have a final interpretative decision on the definition of investments covered by the treaty.

9. On 29 April 2003, the PCA Arbitral Tribunal issued a final and binding award (*Exhibit D*) deciding that sovereign bonds fell within the meaning of "investment" provided for by the BIT and consequently that Corellians holding bonds issued from Dagobah were entitled to the treaty's protection, including its investor-State dispute settlement mechanism.

10. Given that final decision, issued in accordance with Art. 7 of the BIT, there is no question that Claimant is an investor as defined by the BIT and that the Arbitral Tribunal to be constituted in these proceedings will have jurisdiction to hear and decide on its claims, further described below.

III. Merits

11. Claimant submits that the retroactive effect given to the collective action mechanism adopted in the SRA and the Respondent's ensuing restructuring of its sovereign debt in 2013 amounts to a violation of Art. 2 of the BIT.

12. Such provision is clear when imposing on each contracting State the obligation to accord "*at all times*" fair and equitable treatment to investments from nationals of the other contracting state, further ensuring that investors shall not be impaired the enjoyment of their investment "*by unreasonable or discriminatory measures*" from the host state.

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13. Indeed, the *unreasonable* measures adopted by Respondent in relation to its sovereign debt restructuring were coercive and violated certain previous warranties granted to Claimant, including, but not limited to, that of maintaining a stable economic and legal environment.

14. For that reason Claimant is entitled to full compensation for the losses incurred as a result of Respondent's sovereign debt restructuring and was left no choice but to resort to international arbitration in accordance to Art. 8 of the BIT.

IV. Appointment of Arbitrator

15. Pursuant to Arts. 2(vi) and 13(3) of the SCC Rules, Claimant hereby appoints Ms. Cheryl Crusher to act as an arbitrator in the present procedure. Her *curriculum vitae* and contact information are enclosed.

V. Registration Fee

16. Claimant has duly paid the Registration Fee (*Exhibit E*) as provided by Art. 3(1) of the SCC Rules and the SCC's Schedule of Costs currently in force (Appendix III of the SCC Rules).

VI. Prayer for Relief

17. For all the reasons set out in this Request for Arbitration, the Claimant respectfully requests the Arbitral Tribunal to find:

- a. that the retroactive effects of Respondent's Sovereign Restructuring Act, as well as other measures conducted by that state as part of its sovereign debt restructuring, violated Respondent's obligations under Art. 2 of the Corellia-Dagobah BIT;
- b. that Claimant is entitled to full compensation for the losses it incurred as a result of Dagobah's violations, including interest; and
- c. that Claimant is entitled to the restitution by Respondent of all costs related to these proceedings.

/ s /

Counsel for Calrissian & Co., Inc.

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ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

Stockholm, 9 September 2013

To:

Calrissian & Co., Inc.

Counsel:

Counsel for Calrissian & Co., Inc.

SCC Arbitration V 2013/063: Calrissian & Co., Inc. ./ Federal Republic of Dagobah

The Arbitration Institute of the Stockholm Chamber of Commerce (the SCC) hereby confirms receipt of your request for arbitration and payment of the registration fee.

The request for arbitration was sent to the respondent today.

The following persons at the SCC Secretariat will administer the case.

Lena Olsson

Legal Counsel

Lena.olsson@chamber.se

Dir.tel: +46 8 555 100 00

Anders Andersson

Assistant

Anders.andersson@chamber.se

Dir.tel: +46 8 555 100 00

Should you have any questions concerning the case or otherwise regarding the activities of the SCC, please do not hesitate to contact us.

Yours sincerely,

/s/

Lena Olsson

THE ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

Enclosed: [SCC Arbitration Rules](#)

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
P.O.Box 16050 SE-103 21 Stockholm Sweden	Malmskillnadsgatan 46 SE-111 57 Stockholm Sweden	+46 8 555 100 00	+46 8 566 316 50	arbitration@chamber.se	www.sccinstitute.com

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ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

Stockholm, 9 September 2013

To:
Federal Republic of Dagobah

Cc:
Counsel for Calrissian & Co., Inc.

SCC Arbitration V2013/063: Calrissian & Co., Inc. ./ Federal Republic of Dagobah

Calrissian & Co., Inc. has commenced arbitration in accordance with the SCC Rules.

In accordance with Article 5 of the SCC Rules, you are hereby requested to submit an answer to the SCC, by 10 October 2013.

You shall also submit a power of attorney for your counsel and inform the SCC of your value-added tax (VAT) registration number.

Yours sincerely,

/s/

Lena Olsson

ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

Encl: [SCC Arbitration Rules](#)
Request for Arbitration

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
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TO THE SECRETARIAT OF THE ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

CASE SCC No 00/2013

**ANSWER TO THE
REQUEST FOR ARBITRATION**

CLAIMANT:
CALRISSIAN & CO., INC.

RESPONDENT:
FEDERAL REPUBLIC OF DAGOBAN

DAGOBAN CITY, 4 OCTOBER 2013

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In response to the letter sent by the Secretariat of the Arbitration Institute of the Stockholm Chamber of Commerce (“SCC”) and pursuant to Article 5(1) of the 2010 SCC Arbitration Rules, the **FEDERAL REPUBLIC OF DAGOBAB (“Respondent”)** hereby submits its Answer to the Request for Arbitration presented by **CALRISSIAN & CO., INC. (“Claimant”)** on 30 August 2013.

I. Objection to these arbitral proceedings

1. Respondent contests the jurisdiction of the Arbitral Tribunal to be constituted in these proceedings since, contrary to Claimant’s allegations, this dispute is not an “investment dispute” capable of being submitted to arbitration pursuant to the Agreement between the Corellian Republic and the Federal Republic of Dagobah for the Promotion and Protection of Investments (“Corellia-Dagobah BIT” or “BIT”).
2. The claims brought forth by Claimant are related to sovereign bonds issued by Respondent, which in no way can be considered an “investment” within the meaning of the Corellia-Dagobah BIT.
3. Indeed, Article 1 of the BIT provides that:

“Article 1 – Definitions

For the purposes of this Treaty:

‘investment’ means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

- i. an enterprise;*
- ii. shares, stock, and other forms of equity participation in an enterprise;*
- iii. turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;*
- iv. intellectual property rights;*
- v. licenses, authorizations, permits, and similar rights conferred pursuant to domestic law;*
- vi. other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges.*

(...)”

4. It is clear from the above that the provision does not expressly include “sovereign bonds” among investments protected by the framework of the BIT and provides no indication whatsoever that such transactions, which are mere promises to pay, of a commercial nature, are within its scope.

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5. As is widely known, it is virtually impossible for a State to be directly involved in the acquisition – and further assignment – of its sovereign bonds by interested parties. Given those limitations, the said bonds lack all requirements of an investment, including a truly territorial link.
6. Notwithstanding this clear jurisdictional flaw, Claimant bases its Request for Arbitration on a 2003 decision rendered by an Arbitral Tribunal constituted in accordance to Article 7 of the BIT – its State-to-State dispute settlement provision – and pursuant to the UNCITRAL Arbitration Rules, conducted under the auspices of the Permanent Court of Arbitration. However, such a decision does not have on these proceedings the effects alleged by Claimant.
7. The effects of that decision were restricted to the context in which the latter was rendered, *i.e.* to the first economic crisis faced by Respondent in 2001 and to the bonds affected by the sovereign debt restructuring conducted then. Moreover, the decision, being of an interpretative nature and rendered by an *ad hoc* tribunal, is not capable of amending the BIT between the parties, which derives from the consent of both state parties, who did not mutually agree on protecting “sovereign bonds” through that international instrument.
8. Even if the earlier decision, as qualified by the dissenting opinion rendered on that occasion [**Respondent’s Exhibit A**], is considered to be persuasive in the context in which it was rendered, when its conclusion is applied to the specific bonds that are the subject matter of these proceedings, the result is the same: the Claimant is not authorized to resort to arbitration pursuant to Article 8 of the BIT since this is not an investment dispute.
9. Furthermore, an Arbitral Tribunal convened under a BIT is not entitled to decide on the present dispute due to the forum selection clause contained in the old sovereign bonds, which grants exclusive jurisdiction to Dagobah’s courts over disputes arising thereof, and, as a consequence, the tribunal should dismiss Claimant’s claims.

II. Denial of the relief sought by Claimant

10. In the event the Arbitral Tribunal finds that Claimant is entitled to pursue arbitration before the SCC and that it does have jurisdiction over the present dispute, Respondent submits that the relief sought by Claimant finds no support in the applicable law.
11. Regarding the alleged violation of the fair and equitable treatment standard of protection contained in Article 2(2) of the BIT, this Arbitral Tribunal shall find that Respondent’s

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measures related to the sovereign debt restructuring do not amount to such a violation, especially since they duly observed the bonds' governing law.

12. Finally and in any case, as authorized by Article 6 of the BIT, the state proceeded justifiably and in good faith in its efforts to reduce the debt to a sustainable level and to regain access to the world's capital markets, always observing recommendations issued by the International Monetary Fund and without compromising the state's basic functions.

III. Respondent's appointment of arbitrator

13. Without prejudice to its objection to these proceedings, Respondent would like to appoint as arbitrator Prof. Thomas Riker, with professional office in the Titan Law School, at #1 William Avenue, City of Titan, United Federation of Pegasus, e-mail t.riker@titanls.edu.ufp.
14. This appointment shall in no way be construed as an acceptance of the Arbitral Tribunal's jurisdiction.

IV. Communications

15. Finally, the Respondent requests that all communications regarding these proceedings be made solely to the attention of its counsel, through the contact details indicated below.

V. Prayers for relief

16. In light of the above Respondent respectfully requests the Arbitral Tribunal to find that:
 - a. it lacks jurisdiction under the BIT to decide the present dispute;
 - b. in the alternative, it is not entitled to rule on the claims asserted in view of the forum selection clause contained in the sovereign bonds;
 - c. furthermore, in the event the tribunal decides that it has jurisdiction, the relief sought by Claimant's has no support in the applicable law and thus should be denied; and
 - d. in any event Claimant shall pay for all costs related to these proceedings.

/ s /

COUNSEL FOR THE FEDERAL REPUBLIC OF DAGOBAH LLP

[*contact information*]

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ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

Stockholm, 8 October 2013

To:
Calrissian & Co., Inc.

Counsel:
Counsel for Calrissian & Co., Inc.

Cc:
Counsel for Federal Republic of Dagobah LLP

SCC Arbitration V 2013/063: Calrissian & Co., Inc. ./ Federal Republic of Dagobah

Please find enclosed a letter from the respondent dated 4 October 2013.

Any comments you may have regarding the above letter should be submitted to the SCC by 14 October 2013.

Yours sincerely,

/s/
Lena Olsson

ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
P.O.Box 16050 SE-103 21 Stockholm Sweden	Malmskillnadsgatan 46 SE-111 57 Stockholm Sweden	+46 8 555 100 00	+46 8 566 316 50	arbitration@chamber.se	www.sccinstitute.com

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Stockholm, 21 October 2013

ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

Cheryl Crusher
Thomas Riker

SCC Arbitration V2013/063: Calrissian & Co., Inc. ./ Federal Republic of Dagobah

We hereby confirm that you have been appointed as arbitrator in the above arbitration.

You are hereby kindly requested to inform the SCC whether the fee you will receive as chairperson/arbitrator in the above arbitration is subject to value-added tax (VAT) and, if so, at what percentage such VAT should be set, by 9 December 2013.

By the same date, you are further requested to submit your CV and the enclosed confirmation of acceptance form to the SCC. If possible, please send the documents by email.

Please do not hesitate to contact us if you have questions.

Yours sincerely,

/s/

Lena Olsson

ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
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ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

CONFIRMATION

SCC Arbitration 2013/063: Calrissian & Co., Inc. ./ Federal Republic of Dagobah

Confirmation of Acceptance

- I hereby confirm that I accept the appointment to serve as arbitrator in the above arbitration. I undertake to follow the Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce and accept to be remunerated in accordance therewith.

Confirmation of Availability

- I confirm that I, throughout the anticipated duration of the case, can and will dispose the time necessary in order for the case to be settled in the most expeditious and practical manner possible. I am aware that the Arbitrator promptly shall establish a preliminary timetable and that the final award shall be made within three months from the date upon which the arbitration is referred to the Arbitrator.

Confirmation of Independence *Please choose one of the following options*

- I hereby confirm that I am impartial and independent in the above arbitration. I am not aware of any circumstance that may give rise to justifiable doubts as to my impartiality or independence. If I become aware of any such circumstance I undertake to immediately inform, in writing, the parties thereof.
- I hereby confirm that I am impartial and independent in the above arbitration. In connection therewith I do, however, wish to make the following disclosure as to circumstances that may give rise to justifiable doubts as to my impartiality or independence;

.....
.....

Signature: Date:

Print name: Place:

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
P.O.Box 16050 SE-103 21 Stockholm Sweden	Malmskillnadsgatan 46 SE-111 57 Stockholm Sweden	+46 8 555 100 00	+46 8 566 316 50	arbitration@chamber.se	www.sccinstitute.com

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Stockholm, 28 November 2013

ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

Calrissian & Co., Inc.

Counsel for Calrissian & Co., Inc.

Federal Republic of Dagobah

Counsel for Federal Republic of Dagobah LLP

SCC Arbitration V 2013/063: Calrissian & Co., Inc. ./ Federal Republic of Dagobah

The SCC Board has made the following decision.

- (1) Appointed as chairperson of the arbitral tribunal is
Mr. Luc Picard
[*Personal information omitted*]
- (2) The seat of arbitration is Alderaan, Kingdom of Yavin.
- (3) The Advance on Costs is determined at EUR [*omitted*] to be paid by the parties in equal shares.

Calrissian & Co., Inc. shall pay EUR [*omitted*] and **Federal Republic of Dagobah** shall pay EUR [*omitted*]. The Registration Fee has been credited to the Claimant's part of the Advance on Costs. Payment shall be made by 7 January 2014 to the following bank account: [*omitted*]

Calrissian & Co., Inc. shall indicate **2013/063 C** and **Federal Republic of Dagobah** shall indicate **2013/063 R** as references.

As soon as the advances have been paid, the SCC will refer the case to the Arbitral Tribunal.

Yours sincerely,

/s/

Lena Olsson

ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

Encl: Arbitrator's CV and confirmation of acceptance

Copy (*by e-mail*):

Luc Picard, Cheryl Crusher, Thomas Riker

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
P.O.Box 16050 SE-103 21 Stockholm Sweden	Malmskillnadsgatan 46 SE-111 57 Stockholm Sweden	+46 8 555 100 00	+46 8 566 316 50	arbitration@chamber.se	www.sccinstitute.com

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ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

Stockholm, 8 January 2014

Lionel Picard
Cheryl Crusher
Thomas Riker

Cc:
Counsel for Calrissian & Co., Inc.

Counsel for Federal Republic of Dagobah LLP

SCC Arbitration V (2013/063): Calrissian & Co., Inc. ./ Federal Republic of Dagobah

The parties have paid the advance on costs amounting to EUR [*omitted*] in equal shares. The case is now referred to the arbitral tribunal. The final award shall be made by 8 July 2014.

During the course of the arbitration, the arbitral tribunal shall send the SCC:

- 1) Timetable
- 2) Statement of Claim and Statement of Defence
- 3) Decisions and Procedural Orders, and
- 4) Awards (final and separate)

Before making the final award, the arbitral tribunal shall request that the SCC determine the costs of the arbitration. The costs of the arbitration shall be included in the final award. Please allow two weeks for the determination of costs.

Yours sincerely,

/s/
Lena Olsson

THE ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

Enclosed: [Arbitrator's Guidelines](#)

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
P.O.Box 16050 SE-103 21 Stockholm Sweden	Malmskillnadsgatan 46 SE-111 57 Stockholm Sweden	+46 8 555 100 00	+46 8 566 316 50	arbitration@chamber.se	www.sccinstitute.com

APPENDIX 6

To: Arbitration Institute of the Stockholm Chamber of Commerce

Cc: Counsel for Calrissian & Co
Counsel for Federal Republic of Dagobah LLP

Alderaan, 20 January 2014

Ref: SCC Arbitration V2013/063: Calrissian & Co., Inc. v Federal Republic of Dagobah

REQUEST FOR TIME LIMIT EXTENSION

The arbitral tribunal, after consultation of the Parties on the matter, hereby requests the Board for an extension of the time limit for rendering the award in SCC Arbitration Case V2013/063, in accordance with Article 37 SCC Arbitration Rules.

The request is based on the significant factual and legal complexities of the case, which require longer periods for submission of written arguments, as well as holding of an oral hearing, in order to diligently consider the issues in dispute.

Yours sincerely,

/s/

Mr L. Picard (Chairperson)

/s/

Mrs C. Crusher (Arbitrator)

/s/

Prof. T. Riker (Arbitrator)

APPENDIX 6



ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

Stockholm, 27 January 2014

Luc Picard
Cheryl Crusher
Thomas Riker

Copy:

Counsel for Calrissian & Co., Inc.

Counsel for Federal Republic of Dagobah LLP

SCC Arbitration V 2013/063: Calrissian & Co., Inc. ./ Federal Republic of Dagobah

The arbitral tribunal has in a letter dated 20 January 2014 requested that the time for making the final award be extended.

The SCC has made the following decision.

The Final Award shall be made by 27 October 2014.

Yours sincerely,

/s/

Lena Olsson

ARBITRATION INSTITUTE OF THE
STOCKHOLM CHAMBER OF COMMERCE

Mailing address	Office/Courier	Telephone	Facsimile	Email	Website
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**ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE**

Calrissian & Co., Inc

v.

Federal Republic of Dagobah

Case SCC No 00/2013

Procedural Order No 1

Adopted on 3 February 2014

Members of the Tribunal:

Chairperson: Mister L. Picard

Mrs. C. Crusher

Professor T. Riker

For the Claimant

Counsel for Calrissian & Co Inc.

For the Respondent

Counsel for the Federal Republic of Dagobah
LLP

APPENDIX 6

Procedural Order No 1:

After consultation of the Parties *inter alia* by way of conference call held on 15 January 2014 and taking into account the Decision of the Board under Article 37 of the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (herein after the SCC Rules) to extend the time limit for completion of the proceedings in the present case by reason of its factual and legal complexity (notified to the Parties and the Tribunal 29 January 2014), the Tribunal adopts the following Order governing the Proceedings:

1. The seat of the Arbitration shall be Alderaan (Kingdom of Yavin), as determined by the Board in its decision of 28 November 2013.
2. The proceedings shall be governed by the SCC Rules and the Official Rules of the Foreign Direct Investment International Arbitration Moot, as agreed between the Parties. In case there is an inconsistency between the two, the latter shall prevail to the extent of the inconsistency.
3. The language of the Proceedings shall be English.
4. As agreed between the Tribunal and the Parties at the time of the conference call of 15 January 2014, the issues in dispute shall be addressed in two separate stages of the proceedings. In the first stage the following questions are to be discussed by the parties:
 - Whether the tribunal has jurisdiction over the dispute concerning the sovereign bonds owned by Claimant under the Corellia-Dagobah BIT;
 - What is the effect of the PCA Arbitral Tribunal's decision on the jurisdiction of the Tribunal in the present case;
 - Whether the Tribunal should rule on the claims asserted in view of the forum selection clause contained in the sovereign bonds;
 - Whether Respondent's debt restructuring measures amount to a breach of the fair and equitable treatment standard under the Corellia-Dagobah BIT;
 - Whether Respondent's actions are exempted from breaching the Corellia-Dagobah BIT, in case the debt restructuring was a measure necessary to safeguard the Respondent's essential security interests.

On the basis of the first stage of proceedings, the Tribunal will issue a Separate Award on Jurisdiction and Liability. All issues of quantum of damages and/or costs of the arbitral proceedings are to be reserved for the second procedural stage.

5. As agreed between the Parties and the Tribunal, the evidence that may be relied on in the arbitration will be limited to (i) facts, assertions contained in the Request for Arbitration and the Answer to it and documents appended thereto (with no admission being made by either of the Parties as to correctness of the inferences from facts asserted by the other Party in its respective submission); (ii) publicly available information; and (iii) responses to the

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questions presented by the Parties' counsel in accordance with the procedure described below:

- By 7 June 2014 factual questions that require clarification shall be posted in accordance with the procedure described at <http://www.fdimoot.org/>.
- The Parties shall then confer and seek to agree as soon as practicable on the responses to those questions. The Parties' agreed responses shall be appended to the case file at <http://www.fdimoot.org/>.
- By 16 August 2014 another set of factual questions may be posted in accordance with the same procedure referenced above. The responses to those questions shall be appended as described above.

6. The provisional timetable for the Proceedings shall be the following:

First Stage of the Proceedings:

- Only one round of written submissions shall be made by the Parties. The Statements of Claim and Statement of Defence are to be submitted to the tribunal no later than 20 September 2014. The Tribunal may direct the Parties to submit Skeleton Briefs if it finds them necessary for the proper consideration of the issues in dispute.
- Considering that it is appropriate to hold hearings in the present case, both Parties are invited to attend the hearings scheduled for 24 to 26 October 2014 at Pepperdine University School of Law in Malibu, USA.

Second Stage of the Proceedings: If a second stage of the proceedings is found necessary, the Parties and the Tribunal shall agree on the provisional timetable for its conduct after the Tribunal issues the Separate Award on Jurisdiction and Liability.

3 February 2014

/s/

Mr L. Picard (Chairperson)

/s/

Mrs C. Crusher

/s/

Prof. T. Riker

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**ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE**

Calrissian & Co., Inc

v.

Federal Republic of Dagobah

Case SCC No 00/2013

Procedural Order No 2

Adopted on 23 June 2014

Members of the Tribunal:

Chairperson: Mister L. Picard

Mrs. C. Crusher

Professor T. Riker

For the Claimant

Counsel for Calrissian & Co Inc.

For the Respondent

Counsel for the Federal Republic of Dagobah
LLP

APPENDIX 6

Procedural Order No 2:

After consultation of the Parties *inter alia* by way of conference call held on 9 June 2014, the Arbitral Tribunal adopts the following Order to register in the records the responses agreed by the Parties to certain factual questions raised by the arbitrators in the course of the proceedings:

The Legal Framework

7. To which conventions or treaties are Dagobah, Corellia and Yavin parties?

The 1969 Vienna Convention on the Law of the Treaties and the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards are the only conventions to which Dagobah, Corellia and Yavin are parties that may be relevant to the dispute before the Tribunal. The three countries are also members of the United Nations, the World Trade Organization, the International Monetary Fund and the World Bank, but they are not parties to the 1965 Convention on the Settlement Of Investment Disputes Between States And Nationals Of Other States.

8. Was the Corellia-Dagobah BIT ratified by both countries?

All ratification procedures were completed by Corellia and Dagobah and the BIT is deemed to be fully in force between them.

9. How is international arbitration regulated in Yavin?

Yavin has adopted the UNCITRAL Model Law on International Commercial Arbitration, in its 2006 version.

The PCA Award

10. After the award rendered by the PCA Tribunal, was there any other dispute involving the losses incurred by investors from Corellia due to the 2001 sovereign debt restructuring?

After Corellian bondholders accepted the restructuring offer made by Dagobah, there were no further problems with affected investors, even after the PCA Award. On the other hand, Dagobah's representatives publicly voiced their disagreement with the PCA majority's decision, but stated that since the negotiations with Corellian bondholders were successful and no further legal action was pursued, Dagobah would also not prolong the dispute by challenging the PCA Award.

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The Bonds Under Dispute

11. When were the sovereign bonds under dispute issued and when did Calrissian purchase them?

The bonds on which the claims are based (pre-SRA) were issued in August 2003 and were acquired by Calrissian in the secondary market in Corellia in 2005, when Dagobah's economy seemed stable and showing signs of recovery.

12. To which bonds do the terms "original bonds" (paragraph 18, p. 3) and "old bonds" (paragraph 20, p. 4) in the Uncontested Facts refer?

These terms refer to the bonds issued in August 2003 (*see* Clarification 5 *supra*). The dispute before the Tribunal is not concerned with bonds affected by the 2001 sovereign debt restructuring, but only with the bonds that were held by Claimant and were affected by the enactment of SRA and by the 2012 sovereign debt restructuring.

13. Was Calrissian among the investors from Corellia who were affected by the 2001 sovereign debt restructuring (paragraph 4, p. 1)?

No.

14. When is the bonds' Maturity Date?

The bonds under dispute had a maturity of 12 years.

15. Do the bonds contain a *pari passu* clause?

Yes.

16. What is the wording of the forum selection clauses contained in the old and in the new bonds?

Both bonds included nearly identical forum selection clauses providing that: "Any dispute arising from or relating to this contract will be exclusively resolved before the Courts of...". The old bonds (pre-SRA) then designated Dagobah Courts and the new bonds (post-SRA) Yavin Courts.

17. What did the absence of CACs in the old bonds mean (paragraph 21, p. 4)?

The old bonds (pre-SRA) had no clause limiting the initiation of legal action. Therefore, bondholders could initiate legal action without gathering 20% of the nominal value of that issue.

The Economic Scenario

18. Did Dagobah make any warranties after the 2001 sovereign debt restructuring?

Dagobah's government made representations as to its "*commitment to a more stable economy and financial sector*", but nothing was stated in the sense that its sovereign debt would not suffer another restructuring in the future.

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19. Did any State grant bailouts to Dagobah's economy?

The deal supported by the IMF (paragraph 16, p. 3) took place. The official debt was restructured, and apart from providing the US\$150 billion, the creditor countries agreed to write off some of the outstanding debt.

20. Did Dagobah adopt any other measures to reduce its sovereign debt following the 2010 economic crisis?

Dagobah's government adopted some more austerity measures, in particular reducing investments in infrastructure. Notwithstanding, since some public services were on the verge of being compromised, Dagobah was not able not generate enough revenues for servicing its debt without restructuring or defaulting.

The SRA

21. Did the bondholders have the opportunity to participate in the drafting of the SRA or to negotiate in the restructuring process?

Although the IMF was consulted and involved in the drafting of the SRA, Dagobah did not invite the bondholders to participate in it. Nevertheless, the bondholders were informed of the on-going draft and the different versions of the text were constantly published on relevant agencies' websites. As to the restructuring process, Dagobah consulted a committee representing the owners of approximately 50% of the aggregate nominal value of the bonds that would be affected before making the offer of 29 November 2012.

22. Is there any means of challenging the SRA within Dagobah's legal order?

No, since the SRA was deemed constitutional in a review conducted prior to its enactment.

23. What does the "85% of holders of bonds" mentioned in the Uncontested Facts (paragraph 19, p. 3) represent?

The Uncontested Facts refer to 85% of the aggregate nominal value of all outstanding bonds; it remains uncontested that the conditions of the SRA have been fulfilled.

24. How much did Calrissian's bonds represent out of the aggregate nominal value of all outstanding bonds?

Calrissian's bonds represented approximately 10% of that value.

The Dispute

25. Did the parties try to settle the dispute before the commencement of the proceedings by Calrissian?

Attempts to settle the dispute amicably between Calrissian and Dagobah were unsuccessful.

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The Tribunal finally notes that the Claimant has submitted a new version of the Request for Arbitration, hereby added to the case records, in which it made reference (paragraph 3) to the correct date of enactment of the SRA (28 May 2012).

23 June 2014

/s/

Mr L. Picard (Chairperson)

/s/

Mrs C. Crusher

/s/

Prof. T. Riker

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**ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE**

Calrissian & Co., Inc

v.

Federal Republic of Dagobah

Case SCC No 00/2013

Procedural Order No 3

Adopted on 1 September 2014

Members of the Tribunal:

Chairperson: Mister L. Picard

Mrs. C. Crusher

Professor T. Riker

For the Claimant

Counsel for Calrissian & Co Inc.

For the Respondent

Counsel for the Federal Republic of Dagobah
LLP

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Procedural Order No 3:

After consultation of the Parties *inter alia* by way of conference call held on 18 August 2014, the Arbitral Tribunal adopts the following Order to register in the record the responses agreed by the Parties to certain additional factual questions raised by the arbitrators in the course of the proceedings:

The Bilateral Investment Treaty

26) The BIT agreement between the two states has passed its expiry date subject to Article 12. Has either state taken the required steps to bring about the termination of the agreement, if so on what date were these steps taken?

None of the Parties to the Treaty has taken any steps in order to terminate the Treaty.

27) What was said, if anything, about Art 7 of the BIT during the BIT negotiations between the States?

No record of the Treaty negotiations has been made public.

PCA Award and Dissenting Opinion

28) Were the PCA Award of 29 April 2003 and the Dissenting Opinion of 19 May / 18 June 2003 published after they had been issued?

The PCA Award and the Dissenting Opinion were published on a webpage of the Corellian Ministry of Foreign Affairs four (4) days after the Award was rendered.

29) Was professor Andreas Jeger appointed by the Respondent?

Prof Jeger was Respondent's appointee in the PCA case.

Bonds

30) What was the aim of bond issuance: were the funds attracted to perform a specific governmental task or to meet general budgetary needs of Dagobah?

The funds derived from the bonds formed part of the general state budget.

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- 31) What was the rating of Dagobah's sovereign bond? We want to know the rating at 3 times: 1) After the 2001 economic crisis; 2) When the claimant purchased the bonds; and 3) immediately after the 2008 financial crisis.**

According to Poor's Standard, one of the four major international rating agencies, Dagobah's sovereign debt was rated B after the 2001 economic crisis, B+ when the Claimant purchased the bond, and B- right after the 2008 financial crisis.

- 32) Did the second set of bonds issued by Dagobah and accepted by Corellian bondholders in 2003 (under paragraph 13 of the Uncontested Facts) contain any sort of representations, warranties or stabilization clauses regarding the legal conditions of the bonds?**

The bonds included no stabilisation clause or any other representation suggesting that the legal framework governing the bonds would not be modified.

- 33) What is the place of payment of the bonds (both old and new)?**

Both old and new bonds are payable in Yavin.

SRA and Bonds Restructuring

- 34) Were the agencies' websites referred to in q. 21 at page 50 official?**

The mentioned websites are of an official nature.

- 35) Was Claimant part of the committee representing the owners of approximately 50% of the aggregate nominal value of the bonds that would be affected that was consulted during the restructuring process (see Procedural Order 2, para. 21)?**

Invitation to participate in the restructuring process was published on the relevant government agencies' webpages as per SRA and required bondholders to declare their intent to do so within three working days from the date of publication, in order to be eligible members of the consultative committee. The committee of bondholders mentioned in Clarification No 21, Procedural Order No 2 was formed by representatives of the bondholders eligible according to such invitation. Claimant was not part of the committee, having expressed interest in joining, a week after the invitation was published.

Economic context/IMF Recommendations

- 36) Paragraph 15 of the uncontested facts mentions that the IMF made several suggestions as to measures that could be taken for Dagobah to reduce its debt-to-GDP ratio. What were the other suggestions made by the IMF other than the sovereign debt restructuring to reduce Dagobah's debt-to-GDP ratio?**

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The measures mentioned in Clarification No. 20 were among the suggestions made by the IMF. By the time of the decision to restructure its debt, however, Dagobah had decided not to implement any of the other IMF suggestions.

37) What was the debt/GDP ratio of Dagobah in the year 2011?

Dagobah's net government debt to GDP ratio at the end of the year 2011 was 124%.

38) Was there any evidence of threats to public services or public order in Dagobah arising as a result of the economic outlook, even though economic crisis had not set in?

After the occurrence of the 2008 crisis, there were several demonstrations and social unrest erupted in the capital as well as in other larger cities. This was a result of large-scale dismissals, and the increase in unemployment rates up to 10.9%. Also the inflation rate has spiked.

39) Is the Global Financial Herald widely circulated and neutral?

The Global Financial Herald is a reliable and independent international newspaper.

Dagobah and Investment Arbitration

40) What is Dagobah's history of investor claims and in particular how did it react to any requests of arbitration against it?

A consultation of publicly available materials shows that, Dagobah has faced five investment claims and always took part in the arbitral proceedings. Two cases led to an award finding no jurisdiction; in one case Dagobah prevailed against the merits of the claim, and twice investors were successful on the merits of the claims. The cases involved individual measures adopted either by municipalities or by central authorities, in the field of gas concessions, public utilities, and state contracts.

28 August 2014

/s/

Mr L. Picard (Chairperson)

/s/

Mrs C. Crusher

/s/

Prof. T. Riker